

WFF Marsh Fiber Environmental Assessment

**Appendix D**  
Coastal Zone Management Act  
Federal Consistency Determination  
and  
Virginia Department of  
Environmental Quality Response



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

*Street address:* 1111 East Main Street, Suite 1400, Richmond, VA 23219

*Mailing address:* P.O. Box 1105, Richmond, Virginia 23218

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Matthew J. Strickler  
Secretary of Natural Resources

David K. Paylor  
Director

(804) 698-4000  
1-800-592-5482

June 9, 2020

Ms. Shari A. Miller  
NASA Goddard Space Center  
Wallops Flight Facility  
Wallops Island, VA 23337  
Sent via email: [Shari.A.Miller@nasa.gov](mailto:Shari.A.Miller@nasa.gov)

RE: National Aeronautics and Space Administration, Draft Environmental Assessment and Federal Consistency Determination: Marsh Fiber Project, Accomack County (DEQ 20-053F).

Dear Ms. Miller:

The Commonwealth of Virginia has completed its review of the draft Environmental Assessment (EA), which includes a federal consistency determination (FCD), for the above-referenced project. The Department of Environmental Quality (DEQ) is responsible for coordinating Virginia's review of federal environmental documents prepared pursuant to the National Environmental Policy Act (NEPA) and responding to appropriate federal officials on behalf of the Commonwealth. DEQ is also responsible for coordinating state reviews of FCDs submitted under the Coastal Zone Management Act. The following agencies participated in this review:

Department of Environmental Quality  
Department of Conservation and Recreation  
Department of Game and Inland Fisheries  
Department of Historic Resources  
Department of Health  
Virginia Marine Resources Commission

Accomack County and Accomack-Northampton Planning District Commission also were invited to comment on the project.

## **PROJECT DESCRIPTION**

The National Aeronautics and Space Administration (NASA) proposes to install a new fiber optic cable in three segments (Segment A, Segment B, and Segment C) between the NASA Boresight Antenna on the Wallops National Wildlife Refuge and the Mid-Atlantic Regional Spaceport (MARS) Unmanned Aerial Systems Airstrip on Wallops Island. NASA would install two segments of horizontal directional drilling (HDD), one under Watts Bay and the second under Ballast Narrows, with the boreholes exiting on the edges of Walker Marsh, a tidal saltmarsh that lies between the Wallops Flight Facility (WFF) Main Base and Wallops Island in Accomack County. NASA would primarily use vibratory trenching employing low-pressure equipment to install the cable across Walker Marsh and would use a small version of HDD to install the cable beneath three guts in Walker Marsh (a gut is a small creek in the marsh).

## **FEDERAL CONSISTENCY PURSUANT TO THE COASTAL ZONE MANAGEMENT ACT**

Pursuant to the Coastal Zone Management Act of 1972, as amended, activities both within and outside of the Commonwealth's designated coastal zone with reasonably foreseeable effects on any coastal uses or resources resulting from a Federal agency activity (15 CFR Part 930, Subpart C) must be consistent to the maximum extent practicable with Virginia's Coastal Zone Management (CZM) Program. The Virginia CZM Program consists of a network of programs administered by several agencies. DEQ coordinates the review of FCDs with agencies administering the enforceable policies of the Virginia CZM Program.

## **PUBLIC PARTICIPATION**

In accordance with 15 CFR §930.2, a public notice with a comment period of April 21, 2020 to May 18, 2020 of this proposed action was published in OEIR's Program Newsletter and on the DEQ website. No public comments were received in response to the notice.

## **FEDERAL CONSISTENCY CONCURRENCE**

The FCD states that the project is consistent to the maximum extent practicable with the enforceable policies of the Virginia CZM Program. The reviewing agencies that are responsible for the administration of the enforceable policies generally agree with the FCD. Based on the review of the FCD and the comments submitted by agencies administering the enforceable policies of the Virginia CZM Program, DEQ concurs that the proposed project is consistent to the maximum extent practicable with the Virginia CZM Program provided all applicable permits and approvals are obtained as described. In addition, in accordance with 15 CFR §930.39(c), DEQ recommends that NASA consider the impacts of the proposed action on the [advisory policies](#) of the Virginia CZM Program. However, other state approvals which may apply to this project are not

included in this concurrence. Therefore, the responsible agent must also ensure that this project is constructed and operated in accordance with all applicable federal, state and local laws and regulations.

## NEPA CONCLUSION

Provided activities are performed in accordance with the recommendations which follow in the Environmental Impacts and Mitigation section of this report, the proposal described in the EA is unlikely to have significant effects on ambient air quality, water quality, wetlands, wildlife resources, forest resources, historic resources, and solid and hazardous wastes. It is unlikely to adversely affect species of animals, plants or insects listed by state agencies as rare, threatened, or endangered.

## ENVIRONMENTAL IMPACTS AND MITIGATION

**1. Wetlands and Water Quality.** The EA (Appendix B, FCD, page 4) states that the tidal wetlands are located along the fiber optic cable pathway in Walker Marsh. The proposed project would result in temporary and permanent impacts to wetlands. Impacts to wetlands have been minimized to the extent practicable through use of HDD and vibratory trenching methods to install most the fiber optic cable. NASA would mitigate temporary wetland impacts by restoring disturbed areas to pre-existing conditions, including re-establishing native vegetation. The FCD (Appendix B, FCD, page 4) states that the project will require a VMRC permit.

**1(a) Agency Jurisdiction.** The State Water Control Board promulgates Virginia's water regulations covering a variety of permits to include the Virginia Pollutant Discharge Elimination System Permit regulating point source discharges to surface waters, Virginia Pollution Abatement Permit regulating sewage sludge, storage and land application of biosolids, industrial wastes (sludge and wastewater), municipal wastewater, and animal wastes, the Surface and Groundwater Withdrawal Permit, and the Virginia Water Protection (VWP) Permit regulating impacts to streams, wetlands, and other surface waters. The VWP Permit is a state permit which governs wetlands, surface water, and surface water withdrawals and impoundments. It also serves as §401 certification of the federal Clean Water Act and §404 permits for dredge and fill activities in waters of the U.S. The VWP Permit Program is under the Office of Wetlands and Stream Protection within the DEQ Division of Water Permitting. In addition to central office staff who review and issue VWP permits for transportation and water withdrawal projects, the six DEQ regional offices perform permit application reviews and issue permits for the covered activities:

- Clean Water Act, §401;
- Section 404(b)(i) Guidelines Mitigation Memorandum of Agreement (2/90);
- State Water Control Law, Virginia Code section 62.1-44.15:20 *et seq.*; and

- State Water Control Regulations, 9VAC25-210-10.

Tidal wetlands are regulated by the Virginia Marine Resources Commission (VMRC) under the authority of Virginia Code §28.2-1301 through §28.2-1320.

**1(b) Agency Findings.** The DEQ Tidewater Regional Office (TRO) states that potential adverse impacts to water quality and wetlands resulting from surface runoff due to construction activities must be minimized. This can be achieved by using Best Management Practices (BMPs).

**1(c) Agency Recommendations.** In general, DEQ recommends that stream and wetland impacts be avoided to the maximum extent practicable. To minimize unavoidable impacts to wetlands and waterways, DEQ recommends the following practices:

- Operate machinery and construction vehicles outside of stream-beds and wetlands; use synthetic mats when in-stream work is unavoidable.
- Preserve the top 12 inches of material removed from wetlands for use as wetland seed and root-stock in the excavated area.
- Design erosion and sedimentation controls in accordance with the most current edition of the *Virginia Erosion and Sediment Control Handbook*. These controls should be in place prior to clearing and grading, and maintained in good working order to minimize impacts to state waters. The controls should remain in place until the area is stabilized.
- Place heavy equipment, located in temporarily impacted wetland areas, on mats, geotextile fabric, or use other suitable measures to minimize soil disturbance, to the maximum extent practicable.
- Restore all temporarily disturbed wetland areas to pre-construction conditions and plant or seed with appropriate wetlands vegetation in accordance with the cover type (emergent, scrub-shrub or forested). The applicant should take all appropriate measures to promote revegetation of these areas. Stabilization and restoration efforts should occur immediately after the temporary disturbance of each wetland area instead of waiting until the entire project has been completed.
- Place all materials which are temporarily stockpiled in wetlands, designated for use for the immediate stabilization of wetlands, on mats or geotextile fabric in order to prevent entry in state waters. These materials should be managed in a manner that prevents leachates from entering state waters and must be entirely removed within thirty days following completion of that construction activity. The disturbed areas should be returned to their original contours, stabilized within thirty days following removal of the stockpile, and restored to the original vegetated state.
- Clearly flag or mark all non-impacted surface waters within the project or right-of-way limits that are within 50 feet of any clearing, grading or filling activities for the

life of the construction activity within that area. The project proponent should notify all contractors that these marked areas are surface waters where no activities are to occur.

- Employ measures to prevent spills of fuels or lubricants into state waters.

**1(d) Requirements.** Permanent or temporary impacts to surface waters and wetlands may require a permit pursuant to §401 of the Clean Water Act, Virginia Code §62.1-44.15:20, and Virginia Administrative Code 9 VAC 25-210-10 *et seq.* VMRC states that the project involves state-owned marsh and a VMRC wetlands permit will be required.

**1(e) Conclusion.** Provided a VWP Permit or approval is obtained if necessary and VMRC wetlands permit and the requirements are met, the proposed project would be consistent to the maximum extent practicable with the wetlands management enforceable policy of the Virginia CZM Program.

**2. Subaqueous Lands.** The FCD (Appendix B, FCD, page 4) states that the project will require a VMRC permit.

**2(a) Agency Jurisdiction.** The VMRC regulates encroachments in, on or over state-owned subaqueous beds as well as tidal wetlands pursuant to Virginia Code §28.2-1200 through 1400. For nontidal waterways, VMRC states that it has been the policy of the Habitat Management Division to exert jurisdiction only over the beds of perennial streams where the upstream drainage area is 5 square miles or greater. The beds of such waterways are considered public below the ordinary high water line.

**2(b) Agency Findings.** VMRC states that the project does not include the placement of any fill on subaqueous bottom and will not impact Baylor grounds, a permit from the subaqueous portion of the project will not be required.

**2(c) Conclusion.** As proposed, the project is consistent to the maximum extent practicable with the subaqueous lands management enforceable policy of the Virginia CZM Program.

**3. Air Pollution Control.** The EA (Appendix B, FCD, page 5) states that the proposed project would create minimal impacts to air quality.

