



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

P.O. Box 3000, Harrisonburg, Virginia 22801

(540) 574-7800 FAX (804) 698-4178

Located at 4411 Early Road, Harrisonburg, Virginia

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

Tiffany R. Severs
Regional Director

March 30, 2023

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

BY E-MAIL: Brandon.stites@dominionenergy.com
RECEIPT CONFIRMATION REQUESTED

Re: Virginia Water Protection (VWP) Individual Permit No. 21-2305
Bremo FFCP Management Facility, Fluvanna County, Virginia
Final VWP Individual Permit

Dear Mr. Stites:

Pursuant to the VWP Permit Program Regulation 9VAC25-210 of the Virginia Administrative Code and § 401 of the Clean Water Act (33 U.S.C. § 1341), the Virginia Department of Environmental Quality (DEQ or department) has enclosed the VWP individual permit for the above-referenced project.

This permit is valid for 15 years from the date of issuance. A new permit may be necessary if any portion of the authorized activities or any permit requirement (including compensatory mitigation provisions) is not complete at the end of the maximum 15 year permit term.

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have **30 calendar days** from the date of service (the date you actually received this decision or the date it was e-mailed to you, whichever occurred first) within which to file with the Director, Department of Environmental Quality, a notice of appeal in accordance with the Rules of the Supreme Court of Virginia. In the event that this decision is served on you by mail, three days are added to that period. Refer to Part 2A of the Rules of the Supreme Court of Virginia for additional requirements governing appeals from administrative agencies.

Alternatively, an owner may request a formal hearing for the formal taking of evidence upon relevant fact issues under Section 2.2-4020 of the Administrative Process Act. A petition for a formal hearing must meet the requirements set forth in Procedural Rule No. 1 - Public and Formal Hearing Procedures (9VAC25-230 *et seq.*). In cases involving actions of the department, such petition must be filed within **30 calendar days** after notice of such decision is sent to such owner by certified mail.

Mr. Brandon Stites
VWP Individual Permit No. 21-2305
March 30, 2023
Page 2 of 2

Please contact DEQ at vro.vwp@deq.virginia.gov or 540-217-7483 if you have any questions.

Respectfully,



Eric Millard
Regional VWPP Program Manager

Enclosures: Permit Cover Page, Part I - Special Conditions, Part II - General Conditions, Attachment 1
- *VWP Permit Construction Status Update Form*, Attachment 2 - *Monthly VWP Permit
Inspection Checklist*, Approved impact map

cc: Oula Shehab-Dandan, Dominion Energy Services, Inc.
Steven VanderPloeg, U.S. Army Corps of Engineers
Jennifer Serafin, U.S. Army Corps Engineers



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Regional Director

VWP Individual Permit Number 21-2305

Effective Date: March 30, 2023

Expiration Date: March 29, 2038

VIRGINIA WATER PROTECTION PERMIT ISSUED PURSUANT TO THE STATE WATER CONTROL LAW AND SECTION 401 OF THE CLEAN WATER ACT

In compliance with Section 401 of the Clean Water Act and the State Water Control Law and regulations adopted pursuant thereto, the department has determined that there is a reasonable assurance that this VWP permit, if complied with, will protect instream beneficial uses, will not violate applicable water quality standards, and will not cause or contribute to a significant impairment of state waters or fish and wildlife resources. In issuing this VWP permit, the department has not taken into consideration the structural stability of any proposed activities.

Permittee: Virginia Electric and Power Company

Address: 600 E. Canal Street Richmond, VA 23219

Project Name: Brema FFCP Management Facility

Project Location: The project is located south of Brema Road and west of Virginia Electric and Power Company's Brema Power Station near 2134 Brema Road (State Route 656).

Project Description: The permittee proposes to construct a Fossil Fuel Combustion Products (FFCP) management facility to facilitate the closure of an existing Coal Combustion Residuals (CCR) surface impoundment at the Brema Power Station, in compliance with Virginia Code § 10.1-1402.03. The facility will include a landfill designed to dispose of approximately 6.2 million cubic yards of CCRs currently located at North Ash Pond, as well as three stormwater management ponds, a contact water pond, leachate storage tanks, a pump station, access roads, and temporary construction easements and laydown yards. The proposed project has a total project area of approximately 148 acres across three parcels in Fluvanna County. Permitted activities shall be conducted as described in the Joint Permit Application received November 5, 2021, and additional information materials received through August 31, 2022.

Authorized Surface Water Impacts: Refer to Part I.A. of this permit.

Approved Compensation: Refer to Part I.I. of this permit.

