



DEPARTMENT OF THE ARMY  
US ARMY CORPS OF ENGINEERS  
NORFOLK DISTRICT  
FORT NORFOLK  
803 FRONT STREET  
NORFOLK VA 23510-1011

January 12, 2024

Western Virginia Regulatory Section  
NAO-2020-01000

Virginia Electric and Power Company  
Attn: Mr. Brandon Stites  
600 E Canal Street  
Richmond, Virginia 23219

Dear Mr. Stites:

Enclosed is a fully executed copy of Department of Army Permit number NAO-2020-01000 (VMRC #21-V2035) issued to the Virginia Electric and Power Company for the construction of a 127 acre coal combustion residual landfill with attendant features at the site of the former Bremo Electric Generation Facility in Fluvanna County, Virginia.

If you have any questions, you may contact the office at (540) 982-3841 or [chester.c.bigelow@usace.army.mil](mailto:chester.c.bigelow@usace.army.mil).

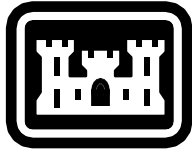
Sincerely,

A handwritten signature in black ink, reading "Chester C. Bigelow, III". The signature is written in a cursive style with a large, stylized "C" and "B".

Chester C. Bigelow, III  
Environmental Scientist  
Western Virginia Regulatory Section

Enclosure

cc:  
Virginia Department of Environmental Quality  
Virginia Marine resources Commission  
Virginia Electric and Power Company – Oula Shebab-dandan



**U.S. Army Corps  
Of Engineers**  
Norfolk District

Fort Norfolk, 803 Front Street  
Norfolk, Virginia 23510-1096

## **DEPARTMENT OF THE ARMY PERMIT**

**Permittee:** Virginia Electric and Power Company  
**Permit No.:** NAO-2020-01000 / VMRC# 21-V2305  
**Issuing Office:** U.S. Army Corps of Engineers Norfolk District Regulatory Branch  
(CENAO-WRR)

Note: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below pursuant to:

- ☐ Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- ☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).
- ☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

### **Project Description:**

You are hereby authorized to impact 6316 linear feet of stream channel, 0.66 acres of palustrine forested wetlands, 0.93 acres of palustrine emergent wetlands, and 0.29 palustrine scrub shrub wetlands for the purpose of constructing a new fossil fuel combustion products management facility that would facilitate the mandated closure of the coal combustion residual (CCR) surface impoundment at the decommissioned Bremono Bluff Power Station. The applicant purchased compensation for these stream and wetland impacts from the Elk Island Mitigation Bank (2.69 acres of wetland credits), The Innisfree Stream Mitigation Bank (6248.9 stream credits), the Tye River Stream Mitigation Bank (1400 stream credits), and the Windrow Farm Mitigation Bank (241 stream credits).

Conceptual drawings (30% drafts) of the proposed facility are included in this permit.

**Project Location:** The project is located in off Bremo Road near West Bottom, Fluvanna County, Virginia.

**Project Specific Special Conditions:**

1. The permittee has obtained wetland mitigation credits for the permanent impact to 6,316 linear feet of stream channel, 0.66 acres of palustrine forested wetlands, 0.93 acres of palustrine emergent wetlands, and 0.29 palustrine scrub shrub wetlands. Purchased were 6,248.9 stream mitigation credits from the Innisfree Stream Mitigation Bank, 1400 stream mitigation credits from Tillman Conservation, LLC's Tye River Mitigation Bank, and 241 stream mitigation credits from the Woodrow Mitigation Bank. Stream mitigation credits were derived utilizing the Unified Stream Methodology. The applicant has also obtained credits to compensate for the proposed wetland impacts with the purchase of 2.69 wetland credits from the Elk Island Mitigation Bank. The amount of wetland compensation is determined utilizing the compensation ratios of 2:1 for palustrine forested wetland impacts, 1.5:1 for palustrine scrub-shrub wetlands, and 1:1 for palustrine emergent wetlands.
2. Prior to the commencement of any work authorized by this permit, you shall advise the project manager, Chester Bigelow, in writing at: Norfolk District, Corps of Engineers, Western Virginia Regulatory Section, at least two weeks in advance of starting work authorized by this permit. Alert the project manager of the anticipated start date of the authorized activity and the name and telephone number of all contractors or other persons performing the work. A copy of this permit and drawings must be provided to the contractor and kept on site at all times, available to any regulatory representative during an inspection of the project site.
3. The time limit for completing the work authorized ends March 29, 2038. Should you be unable to complete the authorized activity in the time limit provided, you must submit your request for a time extension to this office for consideration at least one month before the permit expiration date.
4. Enclosed is a "compliance certification" form, which must be signed and returned within 30 days of completion of the project, including any required mitigation. Your signature on this form certifies that you have completed the work in accordance with the permit terms and conditions.
5. Final Plans and specifications for authorized activities shall be submitted and approved by the Corps in writing prior to initiation of permitted activities.
6. Destruction or alteration of waters of the U.S (including wetlands) other than those impacts authorized under this permit are prohibited. The extent of

authorized wetland and stream impacts are depicted on this drawing entitled "Figure 12 WOUS Impacts Map Overview" prepared by AECOM dated 5/19/22.