**3(a) Agency Jurisdiction.** The DEQ Air Division, on behalf of the State Air Pollution Control Board, is responsible for developing regulations that implement Virginia's Air Pollution Control Law (Virginia Code §10.1-1300 *et seq.*). DEQ is charged with carrying out mandates of the state law and related regulations as well as Virginia's federal obligations under the Clean Air Act as amended in 1990. The objective is to protect and enhance public health and quality of life through control and mitigation of air pollution. The division ensures the safety and quality of air in Virginia by monitoring and analyzing

air quality data, regulating sources of air pollution, and working with local, state and federal agencies to plan and implement strategies to protect Virginia's air quality. The appropriate DEQ regional office is directly responsible for the issuance of necessary permits to construct and operate all stationary sources in the region as well as monitoring emissions from these sources for compliance. As a part of this mandate, environmental impact reviews (EIRs) of projects to be undertaken in the state are also reviewed. In the case of certain projects, additional evaluation and demonstration must be made under the general conformity provisions of state and federal law.

The Air Division regulates emissions of air pollutants from industries and facilities and implements programs designed to ensure that Virginia meets national air quality standards. The most common regulations associated with projects are:

- Open burning: 9VAC5-130 *et seq.*
- Fugitive dust control: 9VAC5-50-60 *et seq.*
- Permits for fuel-burning equipment: 9VAC5-80-1100 *et seq.*

**3(b) Ozone Attainment Area.** According to the DEQ Air Division, the project site is located in an ozone attainment area and an emission control area for volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>), which are contributors to ozone pollution.

**3(c) Requirements.** The following requirements may be applicable to the proposed project.

**3(c)(i) Fugitive Dust.** During land-disturbing activities, fugitive dust must be kept to a minimum by using control methods outlined in 9VAC5-50-60 *et seq.* of the Regulations for the Control and Abatement of Air Pollution. These precautions include, but are not limited to, the following:

- Use, where possible, of water or suitable chemicals for dust control during the proposed demolition and construction operations and from material stockpiles;
- Installation and use of hoods, fans and fabric filters to enclose and vent the handling of dusty materials;
- Covering of open equipment for conveying materials; and
- Prompt removal of spilled or tracked dirt or other materials from paved streets and removal of dried sediments resulting from soil erosion.

**3(c)(ii) Open Burning.** If project activities change to include the burning of vegetative debris, this activity must meet the requirements under 9VAC5-130 *et seq.* of the regulations for open burning, and it may require a permit. The regulations provide for, but do not require, the local adoption of a model ordinance concerning open burning. Contact officials with the locality to determine what local requirements, if any, exist.

**3(c)(iii) Fuel-Burning Equipment.** Fuel-burning equipment (generators, compressors, etc.) or any other air-pollution-emitting equipment may be subject to registration or permitting requirements.

**3(d) Conclusion.** Provided the project adheres to any applicable requirements, the project would be consistent to the maximum extent practicable with the air pollution control enforceable policy of the Virginia CZM Program.

**4. Coastal Lands Management.** The EA (Appendix B, FCD, page 5) states that the proposed project is not located in a Chesapeake Bay Drainage Area and therefore would have no impact on land analogous to Chesapeake Bay Preservation Area Resources.

**4(a) Agency Jurisdiction.** The DEQ Local Government Assistance Programs (LGAP) administers the Chesapeake Bay Preservation Act (Virginia Code §62.1-44.15:67 *et seq.*) (Bay Act) and Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830-10 *et seq.*). Each Tidewater locality must adopt a program based on the Chesapeake Bay Preservation Act and the Chesapeake Bay Preservation Area Designation and Management Regulations. The Act and regulations recognize local government responsibility for land use decisions and are designed to establish a framework for compliance without dictating precisely what local programs must look like. Local governments have flexibility to develop water quality preservation programs that reflect unique local characteristics and embody other community goals. Such flexibility also facilitates innovative and creative approaches in achieving program objectives. The regulations address nonpoint source pollution by identifying and protecting certain lands called Chesapeake Bay Preservation Areas. The regulations use a resource-based approach that recognizes differences between various land forms and treats them differently.

**4(b) Agency Findings.** DEQ states that the proposed project is located in the Atlantic Ocean watershed and is outside of the Chesapeake Bay watershed. Therefore, there are no comments or requirements under the Chesapeake Bay Preservation Area Designation and Management Regulations.

**4(c) Conclusion.** As proposed, the activity is consistent to the maximum extent practicable with the coastal lands management enforceable policy of the Virginia CZM Program.

**5. Erosion and Sediment Control and Stormwater Management.** According to the EA (Appendix B, FCD, pages 4 and 5), erosion and sediment control plan and stormwater management methods would be implemented. The NASA contractor would install turbidity curtains to contain suspended sediment.



**5(a) Agency Jurisdiction.** The DEQ Office of Stormwater Management (OSM) administers the following laws and regulations governing construction activities:

- Virginia Erosion and Sediment Control Law (VESCL) (§ 62.1-44.15:51 *et seq.*) and Regulations (VESCL&R) (9VAC25-840);
- Virginia Stormwater Management Act (VSMA) (§ 62.1-44.15:24 *et seq.*);
- Virginia Stormwater Management Program (VSMP) regulation (9VAC25-870); and
- 2014 General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities (9VAC25-880).

In addition, DEQ is responsible for the VSMP General Permit for Stormwater Discharges from Construction Activities related to Municipal Separate Storm Sewer Systems (MS4s) and construction activities for the control of stormwater discharges from MS4s and land disturbing activities under the Virginia Stormwater Management Program (9VAC25-890-40).

**5(b) Requirements.**

**5(b)(i) Erosion and Sediment Control/ Stormwater Management Annual Specifications, Stormwater Management and Local Program**

**Compliance.** In accordance with §62.1-44.15 *et seq.*, electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies, and railroad companies shall, and federal entities and authorities created pursuant to § 5.2-5102 may, file general erosion and sediment control standards and specifications annually with DEQ for review and approval. Such standards and specifications shall be consistent with the requirements of this article and associated regulations and the Erosion and Sediment Control Law and Stormwater Management Act (§ 62.1-44.15:24 *et seq.*) and associated regulations where applicable. The specifications shall apply to:

- Construction, installation, or maintenance of electric transmission, natural gas, and telephone utility lines and pipelines, and water and sewer lines; and
- Construction of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of the railroad company.

The applicant must have a certified Responsible Land Disturber in charge of and responsible for carrying out the project-specific erosion and sediment control plan and the land-disturbing activity. As an annual standards and specifications for erosion and sediment control holder, The applicant must have a certified erosion and sediment control inspector that must provide for an inspection during or immediately following initial installation of erosion and sediment controls, at least once in every two-week

period, within 48 hours following any runoff producing storm event, and at the completion of the project. The applicant must contact [standardsandspecs@deq.virginia.gov](mailto:standardsandspecs@deq.virginia.gov) two weeks prior to land disturbance. NASA WFF has approved annual standards and specifications.

**5(b)(ii) General Permit for Stormwater Discharges from Construction Activities (VAR10).** The operator or owner of a construction project involving land-disturbing activities equal to or greater than one acre is required to register for coverage under the General Permit for Discharges of Stormwater from Construction Activities and develop a project-specific SWPPP. The SWPPP must be prepared prior to submission of the registration statement for coverage under the general permit and the SWPPP must address water quality and quantity in accordance with the VSMP Permit Regulations. General information and registration forms for the General Permit are available on DEQ's website at <http://www.deq.virginia.gov/Programs/Water/StormwaterManagement/VSMPPermits/ConstructionGeneralPermit.aspx> (Reference: VSMA 62.1-44.15 *et seq.*; VSMP Permit Regulations 9VAC 25-880 *et seq.*).

**5(c) Conclusion.** Provided the above requirements are satisfied, the project would be consistent to the maximum extent practicable with the nonpoint pollution control enforceable policy of the Virginia CZM Program.

**6. Solid and Hazardous Waste Management.** The EA (page 3-12) states that construction contractors would be responsible for coordinating with WFF for the disposal of any hazardous or solid wastes generated.

**6(a) Agency Jurisdiction.** On behalf of the Virginia Waste Management Board, the DEQ Division of Land Protection and Revitalization is responsible for carrying out the mandates of the Virginia Waste Management Act (Virginia Code §10.1-1400 *et seq.*), as well as meeting Virginia's federal obligations under the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response Compensation Liability Act (CERCLA), commonly known as Superfund. The DEQ Division of Land Protection and Revitalization also administers those laws and regulations on behalf of the State Water Control Board that govern Petroleum Storage Tanks (Virginia Code §62.1-44.34:8 *et seq.*), including Aboveground Storage Tanks (9VAC25-91 *et seq.*) and Underground Storage Tanks (9VAC25-580 *et seq.* and 9VAC25-580-370 *et seq.*), also known as Virginia Tank Regulations, and § 62.1-44.34:14 *et seq.* which covers oil spills. Virginia:

- Virginia Waste Management Act, Virginia Code § 10.1-1400 *et seq.*
- Virginia Solid Waste Management Regulations, 9VAC20-81
  - (9VAC20-81-620 applies to asbestos-containing materials)
- Virginia Hazardous Waste Management Regulations, 9VAC20-60
  - (9VAC20-60-261 applies to lead-based paints)

- Virginia Regulations for the Transportation of Hazardous Materials, 9VAC20-110.

Federal:

- Resource Conservation and Recovery Act (RCRA), 42 U.S. Code sections 6901 *et seq.*
- U.S. Department of Transportation Rules for Transportation of Hazardous Materials, 49 Code of Federal Regulations, Part 107
- Applicable rules contained in Title 40, Code of Federal Regulations.

**6(b) Database Search.** The DEQ Division of Land Protection and Revitalization (DLPR) conducted a search (500-foot radius) of the project area of solid and hazardous waste databases (including petroleum releases) to identify waste sites in close proximity to the project area. The search did not identify any waste sites. DEQ TRO states that records do not indicate any reported petroleum releases within the proposed project footprint.

**6(c) Agency Recommendations.** DEQ encourages all projects to implement pollution prevention principles, including:

- the reduction, reuse and recycling of all solid wastes generated; and
- the minimization and proper handling of generated hazardous wastes.

**6(d) Requirements.** Test and dispose of any soil/sediment that is suspected of contamination (including petroleum contamination) or wastes that are generated during construction-related activities in accordance with applicable federal, state, and local laws and regulations.

**7. Natural Heritage Resources.** The EA (page 3-40) states that construction activities would disturb vegetation. Both HDD work and staging areas have been previously disturbed, are maintained by mowing, and consist of low-growing vegetation. No significant vegetation species are present in these areas, and no mature trees would be removed by the proposed project activities.

**7(a) Agency Jurisdiction.**

**7(a)(i) The Virginia Department of Conservation and Recreation's (DCR) Division of Natural Heritage (DNH):** DNH's mission is conserving Virginia's biodiversity through inventory, protection and stewardship. The Virginia Natural Area Preserves Act (Virginia Code §10.1-209 through 217), authorized DCR to maintain a statewide database for conservation planning and project review, protect land for the conservation of biodiversity, and to protect and ecologically manage the natural heritage resources of Virginia (the habitats of rare, threatened and endangered species, significant natural communities, geologic sites, and other natural features).