The permitted activity shall be in accordance with this Permit Cover Page, Part I - Special Conditions, and Part II - General Conditions.



Eric Millard

Regional VWPP Program Manager

March 30, 2023

Date

Part I – Special Conditions

A. Authorized Activities

1. This permit authorizes surface water impacts as follows:
 - a. Permanent impacts are to 0.66 acre of palustrine forested (PFO) wetland, 0.93 acre of palustrine emergent (PEM) wetland, 0.29 acre palustrine scrub-shrub (PSS) wetland, and 0.60 acre (6,316 linear feet (LF)) of stream channel.
 - b. Authorized surface water impacts described under this condition shall be as depicted on the impacts map entitled *Figure 12 Aquatic Resources Impact Map Overview*, dated May 19, 2022, received June 10, 2022, and drawn by AECOM.
2. The permittee shall conduct authorized activities as described in the Joint Permit Application dated November 3, 2021 and received November 5, 2021, and additional information materials received through August 31, 2022. Any changes to the authorized activities or impacts map that affect permitted areas shall be submitted to DEQ immediately upon determination that changes are necessary, and DEQ approval shall be required prior to implementing the changes.
3. The permittee shall notify DEQ of any changes in authorized impacts to surface waters or any changes to the design or type of construction activities in surface waters authorized by this permit. DEQ approval shall be required prior to implementing the changes. Any additional impacts, modifications, or changes shall be subject to individual permit review and/or modification of this permit.

B. Permit Term

1. This permit is valid for **15 years** from the date of issuance. A new permit may be necessary if any portion of the authorized activities or any permit requirement (including compensatory mitigation provisions) is not complete at the end of the maximum 15 year permit term.
2. The permittee shall notify DEQ in writing at least 180 calendar days prior to the expiration of this permit if an extension or new issuance will be requested.

C. Standard Project Conditions

1. The activities authorized by this permit shall be executed in such a manner that any impacts to beneficial uses are minimized. As defined in § 62.1-44.3 of the Code, "beneficial use" means both instream and offstream uses. Instream beneficial uses include, but are not limited to, the protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. The preservation of instream flows for purposes of the protection of navigation, maintenance of waste assimilation capacity, the protection of fish and wildlife resources and habitat, recreation, cultural and aesthetic values is an instream beneficial use of Virginia's waters. Offstream beneficial uses include, but are not limited to, domestic (including public water supply), agricultural uses, electric power generation, commercial, and industrial uses.

2. The permit does not constitute, convey, or imply authority to any permittee to unlawfully or incidentally take any threatened or endangered species that is protected by Virginia laws or regulations, pursuant to § 3.2-1000 through -1011; § 29.1-563 through -570; and 4VAC15-20 et seq. In accordance with recommendations from the Virginia Department of Wildlife Resources (DWR), the permittee shall comply with the following:
 - a. The permittee shall submit a notification to DEQ and DWR no less than 15 days prior to start of the instream work. Instream work is defined as work within onsite surface waters located within 1.0 mile upstream of the confluence with the James River.
 - b. The permittee shall submit a Mussel Protection Plan to DEQ and DWR, no less than 45 days prior to the start of construction to address unavoidable impacts upon listed species that may result from instream work during the periods of April 15 through July 31, and August 15 through September 30 (time of year restriction, TOYR) of any year for the protection of federal threatened Atlantic Pigtoe Mussel and state threatened Green Floater Mussel. This protection plan shall include one, or a combination, of the following:
 - i. During periods of instream work, monitoring of turbidity downstream of the instream work sites and at the confluence with the James River, with any measurement indicative of concentrations above ambient levels at the confluence with the James River triggering an impact assessment;
 - ii. Permanent conservation, via a conservation easement the James River tributaries located downstream of the project site (south of the transmission line) and their buffers that Dominion controls;
 - iii. Funding for assistance with continued propagation and release of endangered or threatened freshwater mussels, such as James Spiny Mussel, Green Floater, or Yellow Lamp Mussel.
 - c. The Mussel Protection Plan shall be approved by DEQ and DWR prior to any instream construction activity occurring within onsite tributaries located within 1.0 mile upstream of the confluence with the James River during the specified TOYR. The Mussel Protection Plan as approved by DEQ and DWR shall be an enforceable requirement of this permit. Any change to the approved Mussel Protection Plan must be submitted to DEQ and receive approval prior to implementing the change.
 - d. During periods of instream work from April 15 through July 31, and August 15 through September 30 (TOYR) of any year, the permittee shall include DWR in the 24-hour notifications required in Part I.C.27 and Part I.H.5 of this permit.
 - e. All surface water impacts within onsite tributaries located within 1.0 mile upstream of the confluence with the James River shall be completed before June 1, 2025. If instream work in onsite tributaries located within 1.0 mile upstream of the James River is not completed by June 1, 2025, construction may continue following coordination with, and approval by the DEQ and DWR.

