Date

**[DRAFT/FINAL] FACT SHEET**

Major Modification of Virginia Water Protection (VWP) Individual Permit No. ##-####

Project Name, County/City, Virginia

This document provides the pertinent information concerning the legal basis, scientific rationale and justification for the issuance/reissuance/modification of the Virginia Water Protection (VWP) permit referenced herein.

The Virginia Department of Environmental Quality (DEQ or department) has reviewed the application for modification of the VWP Individual Permit No. ##-#### and has determined that the project qualifies for a major modification in accordance with 9VAC25-210-180.E.#.

The following details the major modification application review process.

1. **Contact Information:**

Permittee Legal Name and Address:

Permittee Legal Name

Attn: Permittee Contact Person Name

Address

City, State Zip

Email

Phone

Owner Legal Name and Address [Only use if different from Permittee. If more than one: See Section # of the Joint Permit Application (JPA)]

Owner Legal Name

Address

City, State Zip

[Optional: Email

Phone]

**Agent Name and Address** [if applicable]:

Authorized Agent Name-Company

Attn: Contact Person Name

Address

City, State Zip

Email

Phone

1. **Processing Dates:** [Including this section is optional – does not replace event data entry in CEDS]

| Modification Request Received: | Date |
| --- | --- |
| Application Complete: | Date |
| Permit Fee Deposited by Accounting: | Date |
| Processing Deadline (120 days from Complete Application): | Date |
| 1st Request for Additional Information Sent: | Date |
| Final Request for Additional Information Received: | Date |
| If applicable: SPGP Federal Coordination Initiated: | Date |
| If applicable: SPGP Federal Coordination Completed: | Date |
| Notification of modification request sent to Local Government(s): | Date |
| If applicable: Commissioner of Revenue Contacted: | Date or [N/A if able to use previous RLO information or locality website] |
| Request for comments sent to VDH, VDWR, VDCR, VMRC: | Date |
| Letters sent to Riparian/Adjacent Land Owners: | Date |
| Draft Permit Modification Package Issued: | Date |
| Copy of Public Notice sent to DEQ Central Office: | Date |
| Copy of Public Notice sent to Local Gov’t and Planning District: | Date |
| Public Notice Published: | Date |
| End of 30-Day Public Comment Period: | Date |
| Received Verification of Publication: | Date |
| If applicable: Public Meeting or Hearing: | Date |
| Modification Authorized [enter date that permit is issued]: | Date |

1. **Project Location:**

Describe location [Ex.: Address, County/City, Virginia. Or: On the X side of Roadway Name (Route X) approximately # linear feet/mile from the intersection of Roadway Name (Route X) and Roadway Name (Route X) in County/City, Virginia]

| City/County: |  |
| --- | --- |
| Waterbody: |  |
| Basin: |  |
| Subbasin: |  |
| Section: |  |
| Class: |  |
| Special Standards: |  |
| HUC: |  |
| Latitude & Longitude: |  |
| U.S.G.S. Quadrangle: |  |
| State Watershed No.: |  |

[Include only if Permittee-Responsible Mitigation provided] Off-site Compensation:

| Site Name: |  |
| --- | --- |
| City/County: |  |
| Waterbody: |  |
| Basin: |  |
| Subbasin: |  |
| Section: |  |
| Class: |  |
| Special Standards: |  |
| HUC: |  |
| Latitude & Longitude: |  |
| U.S.G.S. Quadrangle: |  |
| State Watershed No.: |  |

1. **Major Modification Description:**

This action is a major modification to the permit issued on Date. The modification is warranted to authorize [explain reason for modification. Ex.: an increase of # acre of palustrine forested (PFO) wetland and # acre (# linear feet) of stream channel associated with changes in final site plan engineering for the town center.]

1. **Project History**: [Add if determined necessary for understanding the project.]
2. Avoidance and Minimization Efforts:

[Summarize all avoidance and minimization efforts for the major modification activities only. Don’t include avoidance and minimization efforts from original permit.]

For additional information, see page # of the modification request dated Date, and received Date. [, and/or the additional information response dated Date, and received Date].

Based upon staff review, the proposed plan represents the least environmentally damaging and practicable alternative, and all unavoidable permanent impacts will be adequately mitigated through the proposed compensation plan.

1. **Project Impacts:**

Impacts Associated with the Major Modification

The [1st, 2nd, 3rd, etc.] major modification authorizes additional [Ex.: permanent impacts to # acre of palustrine forested (PFO) wetland, and # acre (# linear feet (LF)) of stream channel.]