7. The residual waters of the U.S (including wetlands) on this property (those areas that will not be impacted under this permit) that are located within 50 feet of any proposed clearing, excavation, and construction activities must be clearly marked in the field in a highly visible manner such as 4 foot high orange construction fencing or barrier fencing prior to commencing work onsite to ensure that additional wetlands and streams are not inadvertently impacted during construction activities.
8. All pipes and culverts placed in streams will be countersunk at both inlet and outlet ends. Pipes that are 24" or less in diameter shall be countersunk 3" below the natural stream bottom. Pipes that are greater than 24" shall be countersunk 6" below the natural stream bottom. The countersinking requirements do not apply to bottomless pipes/culverts or pipe arches. In sets of multiple pipes or culverts (with bottoms) at least one pipe or culvert shall be countersunk at both the inlet and outlet to convey low flows.
9. When countersinking culverts permittees must ensure reestablishment of a surface water channel (within 15 days post construction) that allows for the movement of aquatic organisms and maintains the same hydrologic regime that was present pre-construction (i.e., the depth of surface water through the permit area should match the upstream and downstream depths). This may require the addition of finer materials to choke the larger stone and/or rip rap to allow for a low flow channel.
10. You must take the actions required to record this permit (and the associated project drawings, showing any residual waters) with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property. A copy of the recorded permit with deed book and page number stamped on it shall be provided to this office within 30 days of the countersignature of the permit by the Corps.
11. Excess excavated material from a trench not used as backfill will be placed on an upland site and stabilized to prevent its return to the waterway.
12. Seed all temporarily impacted wetland areas with non-invasive, non-perennial mixture, or simply, annual rye grass. At the appropriate time of year apply an appropriate wetland seed mix approved the Corps in writing to ensure wetlands vegetation establishes.
13. The location and extent of all wetland areas and other waters of the U.S. that will be used for temporary construction access or temporary easements for utility installation must be clearly flagged in the field and identified to the project

contractor(s) prior to commencing work in wetlands to ensure that additional waters (including wetlands) are not impacted.

14. The soils of any temporary construction access areas located in wetlands that are cleared, grubbed, and/or filled, must be loosened by ripping or chisel plowing the soil surface to a depth of 8-12" once each access is no longer needed. The resulting grade shall be replanted with bare root native woody plants at a rate of 400 plants per acre. Acceptable woody plants include but are not limited to 2-4 of the following native species: wax myrtle (*Morella cerifera*), red maple (*Acer rubrum*), sweet gum (*Liquidambar styraciflua*), black willow (*Salix nigra*), black gum (*Nyssa sylvatica*), spicebush (*Lindera benzoin*), and tag alder (*Alnus serrulate*). Substitution of other native woody species is subject to Corps review and approval. This restoration work must be completed within 30 days of the abandonment of the access area.
15. Any temporary construction access areas (including temporary easements for construction of underground utility lines) that were timbered but not cleared or grubbed shall be restored once each access is no longer needed.
16. If giant reed (*Phragmites australis*) or cattails (*Typha* spp.) become established in the temporary construction access area you are required to take all appropriate measures to control/eradicate this species, including the application of herbicides. Herbicide applications must be conducted in accordance with all state/federal application laws and regulations and accepted by the Corps.
17. There shall be no grubbing, leveling, or stumping of those wetland areas or waters associated with construction of underground utilities that are located outside of the permanent utility easement.
18. Fill material used during construction that will be relocated from a source on the base not immediately adjacent to the discharge site will require testing to determine if the material is considered "Environmentally clean" soil as outlined in the guidelines of the project's "Section 10 12 00-Environmental Management Special Conditions" prior to the material being relocated. Soil that is not determined to be "Environmentally Clean" may not be used as fill material and disposal shall follow the Virginia Solid Waste Management Regulations 9VAC20-81-660.
19. If a project specific condition of this permit cannot be met, then you must apply for a permit modification. Any proposed permit modification will be coordinated with the Virginia Department of Environmental Quality, USFWS, Fluvanna County and the Environmental Protection Agency Region III.

### **General Conditions:**

1. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition **3** below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
2. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately stop work and notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
3. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
4. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
5. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.
6. No discharge of dredged or fill material may consist of unsuitable material (e.g.: trash, debris, car bodies, asphalt etc.) and material discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
7. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.
8. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date.
9. The construction or work authorized by this permit will be conducted in a manner so as to minimize any degradation of water quality and/or damage to aquatic life. Also, you will employ measures to prevent or control spills of fuels or lubricants from entering the waterway.

10. Any heavy equipment working in wetlands other than those permitted for permanent impact must be placed on mats or other measures must be taken to minimize soil disturbance.
11. Failure to comply with the terms and conditions of this permit can result in enforcement actions against the permittee and/or contractor.
12. In granting an authorization pursuant to this permit, the Norfolk District has relied on the information and data provided by the permittee. If, subsequent to notification by the Corps that a project qualifies for this permit, such information and data prove to be materially false or materially incomplete, the authorization may be suspended or revoked, in whole or in part, and/or the Government may institute appropriate legal proceedings.
13. All dredging and/or filling will be done so as to minimize disturbance of the bottom or turbidity increases in the water which tend to degrade water quality and damage aquatic life.
14. Your use of the permitted activity must not interfere with the public's right to reasonable navigation on all navigable waters of the United States.

**Further Information:**

1. Limits of this authorization:
  - a. This permit does not obviate the need to obtain other Federal, state or local authorizations required by law.
  - b. This permit does not grant any property rights or exclusive privileges.
  - c. This permit does not authorize any injury to the property or rights of others.
  - d. This permit does not authorize interference with any existing or proposed Federal projects.
2. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:
  - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - d. Design or construction deficiencies associated with the permitted work.
  - e. Damage claims associated with any future modification, suspension, or revocation of this permit.

3. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
4. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
  - a. You fail to comply with the terms and conditions of this permit.
  - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 3 above).
  - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

5. Extensions: Project Specific Condition #3 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit. Dredging authorization shall not exceed 10 years (33 CFR 325.6(e) and further authorization would require a new application.

Your signature below, as a permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



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(Permittee)

Jan 9, 2024

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(Date)



Andy Beards

January 12, 2024

(Transferee)

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