3. No activity shall substantially disrupt the movement of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the primary purpose of the activity is to impound water.
4. Flows downstream of the project area shall be maintained to protect all uses.
5. No activity shall cause more than minimal adverse effect on navigation, and no activity shall block more than half of the width of the stream at any given time.
6. The activity shall not impede the passage of normal or expected high flows, and any associated structure shall withstand expected high flows.
7. Continuous flow of perennial springs shall be maintained by the installation of spring boxes, French drains, or other similar structures.
8. All excavation, dredging, or filling in surface waters shall be accomplished in a manner that minimizes bottom disturbance and turbidity.
9. All in-stream activities shall be conducted during low-flow conditions whenever practicable.
10. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls shall be placed prior to clearing and grading and maintained in good working order to minimize impacts to state waters. These controls shall remain in place until the area is stabilized and shall then be removed.
11. All construction, construction access, and demolition activities associated with this project shall be accomplished in a manner that minimizes construction materials or waste materials from entering surface waters, unless authorized by this permit. Wet, excess, or waste concrete shall be prohibited from entering surface waters.
12. All fill material placed in surface waters shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.
13. Measures shall be employed at all times to prevent and contain spills of fuels, lubricants, or other pollutants into surface waters.
14. Machinery or heavy equipment in temporarily impacted wetlands shall be placed on mats or geotextile fabric, or other suitable means shall be implemented, to minimize soil disturbance to the maximum extent practical. Mats, fabrics, or other measures shall be removed as soon as the work is complete in the temporarily impacted wetland.
15. Stream channel restoration activities shall be conducted in the dry or during low flow conditions. When site conditions prohibit access from the streambank or upon prior authorization from DEQ, heavy equipment may be authorized for use within the stream channel. The equipment shall be stationed on cobble bars.

16. Temporary disturbances to wetlands, stream channels, and/or stream banks during project construction activities shall be avoided and minimized to the maximum extent practicable.
17. All temporarily disturbed wetland areas shall be restored to preconstruction conditions within 30 calendar days of completing work in the areas, which shall include re-establishing pre-construction contours, and planting or seeding with appropriate wetland vegetation according to cover type (emergent, scrub/shrub, or forested), except for invasive species identified on the Department of Conservation and Recreation's (DCR's) Virginia Invasive Plant Species List. The permittee shall take all appropriate measures to promote and maintain the revegetation of temporarily disturbed surface waters through the second year post-disturbance.
18. All temporarily impacted streams and stream banks shall be restored to their original elevations and contours within 30 calendar days following the construction at that stream segment, and the banks shall be seeded or planted with the same vegetative cover type originally present along the banks, including supplemental erosion control grasses if necessary but not including invasive species identified on the Department of Conservation and Recreation's (DCR's) Virginia Invasive Plant Species List. The permittee shall take all appropriate measures to promote and maintain the revegetation of temporarily disturbed surface waters through the second year post-disturbance.
19. All materials (including fill, construction debris, excavated materials, and woody materials, that are temporarily placed in wetlands, in stream channels, or on stream banks) shall be placed on mats or geotextile fabric, shall be immediately stabilized to prevent the material or leachate from entering surface waters, and shall be entirely removed within 30 calendar days following completion of that construction activity. After removal, disturbed areas shall be returned to original contours, shall be stabilized, and shall be restored to the original vegetated state within 30 calendar days. The permittee shall take all appropriate measures to promote and maintain the revegetation of temporarily disturbed surface waters through the second year post-disturbance.
20. Temporary in-stream construction features such as cofferdams shall be made of non-erodible materials.
21. Virginia Water Quality Standards shall not be violated in any surface waters as a result of the project activities.
22. All non-impacted surface waters that are within the project or right-of-way limits, and that are within fifty feet of any project activities, shall be clearly flagged or demarcated for the life of the construction activity within that area. The permittee shall notify all contractors and subcontractors that *no activities are to occur in these marked areas*.
23. All required notifications and submittals shall include project name and permit number and be submitted electronically to vro.vwp@deq.virginia.gov or mailed to the DEQ office stated below, to the attention of the VWP project manager, unless directed in writing by DEQ subsequent to the issuance of this permit: Department of Environmental Quality- Valley Regional Office, P.O. Box 3000 Harrisonburg, VA 22801.
24. All reports required by this permit and other information requested by DEQ shall be signed by the permittee or a person acting in the permittee's behalf, with the authority to bind the permittee. A

person is a duly authorized representative only if both criteria below are met. If a representative authorization is no longer valid because of a change in responsibility for the overall operation of the facility, a new authorization shall be immediately submitted to DEQ.