Revised Total Impacts

This permit authorizes surface water impacts as follows:

* + Permanent impacts are to # acre of palustrine forested (PFO) wetland, and # acre (# linear feet (LF)) of stream channel.
  + Conversion impacts are # acre of palustrine scrub-shrub (PSS) wetland to palustrine emergent (PEM) wetland.
  + Temporary impacts are to # acre of PEM wetland, and # acre (# LF) of stream channel.
  + Authorized surface water impacts described under this condition shall be as depicted on the impacts map entitled *Final Impacts Map Name*, dated Date, last revised Date, and received Date. [optional: , and drawn by Name].

[Use in lieu of bullets above and revise table as necessary to fit project]

DEQ authorizes surface water impacts as identified in Table 1 below.

Table 1.

| Impact Type | Surface Water Type | Authorized Impact Amount | |
| --- | --- | --- | --- |
| Acre(s) | Linear Feet |
| Permanent | Palustrine Forested Wetland (PFO) | # | N/A |
| Palustrine Scrub-Shrub Wetland (PSS) | # | N/A |
| Palustrine Emergent Wetland (PEM) | # | N/A |
| Isolated palustrine X | # | N/A |
| Open Water (POW) | # | N/A |
| Stream Channel | # | # |
| *Subtotal* | # | *#* |
| Conversion | PFO to PEM | # | N/A |
| *Subtotal* | # | N/A |
| Temporary | PFO | # | N/A |
| PSS |  |  |
| PEM | # | N/A |
| Isolated palustrine X |  |  |
| POW |  |  |
| Stream Channel | # | # |
| *Subtotal* | # | # |
| **TOTAL** | | # | # |

1. **Compensation for Unavoidable Impacts:**

Compensation Associated with the Major Modification

Summarize the compensation requirement associated with the modification [Ex.: Compensation for the additional permanent wetland impacts shall be provided through the purchase of # wetland credit and # USM stream mitigation credits as detailed in the revised Part I Special Condition(s) #.]

The compensation package complies with § 62.1-44.15:21 and § 62.1-44.15:23 of the Code of Virginia.

Total Compensation Requirement [If the project is complex and clarification is needed, then complete this section]

Summarize the compensation requirement and the compensation plan. [Instead of paragraphs below, staff may use a table format. In accordance with [62.1-44.15:21.B](https://law.lis.virginia.gov/vacode/title62.1/chapter3.1/section62.1-44.15:21/), if the applicant proposed permittee responsible explain why based on staffs’ analysis the compensation plan was or was not ecologically preferable.]

[Ex. Wetland & Stream bank credits: Copy the applicable conditions from section ***Compensatory Mitigation – Credit Purchases*** in the Special Conditions and revise as necessary for the modification circumstances.]

[Ex.: PRM Stream: Copy the applicable conditions from section ***Compensatory Mitigation – Permittee Responsible Stream Mitigation/Compensation*** in the Special Conditions and revise as necessary for the modification circumstances.]

1. Site Inspection:

[Only include information for the major modification – not the original permit.]

A site visit was conducted on Date. [Summarize observations and note problems or concerns that warranted Special Conditions in the individual permit. OR state The site visit confirmed the site description provided in the modification’s materials accurately characterized the surface waters on the site.] A summary of the site inspection is located in VWP [Choose one: Non-Permit/Individual/General Permit Tracking (add WP#)] No. ##-####.

1. **Relevant Regulatory Agency Comments:**

[Only include information for the major modification – not the original permit.]

As part of the application review process, DEQ contacted the appropriate state regulatory agencies [if applicable: and coordinated with various federal regulatory agencies, including the U.S. Army Corps of Engineers (USACE)]. [Choose one: Any relevant agency comments were addressed in the or No comments received required a change to] VWP individual permit Part I - Special Conditions. Therefore, the staff anticipates no adverse effect on water quality and fish and wildlife resources provided the applicant adheres to the permit conditions.

## Summary of State Agency Comments and Actions

By email/letter dated Date, comments were requested from the following state agencies: Virginia Department of Wildlife Resources (VDWR), Virginia Department of Conservation and Recreation (VDCR), Virginia Marine Resources Commission (VMRC), and Virginia Department of Health (VDH). Failure to provide comments within 45 calendar days of DEQ’s request for comments infers that the agency has no comments on the project activities. [If comments not received from an agency, insert agency: Comments were not received from XXXX.]

[Only summarize those comments for the major mod. Typical comments and responses are provided for convenience. Intent of section is to summarize comment and how the comment will or will not be addressed. Use/delete the below provided text as applicable. Include how the comments either will or will not be addressed.]

VDCR

VDCR provided the following comments in a memorandum dated Date, and transmitted by email on Date:

* Recommends the implementation of and strict adherence to applicable state and local erosion and sediment control/storm water management laws and regulations.