**7(a)(ii) The Virginia Department of Agriculture and Consumer Services (VDACS):**

The Endangered Plant and Insect Species Act of 1979 (Virginia Code Chapter 39 §3.1-1020 through 1030) authorizes VDACS to conserve, protect and manage endangered and threatened species of plants and insects. Under a Memorandum of Agreement established between VDACS and the DCR, DCR represents VDACS in comments regarding potential impacts on state-listed threatened and endangered plant and insect species.

**7(b) Agency Findings – Natural Heritage Resources and Forest Fragmentation.**

According to the information currently in DCR's files, a bird nesting colony has been documented within the project site on Walker's Marsh, which includes the rare colonial wading birds Great egret (*Ardea alba*, G5/S2S3B,S3N/NL/NL), Snowy Egret (*Egretta thula*, G5/S2B,S3N/NL/NL), Little blue heron (*Egretta caerulea*, G5/S2B/S3N/NL/NL) and Tri-colored heron (*Egretta tricolor*, G5/S2B,S3N/NL/NL).

Ground disturbance in wetlands of the eastern United States can often lead to the establishment of the common reed (*Phragmites australis*), an aggressive, exotic invasive plant species that spreads rapidly. *Phragmites* literally crowds out other plant species due to its rapidly spreading rhizomes and, once established, prevents sunlight from reaching understory species. Thus, through interspecific competition, *Phragmites* threatens the native plant community and reduces plant diversity. If *Phragmites* is detected during monitoring efforts, it should be eradicated as soon as possible. Appropriate control measures vary but typically incorporate treatment with either imazapyr or glyphosate based herbicides approved for wetlands.

**7(c) Agency Findings – State-listed Plant and Insect Species.** DCR states that the proposed project will not affect any documented state-listed plants or insects.

**7(d) Agency Findings – Natural Area Preserves.** There are no State Natural Area Preserves under DCR's jurisdiction in the project vicinity.

**7(e) Agency Recommendations.**

- DCR recommends minimizing disturbance to shrubs and trees during the vibratory trenching and HDD process as these shrubs and trees provide nesting for this suite of birds.
- DCR supports the implementation of erosion and sediment control measures, a time-of-year restriction and the development of a frac-out contingency plan as stated in the "Wallops Flight Facility Marsh Fiber Project Draft Environmental Assessment" dated April 2020.

- Contact the DCR DNH and re-submit project information and a map for an update on this natural heritage information if the scope of the project changes and/or six months has passed before it is utilized.

**8. Floodplain Management.** The EA (page 3-36) states that during construction activities, equipment would be temporarily operated in a floodplain. If a weather event is predicted that could result in flooding of the project areas, NASA would remove any items from the floodplain that would have the potential for impacts or that could be moved by flood waters. The proposed action would have no impacts on the floodplain. NASA would ensure that its actions would comply with federal Executive Order 11988.

**8(a) Agency Jurisdiction.** DCR is the lead coordinating agency for the Commonwealth's floodplain management program and the National Flood Insurance Program (Executive Memorandum 2-97). Pursuant to §10.1-603 of the Virginia Code and in accordance with 44 CFR section 60.12 of the National Flood Insurance Program Regulations for Floodplain Management and Flood Hazard Identification, all construction or land-disturbing activities initiated by an agency of the Commonwealth, or by its contractor, in floodplains shall be submitted to the locality and comply with the locally adopted floodplain management ordinance.

**8(b) Agency Recommendation.** For federal projects, DCR encourages the applicant/developer to reach out to the local floodplain administrator and comply with the community's local floodplain ordinance. If the project is located in the Special Flood Hazard Area (SFHA), DCR recommends that this project comply with the community's local floodplain ordinance. To find flood zone information, use the Virginia Flood Risk Information System (VFRIS): [www.dcr.virginia.gov/vfris](http://www.dcr.virginia.gov/vfris).

**8(c) Requirement.** Projects conducted by federal agencies within the SFHA must comply with Executive Order 11988: Floodplain Management.

**9. Water Supply.** The EA (page 3-26) states that WFF receives its potable water from seven groundwater supply wells that are located at the Main Base and the Mainland. There are no groundwater supply wells within or near the proposed project areas.

**9(a) Agency Jurisdiction.** The Virginia Department of Health (VDH) Office of Drinking Water (ODW) reviews projects for the potential to impact public drinking water sources (groundwater wells, springs and surface water intakes). The VDH ODW administers both federal and state laws governing waterworks operation.

**9(b) Agency Finding.** The following public groundwater wells are located within a 1-mile radius of the project site:

PWS ID	City/County	System Name	Facility Name
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Number			
3001760	ACCOMACK	ROYAL FARMS _30 - WATTSVILLE	NORTH WELL
3001760	ACCOMACK	ROYAL FARMS _30 - WATTSVILLE	SOUTH WELL
3001610	ACCOMACK	OCEAN DELI	WELL 1

There are no surface water intakes located within a 5-mile radius of the project site. The project is not within the watershed of any public surface water intakes.

**9(c) Agency Recommendations.**

- Best management practices, including erosion and sedimentation controls and spill prevention controls and countermeasures, should be employed on the project site.
- Materials should be managed while on-site and during transport to prevent impacts to nearby surface water.

**9(d) Requirement.** Potential impacts to public water distribution systems must be verified by the local utility, according to VDH.

**10. Historic Resources.** The EA (page 3-71) states that the proposed action would not affect historic resources at this site.

**10(a) Agency Jurisdiction.** The Virginia Department of Historic Resources (DHR) conducts reviews of both federal and state projects to determine their effect on historic properties. Under the federal process, DHR is the State Historic Preservation Office, and ensures that federal undertakings – including licenses, permits, or funding – comply with Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulation at 36 CFR Part 800. Section 106 requires federal agencies to consider the effects of federal projects on properties that are listed or eligible for listing on the National Register of Historic Places.

**10(b) Agency Findings.** DHR is consulting with NASA regarding this project.

**10(c) Agency Recommendation.** DHR requests that NASA continue to consult directly with DHR, as necessary, pursuant to Section 106 of the National Historic Preservation Act (as amended) and its implementing regulations codified in 36 CFR Part 800, which require federal agencies to consider the effects of their undertakings on historic properties.

**11. Pesticides and Herbicides.** In general, when pesticides or herbicides must be used, their use should be strictly in accordance with manufacturers' recommendations.

In addition, we recommend that the applicable use the least toxic pesticides or herbicides effective in controlling the target species to the extent feasible. For more information on pesticide or herbicide use, contact VDACS (804-371-6560).

**12. Pollution Prevention.** DEQ advocates that principles of pollution prevention and sustainability be used in all construction projects as well as in facility operations. Effective siting, planning, and on-site Best Management Practices (BMPs) will help to ensure that environmental impacts are minimized. However, pollution prevention and sustainability techniques also include decisions related to construction materials, design, and operational procedures that will facilitate the reduction of wastes at the source.

**12(a) Recommendations.** We have several pollution prevention recommendations that may be helpful in constructing or operating this facility:

- Consider development of an effective Environmental Management System (EMS). An effective EMS will ensure that the proposed facility is committed to complying with environmental regulations, reducing risk, minimizing environmental impacts, setting environmental goals, and achieving improvements in its environmental performance. DEQ offers EMS development assistance and recognizes facilities with effective Environmental Management Systems through its Virginia Environmental Excellence Program (VEEP). VEEP provides recognition, annual permit fee discounts, and the possibility for alternative compliance methods.
- Consider environmental attributes when purchasing materials. For example, the extent of recycled material content, toxicity level, and amount of packaging should be considered and can be specified in purchasing contracts.
- Consider contractors' commitment to the environment when choosing contractors. Specifications regarding raw materials and construction practices can be included in contract documents and requests for proposals.
- Choose sustainable materials and practices for building construction and design.

DEQ's Office of Pollution Prevention provides information and technical assistance relating to pollution prevention techniques and EMS. If interested, please contact DEQ (Meghann Quinn at 804-698-4021).

**13. Wildlife Resources.** The EA (page 3-43) states that there would be short-term direct impacts on wildlife (terrestrial, aquatic and avian) from temporary habitat loss within the project area while equipment, materials and workers were present.

**13(a) Agency Jurisdiction.** The Virginia Department of Game and Inland Fisheries (DGIF), as the Commonwealth's wildlife and freshwater fish management agency, exercises enforcement and regulatory jurisdiction over wildlife and freshwater fish, including state- or federally-listed endangered or threatened species, but excluding listed insects (Virginia Code, Title 29.1). DGIF is a consulting agency under the U.S. Fish and Wildlife Coordination Act (16 U.S. Code §661 *et seq.*) and provides environmental analysis of projects or permit applications coordinated through DEQ and several other state and federal agencies. DGIF determines likely impacts upon fish and wildlife resources and habitat, and recommends appropriate measures to avoid, reduce or compensate for those impacts. For more information, see the DGIF website at [www.dgif.virginia.gov](http://www.dgif.virginia.gov).

**13(b) Agency Findings.** DGIF documents federally listed threatened Loggerhead Sea Turtles, federally listed threatened Piping Plovers, state-listed endangered Black Rails, state-listed threatened Gull-billed Terns, state-listed threatened Peregrine Falcons and Species of Greatest Conservation Need (SGCN) Northern Diamond-backed Terrapins from the project area. DGIF also documents a number of colonial waterbird colonies containing the following species from the project area: SGCN Forster's Terns, SGCN Snowy Egrets, SGCN Black-crowned Night Herons, SGCN Glossy Ibis, SGCN Common Terns, SGCN Little Blue Herons, SGCN Laughing Gulls, Great Egrets, Herring Gulls, Cattle Egrets, Tricolored Herons and possibly others.

**13(c) Agency Recommendations.**

To best protect listed species and those of conservation need from harm associated with the proposed work, DGIF recommends that all work associated with this project that is located in suitable nesting habitat adhere to a time of year restriction protective of nesting sea turtles and shorebirds from March 15 through November 15 of any year or until the last sea turtle nest hatches or shorebird brood fledges, as determined by the most recent monitoring activity. DGIF recommends coordination with the U.S. Fish and Wildlife Service regarding potential impacts upon federal-listed species associated with this project.

To minimize the adverse impacts of linear utility/road project development on wildlife resources, DGIF has the following recommendations regarding development activities:

- Avoid and minimize impacts to undisturbed forest, wetlands, and streams to the fullest extent practicable.
- Maintain 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, where practicable.
- Conduct significant tree removal and ground clearing activities outside of the primary songbird nesting season of March 15 through August 15.