- a. The authorization is made in writing by the permittee.
- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position.

25. All submittals shall contain the following signed certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

26. Any fish kills or spills of fuels or oils shall be reported to DEQ immediately upon discovery at 540-820-3449. If DEQ cannot be reached, the spill or fish kill shall be reported to the Virginia Department of Emergency Management (VDEM) at 1-800-468-8892 or the National Response Center (NRC) at 1-800-424-8802. Any spill of oil as defined in § 62.1-44.34:14 of the Code of Virginia that is less than 25 gallons and that reaches, or that is expected to reach, land only is not reportable, if recorded per § 62.1-44.34:19.2 of the Code of Virginia and if properly cleaned up.
27. DEQ shall be notified in writing within 24 hours or as soon as possible on the next business day when potential environmentally threatening conditions are encountered which require debris removal or involve potentially toxic substances. Measures to remove the obstruction, material, or toxic substance or to change the location of any structure are prohibited until approved by DEQ.

D. Stream Modifications, Including Intake/Outfall Structures

1. Redistribution of existing stream substrate for erosion control purposes is prohibited.
2. Material removed from the stream bottom shall not be deposited into surface waters unless otherwise authorized in this permit.
3. Riprap apron for all outfalls shall be designed in accordance with Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, or the most recent version in effect at the time of construction.
4. For streambank protection activities, structures and backfill shall be placed as close to the streambank as practical, while still avoiding and minimizing impacts to surface waters to the

maximum extent practical. No material shall be placed in excess of the minimum necessary for erosion protection.

5. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills, breakwaters, dams, or weirs.

E. Installation of Utilities

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance in each area. Temporarily disturbed surface waters shall be restored in accordance with Part I.C.16, C.17, and C.18, unless otherwise authorized by this permit.
2. Material resulting from trench excavation may be temporarily sidecast into wetlands not to exceed a total of 90 calendar days, provided the material is not placed in a manner such that it is dispersed by currents or other forces.
3. The trench for a utility line cannot be constructed in a manner that drains wetlands (e.g., backfilling with extensive gravel layers creating a French drain effect).

F. Road Crossings

1. Access roads authorized by this permit shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable and to follow as near as possible pre-construction contours and elevations.
2. Installation of pipes and road crossings shall occur in the dry via the implementation of cofferdams, sheetpiling, stream diversions or other similar structures.
3. All surface waters temporarily affected by a road crossing shall be restored to their original elevations immediately following the removal of that particular temporary crossing. Temporary access roads shall be removed entirely following activity completion.

G. Stormwater Management Structures

1. The outfall and overflow structure shall be constructed and maintained to prevent downstream sediment deposition, erosion, or scour that may be associated with normal flow and any expected storm flows. Construction shall include the use of an appropriately sized riprap outlet protection apron at the outfall site.
2. Draining of a stormwater management facility shall be performed by a method that prevents downstream sediment deposition, erosion, or scour.
3. Maintenance excavation shall follow the stormwater management plan approved by the Virginia Stormwater Management Program Authority, and shall not exceed the original contours or designated maintenance areas of the facility.

H. Project Construction Monitoring and Submittals (Impact Sites)

1. The permittee shall submit written notification at least **10 calendar days** prior to the initiation of land disturbance or construction activities in permitted areas. The notification shall include preconstruction photographs, projected schedule for initiating and completing work at each permitted impact area.
 - a. Preconstruction photographs shall be taken at each impact area prior to initiation of activities within impact areas.
 - b. Photographs shall depict the impact area and the nonimpacted surface waters immediately adjacent to and downgradient of each impact area.
 - c. Each photograph shall be labeled to include the following information: permit number, impact area number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.
2. Site inspections shall be conducted **once every calendar month** and recorded on the *Monthly VWP Permit Inspection Checklist* (Attachment 2) by the permittee or the permittee's qualified designee during active construction within authorized surface water impact areas. Monthly inspections shall be conducted in the following areas: all authorized permanent and temporary impact areas; all avoided surface waters, including wetlands, stream channels, and open water; surface water areas within 50 feet of any land disturbing activity; and all on-site areas designated for permanent preservation. The *Monthly VWP Permit Inspection Checklist* (Attachment 2) shall be completed in its entirety for each monthly inspection and shall be kept on-site and made available for review by DEQ staff upon request during normal business hours.
3. The *VWP Permit Construction Status Update Form* (Attachment 1) enclosed with this permit shall be completed in June and December of every year for the duration of this permit. The *VWP Permit Construction Status Update Form* (Attachment 1) shall include reference to the VWP permit authorization number and one of the following statements for each authorized surface water impact location:
 - a. Construction activities not yet started;
 - b. Construction activities started;
 - c. Construction activities started but are currently inactive, or;
 - d. Construction activities complete.
4. The *VWP Permit Construction Status Update Form* (Attachment 1) shall be submitted and must be received by DEQ no later than January 10 and July 10 of every year.
5. The permittee shall notify DEQ within 24 hours of discovering impacts to surface waters including wetlands, stream channels, and open water that are not authorized by this permit. The notification