*Oversight of stormwater management and erosion and sediment control measures is the responsibility of DEQ‘s Stormwater Management Program or the locality, if such responsibility has been delegated. Any such requirements will be implemented under the oversight of that program.*

* Recommends coordination with VDWR and U.S. Fish and Wildlife Service as those agencies have regulatory authority for the management and protection of the identified threatened and endangered species.

*Staff requested comments from VDWR on the proposed project on Date.*

VDWR

VDWR provided comments to DEQ by email dated Date, and transmitted by email on Date.

* Recommended conducting any in-stream activities during low or no-flow conditions, using non-erodible cofferdams or turbidity curtains to isolate the construction area, blocking no more than 50% of the streamflow at any given time, stockpiling excavated material in a manner that prevents reentry into the stream, restoring original streambed and streambank contours, revegetating barren areas with native vegetation, and implementing strict erosion and sediment control measures.

*The special conditions of the permit address these activities.*

* Recommend coordination with VDCR’s Department of Natural Heritage as the project is located within 2 miles of a documented occurrence of a state or federal threatened or endangered plant or insect species and/or other Natural Heritage coordination species.

*Staff requested comments from VDCR on the proposed project on Date.*

* Recommend that the permittee avoid and minimize impacts to undisturbed forest, wetlands, and streams to the fullest extent practicable to minimize overall impacts to wildlife and our natural resources. VDWR also recommended maintaining undisturbed naturally vegetated buffers of at least 100 feet in width around all on-site wetlands and on both sides of all perennial and intermittent streams.

*Staff reviewed the proposed impacts to surface waters and determined those proposed have been minimized to the maximum extent practicable.*

* Recommended that the stormwater controls for this project be designed to replicate and maintain the hydrographic condition of the site prior to the change in landscape.

*Oversight of stormwater management and erosion and sediment control measures is the responsibility of DEQ‘s Stormwater Management Program or the locality, if such responsibility has been delegated. Any such requirements will be implemented under the oversight of that program.*

* Recommended that all tree removal and ground clearing adhere to a time of year restriction protective of resident and migratory songbird nesting from March 15 through August 15 of any year.

*This time of year restriction was not included in the permit as it’s not associated with a threatened or endangered species. The recommendation was forwarded to the permittee for their consideration.*

* Recommended adherence to erosion and sediment controls during ground disturbance.

*Oversight of stormwater management and erosion and sediment control measures is the responsibility of DEQ‘s Stormwater Management Program or the locality, if such responsibility has been delegated. Any such requirements will be implemented under the oversight of that program.*

VDH

VDH provided comments in a memorandum dated Date, and transmitted by email on Date, and transmitted by email on Date.

* Stated that potential impacts to public water distribution systems or sanitary sewage collection systems must be verified by the local utility.

*Oversight of potential impacts to water distribution systems or sanitary sewage collection systems by proposed development are verified by the locality in concert with local building / site development codes and ordinances.*

VMRC

VMRC provided comments in a letter dated and transmitted by email on Date, and transmitted by email on Date.

* Recommended [Examples of VMRC comments will be added to this template once availaable.]

*The special conditions of the permit address these activities.* [If applicable, and provided that the condition is not in conflict with VWPPP authorities, insert discussion of any relevant conditions specifically provided by VMRC regarding activities in non-tidal bottomland. Per the [Memorandum of Agreement between DEQ and VMRC (Amended August 16, 2023)](https://covgov.sharepoint.com/:b:/r/sites/deqnet/Shared%20Documents/Water%20Division/Water%20Permitting/Wetlands%20%26%20Stream%20Protection%20-%20VWP/1DRAFT-VWP%20Permit%20%26%20Compliance%20Manual/MOA-DEQVMRCPermittingInNontidalWatersAmd8-16-2023.pdf?csf=1&web=1&e=ILygZi), factors considered by VMRC that may serve as a basis of comment are listed in [§ 28.2-1205 A](https://law.lis.virginia.gov/vacode/title28.2/chapter12/section28.2-1205/).]

[If Applicable: Summary of Federal Agency Comments and Actions

The project qualifies for a modification of the U.S. Army Corps of Engineers (USACE) individual permit, which the USACE public noticed on Date.

Or

The U.S. Army Corps of Engineers modified Individual Permit No. ##-### on Date.

Or

SPGP – use appropriate statement.]

1. **Riparian and Adjacent Property Owner Notification:**

[Only include information for the major modification – not the original permit.]