- Implement and maintain appropriate erosion and sediment controls throughout project construction and site restoration.
- To minimize potential wildlife entanglements resulting from use of synthetic/plastic erosion and sediment control matting, use matting made from natural/organic materials such as coir fiber, jute, and/or burlap.

DGIF understands that adherence to these general recommendations may be infeasible in some situations. DGIF is happy to work with the applicant to develop project-specific measures as necessary to minimize project impacts upon the Commonwealth's wildlife resources.

**14. Fisheries Management.** The EA (Appendix B, FCD, page 3) states that there would be short-term, localized effects on finfish and shellfish habitat, particularly the benthic community, from temporary anchoring of barges and the marsh buggy crossing the guts in Walker Marsh.

**14(a) Agency Jurisdiction.** The fisheries management enforceable policy is administered by the Virginia Marine Resources Commission (VMRC) (Virginia Code § 28.2-200 to § 28.2-713) and the Department of Game and Inland Fisheries (DGIF) (Virginia Code § 29.1-100 to § 29.1-570). In addition, the Virginia Department of Health (VDH) Division of Shellfish Sanitation (DSS) is responsible for protecting the health of the consumers of molluscan shellfish and crustacea by ensuring that shellfish growing waters are properly classified for harvesting, and that molluscan shellfish and crustacea processing facilities meet sanitation standards.

**14(b) Agency Findings.** DGIF defers a consistency determination to VMRC as the proposed project site drains to marine waters. VMRC did not object to the proposed project.

**14(c) Conclusion.** As proposed, the proposed project is consistent to the maximum extent practicable with the fisheries management enforceable policy of the Virginia CZM Program.

## REGULATORY AND COORDINATION NEEDS

**1. Wetlands and Water Quality.** If surface waters, including wetlands, are proposed to be affected, the project must adhere to the requirements of any DEQ permit or authorization issued pursuant to Virginia Code § 62.1-44.15:20 *et seq.* and 9VAC25-210 *et seq.* A VWP Permit or approval may be required. Contact DEQ TRO (Jeff Hannah at [Jeffrey.Hannah@deq.virginia.gov](mailto:Jeffrey.Hannah@deq.virginia.gov)) for coordination. VMRC states that the project involves state-owned marsh and a VMRC wetlands permit will be required. Submit a JPA application to VMRC (George Badger at [George.Badger@mrc.virginia.gov](mailto:George.Badger@mrc.virginia.gov)) for proposed impacts.

**2. Air Quality.** The following sections of Virginia Administrative Code may be applicable:

- fugitive dust and emissions control (9VAC5-50-60 *et seq.*);
- permits for fuel-burning equipment (9VAC5-80-110 *et seq.*); and
- open burning restrictions (9VAC5-130 *et seq.*).

Contact DEQ TRO (Laura Corl at [Laura.Corl@deq.virginia.gov](mailto:Laura.Corl@deq.virginia.gov)) for additional information about air quality regulations and to determine air permitting or registration needs for fuel-burning equipment.

**3. Erosion and Sediment Control and Stormwater Management.** The project should comply with the DEQ-approved annual specifications. NASA must contact [standardsandspecs@deq.virginia.gov](mailto:standardsandspecs@deq.virginia.gov) two weeks prior to land disturbance. The applicant must have a certified Responsible Land Disturber in charge of and responsible for carrying out the project-specific erosion and sediment control plan and the land-disturbing activity. Questions regarding annual erosion and sediment control specifications should be directed to DEQ (Hannah Zegler at [standardsandspecs@deq.virginia.gov](mailto:standardsandspecs@deq.virginia.gov)).

**4. General Permit for Stormwater Discharges from Construction Activities (VAR10).** The operator or owner of a construction activity involving land disturbance of equal to or greater than 1 acre is required to register for coverage under the General Permit for Discharges of Stormwater from Construction Activities and develop a project specific stormwater pollution prevention plan (SWPPP). Specific questions regarding the Stormwater Management Program requirements should be directed to DEQ (Holly Sepety at 804-698-4039).

**5. Solid and Hazardous Wastes.** Contact DEQ TRO (Melinda Woodruff at [Melinda.Woodruff@deq.virginia.gov](mailto:Melinda.Woodruff@deq.virginia.gov)) for additional information about waste management if necessary. All solid waste, hazardous waste and hazardous materials must be managed in accordance with all applicable federal, state and local environmental regulations.

**6. Natural Heritage Resources.** Contact the DCR DNH (804-371-2708) to re-submit project information and a map for an update on natural heritage information if the scope of the project changes and/or six months has passed before it is utilized.

**7. Wildlife Resources.** Contact DGIF (Amy Ewing at [Amy.Ewing@dgif.virginia.gov](mailto:Amy.Ewing@dgif.virginia.gov)) for additional information about its comments and recommendations as necessary. DGIF recommends coordination with the U.S. Fish and Wildlife Service (804-693-6694) regarding potential impacts upon federal-listed species associated with this project.

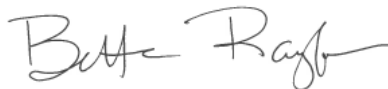
**8. Water Supply.** Potential impacts to public water distribution systems must be verified by the local utility, according to VDH. Contact VDH (Arlene Warren at Arlene.Warren@vdh.virginia.gov) for additional information about its comments if necessary.

**9. Floodplain Management.** Contact the local floodplain administrator for an official floodplain determination, and if the project is located in the SFHA, consider complying with the community's local floodplain ordinance. To find local floodplain administrator contact information, use DCR's Local Floodplain Management Directory: [www.dcr.virginia.gov/dam-safety-and-floodplains/floodplain-directory](http://www.dcr.virginia.gov/dam-safety-and-floodplains/floodplain-directory).

**10. Historic Resources.** Continue to consult directly with DHR (Laura.Lavernia@dhr.virginia.gov), as necessary, pursuant to Section 106 of the National Historic Preservation Act (as amended) and its implementing regulations codified in 36 CFR Part 800, which require federal agencies to consider the effects of their undertakings on historic properties.

Thank you for the opportunity to comment on this EA and FCD. The detailed comments of reviewers are attached. If you have questions, please do not hesitate to call me at (804) 698-4204 or Julia Wellman at (804) 698-4326.

Sincerely,



Bettina Rayfield, Manager  
Environmental Impact Review and Long Range  
Priorities Program

Enclosures

ec: Amy Ewing, DGIF  
Robbie Rhur, DCR  
Arlene Warren, VDH  
Roger Kirchen, DHR  
George Badger, VMRC  
Elaine K.N. Meil, Accomack-Northampton PDC  
Michael Mason, Accomack County



Wellman, Julia &lt;julia.wellman@deq.virginia.gov&gt;

**Re: NEW PROJECT NASA Wallops Flight Facility Marsh Fiber Project, DEQ #20-053F**

1 message

**Warren, Arlene** <arlene.warren@vdh.virginia.gov>  
To: Julia Wellman <julia.wellman@deq.virginia.gov>  
Cc: rr Environmental Impact Review <eir@deq.virginia.gov>

Tue, Apr 21, 2020 at 10:24 AM

**Project Name: Wallops Flight Facility Marsh Fiber Project****Project #: 20-053 F**

UPC #: N/A

**Location: Accomack County**

VDH – Office of Drinking Water has reviewed the above project. Below are our comments as they relate to proximity to **public drinking water sources** (groundwater wells, springs and surface water intakes). Potential impacts on public water distribution systems or sanitary sewage collection systems **must be verified by the local utility.**

The following public groundwater wells are located within a 1-mile radius of the project site:

PWS ID Number	City/County	System Name	Facility Name
3001760	ACCOMACK	ROYAL FARMS _30 - WATTSVILLE	NORTH WELL
3001760	ACCOMACK	ROYAL FARMS _30 - WATTSVILLE	SOUTH WELL
3001610	ACCOMACK	OCEAN DELI	WELL 1

There are no surface water intakes located within a 5-mile radius of the project site.

The project is not within the watershed of any public surface water intakes.

Best Management Practices should be employed, including Erosion & Sedimentation Controls and Spill Prevention Controls & Countermeasures on the project site.

Materials should be managed while on-site and during transport to prevent impacts to nearby surface water.

- **Environmental Epidemiology, Mr. Dwight Flammia**, “I do not have any comments or suggestions.”
- **Office of Environmental Health Services, Mr. Preston K. Smith**, Marina Program Manager, **see attachment.**

**Virginia Department of Health – Office of Drinking Water appreciates the opportunity to provide comments. If you have any questions, please let me know.**

Best Regards,

Arlene Fields Warren

**GIS Program Support Technician**

**Office of Drinking Water**

**Virginia Department of Health**

109 Governor Street

Richmond, VA 23219

(804) 864-7781

On Thu, Apr 16, 2020 at 1:55 PM Fulcher, Valerie <[valerie.fulcher@deq.virginia.gov](mailto:valerie.fulcher@deq.virginia.gov)> wrote:

**Good afternoon - this is a new OEIR review request/project:**

**Document Type: Environmental Assessment/Federal Consistency Determination**

**Project Sponsor: National Aeronautics and Space Administration**

**Project Title: Wallops Flight Facility Marsh Fiber Project**

**Location: Accomack County**

**Project Number: DEQ #20-053F**

The document is available at [www.deq.virginia.gov/filesshare/oeir](http://www.deq.virginia.gov/filesshare/oeir) in the NASA folder.

The due date for comments is **MAY 18, 2020**. You can send your comments either directly to JULIA WELLMAN by email ([Julia.Wellman@deq.virginia.gov](mailto:Julia.Wellman@deq.virginia.gov)), or you can send your comments by regular interagency/U.S. mail to the Department of Environmental Quality, Office of Environmental Impact Review, P.O. Box 1105, Richmond, VA 23218.

**NOTE: The FCD is in Appendix B.**

If you cannot meet the deadline, please notify the project coordinator prior to the comment due date. Arrangements may be made to extend the deadline for comments if possible. An agency will be considered to have no concerns if comments are not received (or contact is made) within the review period. However, it is important that agencies consistently participate in accordance with Virginia Code Section 10.1-1192.

**REVIEW INSTRUCTIONS:**

- A. Please review the document carefully. If the proposal has been previously reviewed (e.g. as a draft EIS or a Part 1 EIR), please consider whether your earlier comments have been adequately addressed.
- B. Prepare your agency's comments in a form which would be acceptable for responding directly to a project proponent agency (agency stationary or email) and include the project number on all correspondence.

If you have any questions, please email Julia.

Thanks!