shall include photographs, estimated acreage and/or linear footage of impacts, and a description of the impacts.

6. The permittee shall submit written notification of completion within 30 calendar days after the completion of all activities in all permitted impact areas authorized under this permit.

I. Compensatory Mitigation – Credit Purchases

1. As compensation for permanent wetland impacts, the permittee shall purchase 2.69 wetland mitigation credit(s). As compensation for permanent stream impacts, the permittee shall purchase 7,889 USM stream mitigation credits or Stream Condition Units (SCUs). All compensatory mitigation credits shall be purchased from a DEQ-approved mitigation bank, an approved in-lieu fee (ILF) program, or a combination thereof. The bank or program must be authorized and approved by DEQ to sell credits in the area in which the impacts will occur and have credits available (as released by DEQ). Any credit sale shall be in accordance with the approved Mitigation Banking Instrument or ILF Program Instrument. Purchase of required mitigation credits shall occur first through the purchase of available released credits followed by the purchase of advance credits. Multiple banks or programs may be used to fulfill compensation requirements. Documentation of the purchase of 2.69 wetland and 7,889 USM stream mitigation credits or Stream Condition Units (SCUs) shall be submitted to and received by DEQ prior to initiating work in the impact areas authorized by this permit.
2. The permittee shall not initiate work in permitted impact areas until documentation of the mitigation bank credit purchase or of the in-lieu fee program credit purchase has been submitted to and received by the department.
3. The permittee purchased all wetland credits on July 5, 2022 and all stream credits on November 17, 2021, July 5, 2022, and September 30, 2022. DEQ received documentation of all credit purchases as of October 27, 2022, therefore conditions I.1-2 have been fulfilled.

Part II – General Conditions

A. Duty to Comply

The permittee shall comply with all conditions and limitations of the VWP permit. Nothing in this chapter shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations, toxic standards, and prohibitions. Any VWP permit violation or noncompliance is a violation of the Clean Water Act and State Water Control Law and is grounds for enforcement action, VWP permit termination, VWP permit revocation, VWP permit modification, or denial of an application for a VWP permit extension or reissuance.

Nothing in this VWP permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

B. Duty to Cease or Confine Activity

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.

C. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any impacts in violation of the VWP permit that may have a reasonable likelihood of adversely affecting human health or the environment.

D. VWP Permit Actions

A VWP permit may be modified in whole or in part, revoked and reissued, extended, transferred, or terminated in accordance with 9VAC25-210-180 of the Virginia Administrative Code.

1. During the drafting and authorization of a permit modification, only those conditions to be modified shall be addressed with preparing a draft modified permit. VWP permit terms and conditions of the existing permit shall remain in full force and effect during the modification of the permit.
2. This VWP permit may be modified upon the request of the permittee or upon the department's initiative when any of the following developments occur:
 - a. When new information becomes available about the project or activity covered by the VWP permit, including project additions or alterations, that was not available at VWP permit issuance and would have justified the application of different VWP permit conditions at the time of VWP permit issuance;
 - b. When a change is made in the promulgated standards or regulations on which the VWP permit was based;