Staff notified property owners located adjacent to the impact area and within one-half mile [one-quarter mile up- and downstream for tidal areas] downstream of each distinct impact area by letter dated Date. Notifications were conducted in accordance with DEQ guidance and the Code of Virginia.

Summarize significant responses [or if applicable, insert:The applicant owns the property adjacent to and within one-half mile downstream of each distinct impact area.]

1. Public Comment [if applicable: and Public Hearing]:

[Only include information for the major modification – not the original permit.]

The public notice was published in Newspaper Nameon Date. The public comment period ran from Date to Date.

[If several public comments were received, staff can summarize public comments and staffs’ responses to public comment in this section. If multiple public comments were received, staff can add an attachment to the fact sheet summarizing public comments and staffs’ responses.]

[Choose one and make appropriate edits: No public comments were received during the public comment period. Therefore, no changes have been made to the permit conditions.]

Or

[# public comment letters were received. However, no substantial or disputed issues were presented that warranted revisions to the draft conditions of the permit.]

Or

[Ex.: # responses were received from the public: two opposed the permit and five requested protection of wetlands. Due to the public response, a public hearing was held on Date.]

[Ex.: A summary of citizen comments and staffs’ responses are included as Attachment A to this fact sheet. In response to citizen comments, and comments received from VDCR on Date(s), staff made the following changes to the draft permit modification. List changes.]

[If using this template for a controversial permit, summarize hearing events and comments. Refer to [“Public Hearing Procedures for Permitting Decisions [9.23.22].pdf”](https://covgov.sharepoint.com/sites/deqnet/Shared%20Documents/Forms/Name%20sort.aspx?id=%2Fsites%2Fdeqnet%2FShared%20Documents%2FAdministration%2FPolicy&viewid=fe19566a%2Dc6e3%2D490e%2D9204%2Da79f6f6580b5) on DEQnet, as well as 9VAC25-210-140 through -174.]

1. Revisions to Permit Part I - Special Conditions:

[Only include information for the major modification – not the original permit. Copy the applicable conditions from original permit issuance fact sheet or most recent modification fact sheet to ensure conditions are accurately reflected. Then update those as needed by identifying the condition modified, or the new condition as a result of modifying the permit, and providing a brief explanation of the change.]

Staff revised the following conditions of the permit:

[Ex.: Part I.A.1 – revised to reflect changes in authorized impact numbers and updated impact map and information upon which the permit is based upon.

Ex.: Part I.# – revised wetland and stream compensation requirements to reflect the revisions approved in this major modification of the permit.]

Staff added the following condition as a result of this modification of the permit:

[**The intent of any new permit condition should be adequately explained,** providing the rationale and purpose of each new condition. Citations to regulatory sections may be included for clarification or emphasis, as well as an explanation of staff’s interpretation of the purpose of a particular condition.]

1. General Conditions:

The general conditions specified in the effective VWP Permit Program Regulation 9VAC25-210 apply to all VWP individual permits.

1. **General Criteria (9VAC25-260-20.A):**

State waters, including wetlands, shall be free from substances attributable to sewage, industrial waste, or other waste in concentrations, amounts, or combinations which contravene established standards or interfere directly or indirectly with designated uses of such water or which are inimical or harmful to human, animal, plant, or aquatic life.

Specific substances to be controlled include, but are not limited to: floating debris, oil, scum, and other floating materials; toxic substances (including those which bioaccumulate); substances that produce color, tastes, turbidity, odors, or settle to form sludge deposits; and substances which nourish undesirable or nuisance aquatic plant life. Effluents which tend to raise the temperature of the receiving water will also be controlled. Conditions within mixing zones established according to [9VAC25-260-20](https://law.lis.virginia.gov/admincode/title9/agency25/chapter260/section20/).B do not violate the provisions of this subsection.

1. **Staff Findings and Recommendations:**

* The proposed activity is consistent with the provisions of the Clean Water Act and State Water Control Law, and will protect instream beneficial uses.
* The permit addresses avoidance and minimization of wetland impacts to the maximum extent practicable.
* The effect of the impact, together with other existing or proposed impacts to wetlands, will not cause or contribute to significant impairment of state waters or fish and wildlife resources.
* The permit conditions address no net loss of wetland acreage and no net loss of functions in all surface waters, through compensatory mitigation and adequately assess compensation implementation via success monitoring and reporting.
* The permit reflects the required consultation with and full consideration of the written recommendations of VMRC, VDH, VDCR, and VDWR. [If applicable: The staff invited, but did not receive, comments from XXX.]

Staff recommends VWP Individual Permit No. ##-#### be modified as proposed.

1. **Action by the Director:**

The Director approved the major modification of VWP Individual Permit No. ##-####.]