--

Valerie A. Fulcher, CAP, OM, Environmental Program Specialist

Department of Environmental Quality

**Environmental Enhancement - Office of Environmental Impact Review**

**1111 East Main Street**

**Richmond, VA 23219**

**804/698-4330**

**804/698-4319 (Fax)**

**email: [Valerie.Fulcher@deq.virginia.gov](mailto:Valerie.Fulcher@deq.virginia.gov)**

**<http://www.deq.virginia.gov/Programs/EnvironmentalImpactReview.aspx>**

For program updates and public notices please subscribe to Constant Contact: <https://lp.constantcontact.com/su/MVcCump/EIR>



**Comments from Preston Smith.docx**

412K



# COMMONWEALTH of VIRGINIA

*Marine Resources Commission  
380 Fenwick Road  
Bldg 96  
Fort Monroe, VA 23651-1064*

Matthew J. Strickler  
Secretary of Natural Resources

Steven G. Bowman  
Commissioner

April 24, 2020

Ms. Julia Wellman  
c/o Department of Environmental Quality  
Office of the Environmental Impact Review  
Post Office Box  
Richmond, Virginia 23218

Re: DEQ#20-053F

Dear Ms. Wellman

You have inquired regarding the permitting requirements to directional drill or vibratory trench two 1.5-inch conduits from Wallops Flight Facility to the Wallops Island drone runway. The proposed project will directional drill under 6,950 linear feet of subaqueous bottom (Watts Bay and The Narrows) and vibratory trench under 4,310 linear feet of State own marsh (Walker Marsh).

The Marine Resources Commission requires a permit for any activities that encroach upon or over, or take use of materials from the beds of the bays, ocean, rivers and streams, or creeks, which are the property of the Commonwealth.

Since, the federal project does not include the placement of any fill on subaqueous bottom and will not impact Baylor grounds a permit from the Marine Resources Commission (VMRC) for the subaqueous portion of the project will not be required. However, the project does involve State own marsh, therefore a VMRC wetlands permit will be required.

If I may be of further assistance, please do not hesitate to contact me at (757) 414-0710 or cell (757) 504-7060

Sincerely,

A handwritten signature in blue ink, appearing to read "G. H. Badger, III".

George H. Badger, III  
Environmental Engineer, Habitat Management

*An Agency of the Natural Resources Secretariat*  
[www.mrc.virginia.gov](http://www.mrc.virginia.gov)

Telephone (757) 247-2200 (757) 247-2292 V/TDD Information and Emergency Hotline 1-800-541-4646 V/TDD

## **ENVIRONMENTAL REVIEW COMMENTS APPLICABLE TO AIR QUALITY**

**DATE: April 16, 2020**



Matthew J. Strickler  
Secretary of Natural Resources

Clyde E. Cristman  
Director



Rochelle Altholz  
Deputy Director of  
Administration and Finance

Russell W. Baxter  
Deputy Director of  
Dam Safety & Floodplain  
Management and Soil & Water  
Conservation

Thomas L. Smith  
Deputy Director of Operations

**COMMONWEALTH of VIRGINIA**  
DEPARTMENT OF CONSERVATION AND RECREATION

**MEMORANDUM**

DATE: May 18, 2020

TO: Julia Wellman, DEQ

FROM: Roberta Rhur, Environmental Impact Review Coordinator

SUBJECT: DEQ 20-053F, Wallops Flight Facility-Marsh Fiber Optic Project

**Division of Natural Heritage**

The Department of Conservation and Recreation's Division of Natural Heritage (DCR) has searched its Biotics Data System for occurrences of natural heritage resources from the area outlined on the submitted map. Natural heritage resources are defined as the habitat of rare, threatened, or endangered plant and animal species, unique or exemplary natural communities, and significant geologic formations.

According to the information currently in our files, a bird nesting colony has been documented within the project site on Walker's Marsh, which includes the rare colonial wading birds Great egret (*Ardea alba*, G5/S2S3B,S3N/NL/NL), Snowy Egret (*Egretta thula*, G5/S2B,S3N/NL/NL), Little blue heron (*Egretta caerulea*, G5/S2B/S3N/NL/NL) and Tri-colored heron (*Egretta tricolor*, G5/S2B,S3N/NL/NL).

DCR recommends minimizing disturbance to shrubs and trees during the vibratory trenching and Horizontal Directional Drilling (HDD) process, as these shrubs and trees provide nesting for this suite of birds. DCR supports the implementation of erosion and sediment control measures, a time-of-year restriction (TOYR) and the development of a frac-out contingency plan as stated in the "Wallops Flight Facility Marsh Fiber Project Draft Environmental Assessment" dated April 2020.

Please note, ground disturbance in wetlands of the eastern United States can often lead to the establishment of the common reed (*Phragmites australis*), an aggressive, exotic invasive plant species that spreads rapidly. *Phragmites* literally crowds out other plant species due to its rapidly spreading rhizomes and, once established, prevents sunlight from reaching understory species. Thus, through interspecific competition, *Phragmites* threatens the native plant community and reduces plant diversity. If *Phragmites* is detected during monitoring efforts, it should be eradicated as soon as possible. Appropriate control measures vary but typically incorporate treatment with either imazapyr or glyphosate based herbicides approved for wetlands.

There are no State Natural Area Preserves under DCR's jurisdiction in the project vicinity.

Under a Memorandum of Agreement established between the Virginia Department of Agriculture and Consumer Services (VDACS) and the DCR, DCR represents VDACS in comments regarding potential impacts

on state-listed threatened and endangered plant and insect species. The current activity will not affect any documented state-listed plants or insects.

New and updated information is continually added to Biotics. Please re-submit project information and map for an update on this natural heritage information if the scope of the project changes and/or six months has passed before it is utilized.

The Virginia Department of Game and Inland Fisheries (VDGIF) maintains a database of wildlife locations, including threatened and endangered species, trout streams, and anadromous fish waters that may contain information not documented in this letter. Their database may be accessed from <http://vafwis.org/fwis/> or contact Ernie Aschenbach at 804-367-2733 or [Ernie.Aschenbach@dgif.virginia.gov](mailto:Ernie.Aschenbach@dgif.virginia.gov).

#### Division of Dam Safety and Floodplain Management

##### Floodplain Management Program:

The National Flood Insurance Program (NFIP) is administered by the Federal Emergency Management Agency (FEMA), and communities who elect to participate in this voluntary program manage and enforce the program on the local level through that community's local floodplain ordinance. Each local floodplain ordinance must comply with the minimum standards of the NFIP, outlined in 44 CFR 60.3; however, local communities may adopt more restrictive requirements in their local floodplain ordinance, such as regulating the 0.2% annual chance flood zone (Shaded X Zone).

All development within a Special Flood Hazard Area (SFHA), as shown on the locality's Flood Insurance Rate Map (FIRM), must be permitted and comply with the requirements of the local floodplain ordinance.

##### State Agency Projects Only

[Executive Order 45](#), signed by Governor Northam and effective on November 15, 2019, establishes mandatory standards for development of state-owned properties in Flood-Prone Areas, which include Special Flood Hazard Areas, Shaded X Zones, and the Sea Level Rise Inundation Area. These standards shall apply to all state agencies.

#### 1. Development in Special Flood Hazard Areas and Shaded X Zones

- A. All development, including buildings, on state-owned property shall comply with the locally-adopted floodplain management ordinance of the community in which the state-owned property is located and any flood-related standards identified in the Virginia Uniform Statewide Building Code.
- B. If any state-owned property is located in a community that does not participate in the NFIP, all development, including buildings, on such state-owned property shall comply with the NFIP requirements as defined in 44 CFR §§ 60.3, 60.4, and 60.5 and any flood-related standards identified in the Virginia Uniform Statewide Building Code.
  - (1) These projects shall be submitted to the Department of General Services (DGS), for review and approval.
  - (2) DGS shall not approve any project until the State NFIP Coordinator has reviewed and approved the application for NFIP compliance.
  - (3) DGS shall provide a written determination on project requests to the applicant and the State NFIP Coordinator. The State NFIP Coordinator shall maintain all documentation associated with the project in perpetuity.
- C. No new state-owned buildings, or buildings constructed on state-owned property, shall be constructed, reconstructed, purchased, or acquired by the Commonwealth within a Special Flood Hazard Area or Shaded X Zone in any community unless a variance is granted by the Director of DGS, as outlined in this Order.

The following definitions are from Executive Order 45:

*Development for NFIP purposes is defined in 44 CFR § 59.1 as “Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.”*

*The Special Flood Hazard Area may also be referred to as the 1% annual chance floodplain or the 100-year floodplain, as identified on the effective Flood Insurance Rate Map and Flood Insurance Study. This includes the following flood zones: A, AO, AH, AE, A99, AR, AR/AE, AR/AO, AR/AH, AR/A, VO, VE, or V.*

*The Shaded X Zone may also be referred to as the 0.2% annual chance floodplain or the 500-year floodplain, as identified on the effective Flood Insurance Rate Map and Flood Insurance Study.*

*The Sea Level Rise Inundation Area referenced in this Order shall be mapped based on the National Oceanic and Atmospheric Administration Intermediate-High scenario curve for 2100, last updated in 2017, and is intended to denote the maximum inland boundary of anticipated sea level rise.*

*“State agency” shall mean all entities in the executive branch, including agencies, offices, authorities, commissions, departments, and all institutions of higher education.*

*“Reconstructed” means a building that has been substantially damaged or substantially improved, as defined by the NFIP and the Virginia Uniform Statewide Building Code.*

#### Federal Agency Projects Only

Projects conducted by federal agencies within the SFHA must comply with federal Executive Order 11988: Floodplain Management.

DCR’s Floodplain Management Program does not have regulatory authority for projects in the SFHA. The applicant/developer must reach out to the local floodplain administrator for an official floodplain determination and comply with the community’s local floodplain ordinance, including receiving a local permit. Failure to comply with the local floodplain ordinance could result in enforcement action from the locality. For state projects, DCR recommends that compliance documentation be provided prior to the project being funded. For federal projects, the applicant/developer is encouraged reach out to the local floodplain administrator and comply with the community’s local floodplain ordinance.

To find flood zone information, use the Virginia Flood Risk Information System (VFRIS):

[www.dcr.virginia.gov/vfris](http://www.dcr.virginia.gov/vfris)

To find community NFIP participation and local floodplain administrator contact information, use DCR’s Local Floodplain Management Directory: [www.dcr.virginia.gov/dam-safety-and-floodplains/floodplain-directory](http://www.dcr.virginia.gov/dam-safety-and-floodplains/floodplain-directory)

The remaining DCR divisions have no comments regarding the scope of this project. Thank you for the opportunity to comment.