- c. When changes occur that are subject to "reopener clauses" in the VWP permit; or
 - d. When developments applicable to surface water withdrawals occur as specified in 9VAC25-210-380 of the Virginia Administrative Code.
3. When this VWP permit authorizes surface water withdrawals, it may be modified when any of the following developments occur:
- a. When the department determines that minimum instream flow levels resulting directly from the permittee's withdrawal of surface water are detrimental to the instream beneficial use, existing at the time of permit issuance, and the withdrawal of surface water should be subject to further net limitations or when an area is declared a surface water management area pursuant to §§ 62.1-242 through 62.1-253 of the Code of Virginia, during the term of the VWP permit.
 - b. Significant changes to the location of the surface water withdrawal system are proposed such that the Department of Environmental Quality determines a new review is warranted due to the potential effect of the surface water withdrawal to existing beneficial uses of the new location.
 - c. Changes to the permitted project or the surface water withdrawal, including increasing the storage capacity for the surface water withdrawal, that propose an increase in the maximum permitted withdrawal volumes or rate of withdrawal or that cause more than a minimal change to the instream flow requirements with potential to result in a detrimental effect to existing beneficial uses.
 - d. A revision to the purpose of the surface water withdrawal that proposes to include a new use or uses that were not identified in the permit application or a modification of the existing authorized use or uses such that the use description in the permit application and permit is no longer applicable. Examples of uses include, but are not limited to agricultural irrigation, golf course irrigation, public water supply, manufacturing, and electricity generation.
4. When the permittee has submitted a timely and complete application for reissuance of an existing VWP individual permit, but through no fault of the permittee, the department does not reissue or reissue with conditions a VWP individual permit or the department does not provide notice of its tentative decision to deny the application before an existing VWP individual permit expires, the conditions of the expiring VWP individual permit shall be administratively continued in full force and effect until the effective date of a reissued permit or the date on which the department denies the application. Timely application shall be a minimum of 180 days for an individual permit or a minimum of 270 days for an individual permit for a surface water withdrawal, unless otherwise specified in the existing permit.
5. Any permittee desiring to continue a previously permitted activity after the expiration date of this VWP permit shall apply for and obtain a new permit or, if applicable, shall request an extension in accordance with 9VAC25-210-180 of the Virginia Administrative Code. Any permittee with an effective VWP permit for an activity that is expected to continue after the expiration date of the

VWP permit, without any change in the activity authorized by the VWP permit other than as may be allowed under 9VAC25-210-180, shall submit written notification requesting an extension. The permittee must file the request 90 days prior to the expiration date of the VWP permit. VWP permit modifications shall not be used to extend the term of a VWP permit beyond 15 years from the date of original issuance. When a permit term, other than that of an Emergency Virginia Water Protection Permit, is less than 15 years, an extension of the permit terms and conditions may be granted in accordance with 9VAC25-210-180. Emergency Virginia Water Protection Permits shall not exceed a duration of one year or shall expire upon the issuance of a regular Virginia Water Protection Permit, whichever comes first.

6. This VWP permit may be transferred to a new permittee only by modification to reflect the transfer, by revoking and reissuing the permit, or by automatic transfer. Automatic transfer to a new permittee shall occur if the current permittee: a) Notifies the department of the proposed transfer of the permit and provides a written agreement between the current and proposed permittees containing the date of transfer of VWP permit responsibility, authorization, and liability to the new permittee; and b) the department does not within 15 days notify the existing permittee of its intent to modify the VWP permit.
7. After notice and opportunity for a formal hearing pursuant to § 62.1-44.15:02 of the Code of Virginia, a VWP permit can be terminated for cause. Reasons for termination for cause are as follows:
 - a. Noncompliance by the permittee with any condition of the VWP permit;
 - b. The permittee's failure in the application or during the VWP permit process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;
 - c. The permittee's violation of a special or judicial order;
 - d. A determination by the department that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by VWP permit modification or termination;
 - e. A change in any condition that requires either a temporary or permanent reduction or elimination of any activity controlled by the VWP permit; and
 - f. A determination that the permitted activity has ceased and that the compensation for unavoidable adverse impacts has been successfully completed.
8. The department may terminate this permit without cause when the permittee is no longer a legal entity due to death, dissolution, or when a company is no longer authorized to conduct business in the Commonwealth. The termination shall be effective 30 days after notice of the proposed termination is sent to the last known address of the permittee or registered agent, unless the permittee objects within that time. If the permittee does object during that period, the department shall follow

the applicable procedures for termination under § 62.1-44.15:25 of the Code of Virginia and 9VAC25-230 of the Virginia Administrative Code.