Wellman, Julia &lt;julia.wellman@deq.virginia.gov&gt;

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**ESSLog# 39995\_20-053F\_WallopsMarshFiber\_DGIF\_AME20200518**

1 message

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**Ewing, Amy** <amy.ewing@dgif.virginia.gov>

Mon, May 18, 2020 at 11:28 AM

To: Julia Wellman &lt;julia.wellman@deq.virginia.gov&gt;

Cc: "Boettcher, Ruth" &lt;ruth.boettcher@dgif.virginia.gov&gt;, George Badger &lt;hank.badger@mrc.virginia.gov&gt;

Julia,

Please see attached the comments we provided to MRC on this project. Please note that in addition to the species listed in the attached, we also need to add state Endangered Black Rails. With that addition, the attached comments remain valid.

We defer a consistency determination to MRC as this site drains to marine waters.

Thanks, Amy

**Amy Ewing***Environmental Services Biologist**Manager, Fish and Wildlife Information Services***P** 804.367.2211**Virginia Department of Game & Inland Fisheries***CONSERVE. CONNECT. PROTECT.***A** 7870 Villa Park Drive, P.O. Box 90778, Henrico, VA 23228[www.dgif.virginia.gov](http://www.dgif.virginia.gov)**39995\_20200649\_WallopsMarshFiber\_DGIF\_AME20200513.pdf**

111K



Ewing, Amy &lt;amy.ewing@dgif.virginia.gov&gt;

**ESSLog# 39995\_20200649\_WallopsMarshFiber\_DGIF\_AME20200513**

1 message

**Ewing, Amy** <amy.ewing@dgif.virginia.gov>

Wed, May 13, 2020 at 1:44 PM

To: George Badger &lt;hank.badger@mrc.virginia.gov&gt;

Cc: "Boettcher, Ruth" &lt;ruth.boettcher@dgif.virginia.gov&gt;, rr nhreview &lt;nhreview@dcr.virginia.gov&gt;

Hank,

We have reviewed the subject project that proposes to install a new fiber optic cable from Wallops Flight Facility on Wallops Island to the Mainland Facility to the northwest. This will result in impacts upon the islands and marshes that lie between the two facilities. We document federal Threatened Loggerhead Sea Turtles, federal Threatened Piping Plovers, state Threatened Gull-billed Terns, state Threatened Peregrine Falcons and Species of Greatest Conservation Need (SGCN) Northern Diamond-backed Terrapins from the project area. We also document a number of colonial waterbird colonies containing the following species from the project area: SGCN Forster's Terns, SGCN Snowy Egrets, SGCN Black-crowned Night Herons, SGCN Glossy Ibis, SGCN Common Terns, SGCN Little Blue Herons, SGCN Laughing Gulls, Great Egrets, Herring Gulls, Cattle Egrets, Tricolored Herons and possibly others. To best protect listed species and those of conservation need from harm associated with the proposed work, we recommend that all work associated with this project that is located in suitable nesting habitat adhere to a time of year restriction protective of nesting sea turtles and shorebirds from March 15 through November 15 of any year or until the last sea turtle nest hatches or shorebird brood fledges, as determined by the most recent monitoring activity. We recommend coordination with the USFWS regarding potential impacts upon federal-listed species associated with this project.

To minimize the adverse impacts of linear utility development on wildlife resources, we offer the following general recommendations: Avoid and minimize impacts to undisturbed forest, wetlands, and streams to the fullest extent practicable; maintain naturally vegetated buffers of at least 100 feet in width around wetlands and on both sides of perennial and intermittent streams, where practicable; conduct significant tree removal and ground clearing activities outside of the primary songbird nesting season of March 15 through August 15; and, implement and maintain appropriate erosion and sediment controls throughout project construction and site restoration. To minimize potential wildlife entanglements resulting from use of synthetic/plastic erosion and sediment control matting, we recommend use of matting made from natural/organic materials such as coir fiber, jute, and/or burlap. We understand that adherence to these general recommendations may be infeasible in some situations. We are happy to work with the applicant to develop project-specific measures as necessary to minimize project impacts upon the Commonwealth's wildlife resources.

This 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. Therefore, we recommend coordination with VDCR-DNH regarding the protection of these resources.

Thanks, Amy

**Amy Ewing***Environmental Services Biologist**Manager, Fish and Wildlife Information Services*

P 804.367.2211

**Virginia Department of Game & Inland Fisheries***CONSERVE. CONNECT. PROTECT.*

A 7870 Villa Park Drive, P.O. Box 90778, Henrico, VA 23228

[www.dgif.virginia.gov](http://www.dgif.virginia.gov)





Wellman, Julia &lt;julia.wellman@deq.virginia.gov&gt;

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**Fwd: NEW PROJECT NASA Wallops Flight Facility Marsh Fiber Project, DEQ #20-053F**

1 message

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**Lavernia, Laura** <laura.lavernia@dhr.virginia.gov>

Wed, May 20, 2020 at 10:18 AM

To: Julia Wellman &lt;Julia.Wellman@deq.virginia.gov&gt;, "Miller, Shari A. (WFF-2500)" &lt;shari.a.miller@nasa.gov&gt;

Greetings Julia,

Please excuse me for replying so late (2 days behind deadline). DHR is consulting with NASA regarding this project. We request that NASA continue to consult directly with DHR, as nexeccasy, pursuant to Section 106 of the National Historic Preservation Act (as amended) and its implementing regulations codified in 36 CFR Part 800, which require Federal agencies to consider the effects of their undertakings on historic properties.

thank you - and stay safe,

Laura Lavernia - Architectural Historian  
Review and Compliance Division  
Virginia Department of Historic Resources  
[2801 North Kensington Avenue](#)  
[Richmond, VA 23221](#)  
804.482.8097  
[Laura.Lavernia@dhr.virginia.gov](mailto:Laura.Lavernia@dhr.virginia.gov)  
[www.dhr.virginia.gov](http://www.dhr.virginia.gov)

**\*\*NOTE: Due to COVID-19, DHR is open for business but temporarily closed to the public and the majority of staff is teleworking.\*\***

Please consider sending email over leaving a phone message

Please consider uploading project review applications through ePIX (<https://epix.dhr.virginia.gov/>).

----- Forwarded message -----

From: **Kirchen, Roger** <[roger.kirchen@dhr.virginia.gov](mailto:roger.kirchen@dhr.virginia.gov)>

Date: Thu, Apr 16, 2020 at 2:11 PM

Subject: Fwd: NEW PROJECT NASA Wallops Flight Facility Marsh Fiber Project, DEQ #20-053F

To: Lavernia, Laura <[laura.lavernia@dhr.virginia.gov](mailto:laura.lavernia@dhr.virginia.gov)>

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*Roger W. Kirchen, Director*  
*Review and Compliance Division*  
*Department of Historic Resources*  
[2801 Kensington Avenue](#)  
[Richmond, VA 23221](#)  
phone: 804-482-6091  
[www.dhr.virginia.gov](http://www.dhr.virginia.gov)

**COVID-19 Update: DHR staff is teleworking, but remains functionally operational.  
Our offices are temporarily closed to the public.**

----- Forwarded message -----

From: **Fulcher, Valerie** <[valerie.fulcher@deq.virginia.gov](mailto:valerie.fulcher@deq.virginia.gov)>

Date: Thu, Apr 16, 2020 at 1:55 PM

Subject: NEW PROJECT NASA Wallops Flight Facility Marsh Fiber Project, DEQ #20-053F

To: rr dgif-ESS Projects <[essprojects@dgif.virginia.gov](mailto:essprojects@dgif.virginia.gov)>, Roberta Rhur <[robbie.rhur@dcr.virginia.gov](mailto:robbie.rhur@dcr.virginia.gov)>, odwreview (VDH)



<odwreview@vdh.virginia.gov>, Carlos Martinez <carlos.martinez@deq.virginia.gov>, Kotur Narasimhan <kotur.narasimhan@deq.virginia.gov>, Lawrence Gavan <larry.gavan@deq.virginia.gov>, Daniel Moore <daniel.moore@deq.virginia.gov>, Holly Sepety <holly.sepety@deq.virginia.gov>, Nicol, Craig <craig.nicol@deq.virginia.gov>, Roger Kirchen <roger.kirchen@dhr.virginia.gov>, George Badger <hank.badger@mrc.virginia.gov>, <emeil@a-npdc.org>, <administration@co.accomack.va.us>  
Cc: Wellman, Julia <julia.wellman@deq.virginia.gov>

**Good afternoon - this is a new OEIR review request/project:**

**Document Type: Environmental Assessment/Federal Consistency Determination**

**Project Sponsor: National Aeronautics and Space Administration**

**Project Title: Wallops Flight Facility Marsh Fiber Project**

**Location: Accomack County**

**Project Number: DEQ #20-053F**

The document is available at [www.deq.virginia.gov/filesshare/oeir](http://www.deq.virginia.gov/filesshare/oeir) in the NASA folder.

The due date for comments is **MAY 18, 2020**. You can send your comments either directly to JULIA WELLMAN by email ([Julia.Wellman@deq.virginia.gov](mailto:Julia.Wellman@deq.virginia.gov)), or you can send your comments by regular interagency/U.S. mail to the Department of Environmental Quality, Office of Environmental Impact Review, P.O. Box 1105, Richmond, VA 23218.

**NOTE: The FCD is in Appendix B.**

If you cannot meet the deadline, please notify the project coordinator prior to the comment due date. Arrangements may be made to extend the deadline for comments if possible. An agency will be considered to have no concerns if comments are not received (or contact is made) within the review period. However, it is important that agencies consistently participate in accordance with Virginia Code Section 10.1-1192.

#### **REVIEW INSTRUCTIONS:**

- A. Please review the document carefully. If the proposal has been previously reviewed (e.g. as a draft EIS or a Part 1 EIR), please consider whether your earlier comments have been adequately addressed.
- B. Prepare your agency's comments in a form which would be acceptable for responding directly to a project proponent agency (agency stationary or email) and include the project number on all correspondence.

If you have any questions, please email Julia.

Thanks!

--

Valerie A. Fulcher, CAP, OM, Environmental Program Specialist

Department of Environmental Quality

Environmental Enhancement - Office of Environmental Impact Review

1111 East Main Street



**Richmond, VA 23219**

**804/698-4330**

**804/698-4319 (Fax)**

**email: [Valerie.Fulcher@deq.virginia.gov](mailto:Valerie.Fulcher@deq.virginia.gov)**

**<http://www.deq.virginia.gov/Programs/EnvironmentalImpactReview.aspx>**

For program updates and public notices please subscribe to Constant Contact: <https://lp.constantcontact.com/su/MVcCump/EIR>



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MEMORANDUM

TO: Julia Wellman, DEQ/EIR Environmental Program Planner

FROM: Carlos A. Martinez, Division of Land Protection & Revitalization Review Coordinator

DATE: May 13, 2020

COPIES: Sanjay Thirunagari, Division of Land Protection & Revitalization Review Manager; file

SUBJECT: Environmental Impact Review: 20-053F Wallops Flight Facility Marsh Fiber Project in Wallops Island, Virginia.