9. This VWP permit may be terminated by consent, as initiated by the permittee. The permittee shall submit a request for termination by consent within 30 days of completing or canceling all permitted activities and all required compensatory mitigation requirements. When submitted for project completion, the request for termination by consent shall constitute a notice of project completion. The permittee shall submit the following information:
 - a. Name, mailing address, and telephone number;
 - b. Name and location of the activity;
 - c. The VWP permit number; and
 - d. One of the following certifications:
 - i. For project completion: "I certify under penalty of law that all activities and any required compensatory mitigation authorized by a VWP permit have been completed. I understand that by submitting this notice of termination that I am no longer authorized to perform activities in surface waters in accordance with the VWP permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit, unless otherwise excluded from obtaining a permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP permit."
 - ii. For project cancellation: "I certify under penalty of law that the activities and any required compensatory mitigation authorized by this VWP permit will not occur. I understand that by submitting this notice of termination that I am no longer authorized to perform activities in surface waters in accordance with the VWP permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit, unless otherwise excluded from obtaining a permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP permit, nor does it allow me to resume the permitted activities without reapplication and issuance of another permit."
 - iii. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by the department, and the following certification statement: "I certify under penalty of law that the activities or the required compensatory mitigation authorized by this VWP permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination that I am no longer authorized to perform activities in surface waters in accordance with the VWP permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit, unless otherwise excluded from obtaining a permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP permit, nor does it allow me to resume the permitted activities without reapplication and issuance of another permit."

E. Inspection and Entry

Upon presentation of credentials, the permittee shall allow the department or any duly authorized agent of the department, at reasonable times and under reasonable circumstances, to conduct the actions listed in this section. For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP permit conditions;
2. Inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP permit; and
3. Sample or monitor any substance, parameter, or activity for the purpose of ensuring compliance with the conditions of the VWP permit or as otherwise authorized by law.

F. Duty to Provide Information

The department may request (i) such plans, specifications, and other pertinent information as may be necessary to determine the effect of an applicant's discharge on the quality of state waters or (ii) such other information as may be necessary to accomplish the purposes of this chapter. Any owner, permittee, or person applying for a VWP permit or general permit coverage shall provide the information requested by the department.

G. Monitoring and Records Requirements

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2017), Guidelines Establishing Test Procedures for the Analysis of Pollutants.
2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the VWP permit, and records of all data used to complete the application for the VWP permit, for a period of at least three years from the date of permit expiration. This period may be extended by request of the department at any time.
4. Records of monitoring information shall include:
 - a. The date, exact place and time of sampling or measurements;

- b. The name of the individuals who performed the sampling or measurements;
- c. The date and time the analyses were performed;
- d. The name of the individuals who performed the analyses;
- e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;
- f. The results of such analyses; and
- g. Chain of custody documentation.

H. Property rights

The issuance of a VWP permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state or local laws or regulations.

I. Reopener

This VWP permit may be reopened for the purpose of modifying the conditions of the VWP permit to meet new regulatory standards duly adopted by the board. Cause for reopening VWP permits includes, but is not limited to when the circumstances on which the previous VWP permit was based have materially and substantially changed, or special studies conducted by the department or the permittee show material and substantial change, since the time the VWP permit was issued and thereby constitute cause for VWP permit modification or revocation and reissuance.

J. Compliance with State and Federal Law

As to the permitted activity(ies), compliance with a VWP permit constitutes compliance with the VWP permit requirements of the Law and regulations. .

K. Severability

The provisions of this VWP permit are severable.

L. Oil and Hazardous Substance Liability

Nothing in this VWP permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

M. Unauthorized Discharge of Pollutants

Except in compliance with a VWP permit, unless the activity is otherwise exempted or excluded, no person shall dredge, fill, or discharge any pollutant into, or adjacent to surface waters; withdraw surface water; otherwise alter the physical, chemical, or biological properties of state waters regulated under this chapter and make them detrimental to the public health, to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses; excavate in wetlands; or on or after October 1, 2001, conduct the following activities in a wetland:

1. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;
2. Filling or dumping;
3. Permanent flooding or impounding; or
4. New activities that cause significant alteration or degradation of existing wetland acreage or functions.



VWP Individual Permit Number: 21-2305, Issuance Date: March 30, 2023

Attachment 1: VWP PERMIT CONSTRUCTION STATUS UPDATE FORM

To be completed and submitted by January 10 and July 10 of every year.

Project Name and Location: _____

Status within each authorized surface water impact location, as identified on impacts map entitled *Figure 12 Aquatic Resources Impact Map Overview*, dated May 19, 2022, received June 10, 2022, and drawn by AECOM: (check one of the following status options for each impact number/location. Attach additional sheet(s) if needed.)

Authorized impact number	Construction activities not started	Construction activities started	Construction activities started but currently not active	Does this impact involve culvert(s) ¹ ?	Construction activities complete ²
Impact 1 : 0.88 ac PEM, 0.52 ac PFO, 0.14 ac PSS, 3,959 lf stream channel					
Impact 2: 0.04 ac PEM 0.09 PFO 0.15 PSS 970 lf stream channel					
Impact 3: 0.01 ac PEM 541 lf stream channel					
Impact 4: 0.05 ac PFO					
Impact 5: 846 lf stream channel					

¹ Provide spot elevations of the stream bottom within the thalweg at the beginning and end of the pipe or culvert, extending to a minimum of 10 feet beyond the limits of the impact, with completion of all culvert installations.