The Division of Land Protection & Revitalization (DLPR) has completed its review of the National Aeronautics and Space Administration's April 16, 2020 EIR for Wallops Flight Facility Marsh Fiber Project in Wallops Island, Virginia.

DLPR staff conducted a search (500 ft. radius) of the project area of solid and hazardous waste databases (including petroleum releases) to identify waste sites in close proximity to the project area. DLPR search did not identify any waste sites within the project area which might impact the project.

DLPR staff has reviewed the submittal and offers the following comments:

**Hazardous Waste/RCRA Facilities – none in close proximity to the project area**

**CERCLA Sites – none in close proximity to the project area**

**Formerly Used Defense Sites (FUDS) – none in close proximity to the project area.**

**Solid Waste – none in close proximity to the project area**

**Virginia Remediation Program (VRP) – none in close proximity to the project area**

**Petroleum Releases – none in close proximity to the project area**

## **PROJECT SPECIFIC COMMENTS**

None

## **GENERAL COMMENTS**

### **Soil, Sediment, Groundwater, and Waste Management**

Any soil, sediment or groundwater that is suspected of contamination or wastes that are generated must be tested and disposed of in accordance with applicable Federal, State, and local laws and regulations. Some of the applicable state laws and regulations are: Virginia Waste Management Act, Code of Virginia Section 10.1-1400 *et seq.*; Virginia Hazardous Waste Management Regulations (VHWMR) (9VAC 20-60); Virginia Solid Waste Management Regulations (VSWMR) (9VAC 20-81); Virginia Regulations for the Transportation of Hazardous Materials (9VAC 20-110). Some of the applicable Federal laws and regulations are: the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 *et seq.*, and the applicable regulations contained in Title 40 of the Code of Federal Regulations; and the U.S. Department of Transportation Rules for Transportation of Hazardous Materials, 49 CFR Part 107.

### **Pollution Prevention – Reuse - Recycling**

Please note that DEQ encourages all construction projects and facilities to implement pollution prevention principles, including the reduction, reuse, and recycling of all solid wastes generated. All generation of hazardous wastes should be minimized and handled appropriately.

If you have any questions or need further information, please contact Carlos A. Martinez by phone at (804) 698-4575 or email [carlos.martinez@deq.virginia.gov](mailto:carlos.martinez@deq.virginia.gov).



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Matthew J. Strickler  
Secretary of Natural Resources

David K. Paylor  
Director  
(804) 698-4000

**MEMORANDUM**

**TO:** Julia Wellman, DEQ Office of Environmental Impact Review  
**FROM:** Amber Foster, DEQ Principal Environmental Planner  
**DATE:** May 7, 2020  
**SUBJECT:** DEQ #20-053F: Wallops Flight Facility Marsh Fiber Project, Accomack County

We have reviewed the Federal Consistency Certification submittal for the proposed project and offer the following comments regarding consistency with the provisions of the *Chesapeake Bay Preservation Area Designation and Management Regulations*.

The proposed project is located in the Atlantic Ocean watershed and is outside of the Chesapeake Bay watershed; thus there are no comments or requirements under the Chesapeake Bay Preservation Area Designation and Management Regulations.



Wellman, Julia &lt;julia.wellman@deq.virginia.gov&gt;

**Re: NEW PROJECT NASA Wallops Flight Facility Marsh Fiber Project, DEQ #20-053F**

1 message

**Gavan, Lawrence** <larry.gavan@deq.virginia.gov>  
To: "Wellman, Julia" <julia.wellman@deq.virginia.gov>

Thu, Apr 16, 2020 at 2:32 PM

Note- NASA Wallops has approved Ann. Stds. and Specs.  
Thanks Julia

**Erosion and Sediment Control/ Stormwater Management Annual Specifications, Stormwater Management and Local Program Compliance.** In accordance with §62.1-44.15 *et seq.*, electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies, and railroad companies shall, and federal entities and authorities created pursuant to § 5.2-5102 may, file general erosion and sediment control standards and specifications annually with DEQ for review and approval. Such standards and specifications shall be consistent with the requirements of this article and associated regulations and the Erosion and Sediment Control Law and Stormwater Management Act (§ 62.1-44.15:24 *et seq.*) and associated regulations where applicable. The specifications shall apply to:

- ☐ Construction, installation, or maintenance of electric transmission, natural gas, and telephone utility lines and pipelines, and water and sewer lines; and
- ☐ Construction of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of the railroad company.

The applicant must have a certified Responsible Land Disturber in charge of and responsible for carrying out the project-specific erosion and sediment control plan and the land-disturbing activity. As an annual standards and specifications for erosion and sediment control holder, The applicant must have a certified erosion and sediment control inspector that must provide for an inspection during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project. The applicant must contact [standardsandspecs@deq.virginia.gov](mailto:standardsandspecs@deq.virginia.gov) two weeks prior to land disturbance. Questions regarding annual specifications should be directed to DEQ's Hannah Zegler at [standardsandspecs@deq.virginia.gov](mailto:standardsandspecs@deq.virginia.gov).

**Virginia Stormwater Management Plan General Permit for Construction Activities (VAR10).**

The operator or owner of construction activities involving land disturbance equal to or greater than one acre must register for coverage under the General Permit for Discharges of Stormwater from Construction Activities and develop a project-specific stormwater pollution prevention plan (SWPPP). Construction activities requiring registration also include the land disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan of development will ultimately disturb equal to or greater than one acre. The SWPPP must be prepared prior to submission of the registration statement for coverage under the general permit, and the SWPPP must address water quality and quantity in accordance with the Virginia Stormwater Management Plan (VSMP) Permit Regulations. General information and registration forms for the general permit are available on DEQ's website at <https://www.deq.virginia.gov/Programs/Water/StormwaterManagement/VSMPPermits/ConstructionGeneralPermit.aspx>

On Thu, Apr 16, 2020 at 1:55 PM Fulcher, Valerie <[valerie.fulcher@deq.virginia.gov](mailto:valerie.fulcher@deq.virginia.gov)> wrote:

**Good afternoon - this is a new OEIR review request/project:**

**Document Type: Environmental Assessment/Federal Consistency Determination**

**Project Sponsor: National Aeronautics and Space Administration**

**Project Title: Wallops Flight Facility Marsh Fiber Project**

**Location: Accomack County**

**Project Number: DEQ #20-053F**

The document is available at [www.deq.virginia.gov/filesshare/oeir](http://www.deq.virginia.gov/filesshare/oeir) in the NASA folder.

The due date for comments is **MAY 18, 2020**. You can send your comments either directly to JULIA WELLMAN by email ([Julia.Wellman@deq.virginia.gov](mailto:Julia.Wellman@deq.virginia.gov)), or you can send your comments by regular interagency/U.S. mail to the Department of Environmental Quality, Office of Environmental Impact Review, P.O. Box 1105, Richmond, VA 23218.

**NOTE: The FCD is in Appendix B.**

If you cannot meet the deadline, please notify the project coordinator prior to the comment due date. Arrangements may be made to extend the deadline for comments if possible. An agency will be considered to have no concerns if comments are not received (or contact is made) within the review period. However, it is important that agencies consistently participate in accordance with Virginia Code Section 10.1-1192.

**REVIEW INSTRUCTIONS:**

- A. Please review the document carefully. If the proposal has been previously reviewed (e.g. as a draft EIS or a Part 1 EIR), please consider whether your earlier comments have been adequately addressed.
- B. Prepare your agency's comments in a form which would be acceptable for responding directly to a project proponent agency (agency stationary or email) and include the project number on all correspondence.

If you have any questions, please email Julia.

Thanks!

--

Valerie A. Fulcher, CAP, OM, Environmental Program Specialist

Department of Environmental Quality

Environmental Enhancement - Office of Environmental Impact Review

1111 East Main Street

Richmond, VA 23219

804/698-4330

804/698-4319 (Fax)

email: [Valerie.Fulcher@deq.virginia.gov](mailto:Valerie.Fulcher@deq.virginia.gov)

<http://www.deq.virginia.gov/Programs/EnvironmentalImpactReview.aspx>

For program updates and public notices please subscribe to Constant Contact: <https://lp.constantcontact.com/su/MVcCump/EIR>

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
TIDEWATER REGIONAL OFFICE**

Environmental Impact Review  
Coordination Review

**To:** Valerie A. Fulcher, Office of Environmental Impact Review

**From:** Craig Nicol, Regional Director

**Date:** May 15, 2020

**Project:** NASA Wallops Marsh Fiber Project, DEQ #20-053F

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As requested, the DEQ Tidewater Regional Office has reviewed the supplied information and offers the following comments:

**Air Compliance Program :**

The following air regulations may be applicable: Virginia Administrative Code 9 VAC 5-50-60 *et seq.* which addresses the abatement of visible emissions and fugitive dust emissions, and Virginia Administrative Code 9 VAC 5-130-10 *et seq.* which addresses open burning. For additional information, contact John Brandt, DEQ-TRO at (757) 518-2010.

**Land Program (Solid and Hazardous Waste):**

All construction and demolition waste, including any excess soil, must be characterized in accordance with the Virginia Hazardous Waste Management Regulations and disposed of at an appropriate facility as applicable.

For additional information, contact Sean Priest, DEQ-TRO at (757)518-2141.

**Stormwater:**

A construction general permit (CGP) is required prior to commencement of land disturbing activities for the discharge of sediment from construction activities. In addition, DEQ is the review authority for plan review and approval to coincide with permit application processing. For additional information, contact Courtney Smith, DEQ-TRO at (757)493-1072.

**Virginia Water Protection Permit Program (VWPP):**

Potential adverse impacts to water quality and wetlands resulting from surface runoff due to construction activities must be minimized. This can be achieved by using Best Management Practices (BMPs). Permanent or temporary impacts to surface waters and wetlands may require a permit pursuant to §401 of the Clean Water Act, Virginia Code §62.1-44.15:20, and Virginia Administrative Code 9 VAC 25-210-10 *et seq.* Provided that any and all necessary permits are obtained and complied with, the project will be consistent with DEQ program requirements.

For additional information, contact Jeff Hannah, DEQ-TRO at (757)518-2146.



**Water Permit Program (VPDES):**

No comments as there does not appear to be any point source discharges of industrial process water or wastewater associated with this project that would necessitate a VPDES permit at this time. Should the need arise for a point source discharge, please refer questions to: [TRO.VPDESPermits@deq.virginia.gov](mailto:TRO.VPDESPermits@deq.virginia.gov) or visit DEQ's website at <http://www.deq.virginia.gov/Programs/Water/PermittingCompliance.aspx>

**Petroleum Storage Tank Program:**

DEQ records do not indicate any reported petroleum releases within the proposed project footprint. If evidence of a petroleum release is discovered during implementation of this project, it must be reported to DEQ, as authorized by CODE # 62.1-44.34.8 through 19 and 9 VAC 25-580-10 et seq. Contact Mr. Tom Madigan at (757) 518-211. Petroleum-contaminated soils and ground water generated during implementation of this project must be properly characterized and disposed of properly.