² If all construction activities and compensatory mitigation requirements are complete, the permittee completes and signs the Termination Agreement section below within 30 days of last authorized activity and/or compensation completion. A completed and signed Agreement serves as Notice of Project Completion (9VAC25-210-130 F).

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violation.

Authorized Signature: _____

Print Name: _____

Title: _____

Phone: _____

Date: _____ Email: _____

TERMINATION AGREEMENT BY CONSENT – PROJECT COMPLETION

Permittee Name: _____

Permittee Mailing Address: _____

I hereby consent to the termination of coverage for VWP Individual Permit Number 21-2305.

"I certify under penalty of law that all activities and any required compensatory mitigation authorized by a VWP permit have been completed. I understand that by submitting this notice of termination that I am no longer authorized to perform activities in surface waters in accordance with the VWP permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit, unless otherwise excluded from obtaining a permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP permit."

Authorized Signature: _____

Print Name: _____

Title: _____ Phone: _____

Date: _____ Email: _____

Attachment 2: MONTHLY VWP PERMIT INSPECTION CHECKLIST

An inspection of all permitted impact areas, avoided waters and wetlands, and permanently preserved waters, wetlands and upland areas must be conducted at least once every month during active construction activities. Maintain this record on-site and available for inspection by DEQ staff.

Project Name Bremo FFCP Management Facility	VWP Permit # 21-2305	Inspection Date Click here to enter a date.
Inspector Name & Affiliation	Phone # & Email Address	

Based on my inspection, this project (☐ is in compliance / ☐ is not in compliance) with the above-referenced VWP Permit and the authorized impact map entitled *Figure 12 Aquatic Resources Impact Map Overview*, dated May 19, 2022, received June 10, 2022, and drawn by AECOM.

I certify that the information contained in this report is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature of Inspector

Date

PERMIT REQUIREMENT	In Compliance?			Location, Description, Notes & Corrective Action Taken (use additional note space below if needed)	Date Completed
	Yes	No	Not Applicable		
Surface water impacts are limited to the size and locations specified by the permit. No sedimentation impacts and no impacts to upland preservation areas have occurred ¹ .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Within 50 feet of authorized activities, all remaining surface waters and mitigation (preservation) areas that are inside the project area are clearly flagged or marked to prevent unpermitted impacts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Authorized temporary impact areas have been restored to original contours, stabilized, and planted or seeded with original wetland vegetation type within 30 days of completing work in each area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
E&S controls consistent with the Virginia ESC Handbook are present and maintained in good working order.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Exposed slopes/stream banks have been stabilized immediately upon completion of work in each impact area, in accordance with the Virginia ESC Handbook.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Heavy equipment is placed on mats/ geotextile fabric when working in temporary wetland impact areas. Equipment and materials removed immediately upon completion of work.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Construction activities are not substantially disrupting the movement of aquatic life.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
New instream pipes and culverts on <5% slope have been installed to maintain low flow conditions and are countersunk at both ends as follows: ≤ 24" diameter: countersunk 3" > 24" diameter: countersunk 6" or more.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

¹ If unauthorized impacts have occurred, you **must** email or fax a copy of this report to DEQ within 24 hours of discovery. Email: vro.vwp@deq.virginia.gov Fax: 804-698-4178

PERMIT REQUIREMENT	In Compliance?			Location, Description, Notes & Corrective Action Taken (use additional note space below if needed)	Date Completed
	Yes	No	Not Applicable		
Any variations were approved in advance by DEQ.					
Time-of-year restrictions are being adhered to.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
For stream channelization or relocation, work in surface waters is being performed in the dry, with all flows diverted until the new channel is stabilized.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Water quality monitoring is being conducted during permanent stream relocations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Streams and wetlands are free from any sheen or discoloration that may indicate a spill of oil, lubricants, concrete or other pollutants. ²	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

Inspection Notes

² Any fish kills or spills of fuels or oils shall be reported to DEQ immediately upon discovery at 540-820-3449. If DEQ cannot be reached, the spill or fish kill shall be reported to the Virginia Department of Emergency Management (VDEM) at 1-800-468-8892 or the National Response Center (NRC) at 1-800-424-8802. Any spill of oil as defined in § 62.1-44.34:14 of the Code of Virginia that is less than 25 gallons and that reaches, or that is expected to reach, land only is not reportable, if recorded per § 62.1-44.34:19.2 of the Code of Virginia and if properly cleaned up.