Based on the submitted information, it appears the proposed project will result in a *[Level of impact]* environmental impact.

**FEDERAL CONSISTENCY DETERMINATION FOR THE  
WALLOPS FLIGHT FACILITY MARSH FIBER PROJECT**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION  
GODDARD SPACE FLIGHT CENTER  
WALLOPS FLIGHT FACILITY  
WALLOPS ISLAND, VA 23337**

## **Introduction**

This document provides the Commonwealth of Virginia with the National Aeronautics and Space Administration's (NASA) Consistency Determination under the federal Coastal Zone Management Act (CZMA) of 1972, as amended, Section 307(c)(1) and 15 CFR Part 930, subpart C, for the proposed Marsh Fiber Project (Project) involving installation of an underground fiber optic cable between NASA Wallops Flight Facility's (WFF) Main Base and Wallops Island, in Accomack County, Virginia.

NASA has prepared an Environmental Assessment (EA) to analyze potential impacts from the Project. The EA was prepared in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S. Code 4321-4347), the Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 Code of Federal Regulations [CFR] 1500-1508), NASA's regulations for implementing NEPA (14 CFR Subpart 1216.3), and the *NASA Procedural Requirements (NPR) for Implementing NEPA* and *Executive Order (EO) 12114* (NPR 8580.1). A description of the Proposed Action, including maps, is provided in the EA.

NASA is the lead agency for preparation of the EA and this Federal Consistency Determination (FCD). Because the proposed fiber optic cable path would go through the Wallops Island National Wildlife Refuge (NWR), which is owned and managed by the U.S. Fish & Wildlife Service (USFWS), the USFWS is a cooperating agency on the EA and on this FCD.

This document provides NASA's certification that the Project is designed to avoid and/or minimize impacts to specific coastal resources as identified by enforceable policies related to fisheries, subaqueous lands, tidal and non-tidal wetlands, dunes, non-point and point source pollution control, shoreline sanitation, air pollution, and land management. Based on the project plans, data, and analysis, NASA finds that the activities associated with the Project are consistent to the maximum extent practicable with the enforceable policies of the Virginia Coastal Resources Management Program. The summary below supports NASA's determination.

## Enforceable Policies Comprising Virginia's Coastal Zone Management Program

- **Fisheries Management.** Administered by the Virginia Marine Resources Commission (VMRC) through regulations promulgated through the Virginia Code §28.2-200 through §28.2 – 713 and the Virginia Department of Game and Inland Fisheries (VDGIF), this program stresses the conservation and enhancement of shellfish and finfish resources and the promotion of commercial and recreational fisheries.

The State Tributyltin (TBT) Regulatory Program is also part of the Fisheries Management program. The TBT program monitors boating activities and boat painting activities to ensure compliance with TBT regulations promulgated pursuant to the amendment. The VMRC, VDGIF, and Virginia Department of Agriculture and Consumer Services share enforcement responsibilities.

- **Subaqueous Lands Management.** The VMRC management program for subaqueous lands (Code of Virginia §28.2-1200 through §28.2-1213) establishes conditions for granting or denying permits to use state-owned bottomlands based on considerations of potential effects on marine and fisheries resources, wetlands, adjacent or nearby properties, anticipated public and private benefits, and water quality standards established by the VDEQ Water Division.
- **Wetlands Management.** Administered by VMRC, VDEQ, and the Accomack County Wetlands Board, the wetlands management program preserves and protects both tidal and non-tidal wetlands. The tidal wetlands program is administered by the VMRC (Virginia Code §28.2-1301 through §28.2-1320).
- **Dunes and Beaches Management.** Administered by VMRC and the Accomack County Wetland Board, the purpose of this program is to prevent the destruction and/or alteration of primary dunes (Virginia Code §28.2-1400 through §28.2-1420).
- **Non-point Source Water Pollution Control.** The Virginia Erosion and Sediment Control Law requires soil-disturbing projects to reduce soil erosion and to decrease inputs of chemical nutrients and sediments to the Chesapeake Bay, its tributaries, and other rivers and waters of the Commonwealth. This program is administered by the VDEQ (Virginia Code §62.1-44.15:51 et seq.).
- **Point Source Water Pollution Control.** The point source program is administered by the State Water Control Board pursuant to the Code of Virginia §62.1-44.15. Point source pollution control is accomplished through the implementation of the National Pollutant Discharge Elimination System permit program established pursuant to §402 of the federal Clean Water Act (CWA) and administered in Virginia as the Virginia Pollutant Discharge

Elimination System (VPDES) permit program. The Water Quality Certification requirements of §401 of the CWA of 1972 is administered under the Virginia Water Protection Permit program.

- **Shoreline Sanitation.** The purpose of this program is to regulate the installation of septic tanks, set standards concerning soil types suitable for septic tanks, and specify minimum distances that tanks must be placed away from streams, rivers, and other waters of the Commonwealth. This program is administered by the Virginia Department of Health (Virginia Code §32.1-164 through §32.1-165).
- **Point Source Air Pollution Control.** The program implements the federal Clean Air Act to provide a legally enforceable State Implementation Plan for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). This program is administered by the State Air Pollution Control Board (Virginia Code §10.1-1300 through 10.1-1320).
- **Coastal Lands Management.** Administered by VDEQ's Office of Ecology and the Chesapeake Bay Local Assistance Department, the Chesapeake Bay Preservation Act (Virginia Code §§ 10.1-2100 through 10.1-2114) and Chesapeake Bay Preservation Area Designation and Management Regulations (Virginia Administrative code 9 VAC10-20-10 et seq.) guides land development in coastal areas to protect the Chesapeake Bay and its tributaries.

### Analysis of the Proposed Project's Consistency with the Enforceable Policies

Policy	Consistent?	Analysis
Fisheries Management	Yes	<p>The Project would not likely result in permanent impacts to finfish and shellfish resources or to the promotion of commercial and recreational fisheries that are administered by the VMRC and VDGIF. Waters adjacent to Project contain public and private shellfish harvesting areas including private oyster grounds, public (Baylor) oyster grounds, and public clamming grounds.</p> <p>There would be short-term, localized effects on finfish and shellfish habitat, particularly the benthic community, from temporary anchoring of barges and the marsh buggy crossing the guts in Walker Marsh. Some local fishing and oyster harvesting activities may be affected by the presences of barges/boats and from work in the surrounding waters of and on Walker Marsh during the 90-day project duration. The proposed Project would not violate conservation provisions outlined in the enforceable policy and would not have impacts on management of fisheries.</p>

Policy	Consistent?	Analysis
Subaqueous Lands Management	Yes	VMRC has reviewed preliminary project documents and found the proposed project will require Subaqueous Lands and Tidal Wetlands permits. Any jurisdictional impacts to Waters of the United States will be reviewed by the VMRC during the Joint Permit Application (JPA) process. Impacts to submerged lands and tidal wetlands have been minimized to the extent practicable through use of horizontal directional drilling (HDD) underneath waterways (Watts Bay, Ballast Narrows and three guts in Walker Marsh). NASA would further minimize impacts to subaqueous lands via avoidance and minimization measures outlined in the EA, which will also be included in the JPA and subsequent permits. There are no Project impacts to beaches or dunes.
Wetlands Management	Yes	<p>Tidal wetlands are located along the fiber optic cable pathway in Walker Marsh. NASA's contractor completed a wetland delineation of the Project areas in September 2019 and received a Preliminary Jurisdictional Determination from the U.S. Army Corps of Engineers (USACE). The Proposed Action would result in 0.63 ha (1.55 ac) of <i>temporary</i> direct impacts wetlands and 6.0 m<sup>2</sup> (64 ft<sup>2</sup>) or 0.0006 ha (0.0015 ac) of <i>permanent</i> impacts to wetlands. Impacts to wetlands have been minimized to the extent practicable through use of HDD and vibratory trenching methods to install most the fiber optic cable. NASA would mitigate temporary wetland impacts by restoring disturbed areas to pre-existing conditions, including re-establishing native vegetation.</p> <p>NASA would obtain a Nationwide Permit (NWP) 12 for Utility Line Activities from the USACE via the Joint Permitting Application (JPA) process. The JPA includes a Mitigation Plan for the unavoidable impacts to state waters and resources from the Marsh Fiber project. A compensatory mitigation plan for permanent impacts is not required for the USACE Nationwide Permit 12 because permanent project impacts are less than 0.04 ha (0.10 ac) and/or 91.4 linear meters (300 linear feet) of WOTUS.</p> <p>NASA would obtain the Clean Water Act permits prior to the start of the project and would adhere to all avoidance and minimization, and mitigation measures stated in the permit.</p>
Dunes and Beaches Management	Yes	No dunes are located within the footprint of the Project area. The Proposed Action would not have an impact on dunes.
Non-point Source Water Pollution Control	Yes	Activities under the Proposed Action have the potential to temporarily increase non-point source runoff to the Virginia waters during construction. NASA would secure a Virginia Stormwater Management Program (VSMP) General VPDES Permit for Discharges of Stormwater from Construction Activities prior to construction. NASA would develop and implement appropriate best management practices to avoid these impacts. The erosion and sediment control plan and Stormwater Pollution

Policy	Consistent?	Analysis
		Prevention Plan (SWPPP) would detail practices to be implemented throughout construction to manage non-point source runoff from the construction areas. For example, NASA's contractor may install turbidity curtains to contain suspended sediment within the three guts where the marsh buggy would enter the water and may install turbidity curtains and/or silt fence around the HDD exit holes to contain sediment and drilling mud.
Point Source Water Pollution Control	Yes	There are no point sources of pollution regulated under Section 402 of the CWA and administered in Virginia as the VPDES permit program within the Project area. However, an inadvertent release of drilling mud could occur during HDD; drilling mud is nontoxic, and any release would be short-term and contained in accordance with the Frac-Out Contingency Plan.
Shoreline Sanitation	Yes	The Project would not include the installation of septic tanks. The SWPPP prepared for the General VPDES permit will include specifications for on-site use of temporary portable sanitation facilities.
Point Source Air Pollution Control	Yes	Minimal impacts to air quality would occur during the construction associated with the installation of the new fiber cable. The activities would not lead to non-attainment to any of the NAAQS.
Coastal Lands Management	Yes	The proposed Project is not located in a Chesapeake Bay Drainage Area and therefore would have no impact on Chesapeake Bay Preservation Area Resources. The Project would not include land development activities that have the potential to impact the Chesapeake Bay or its tributaries.

NASA requests that the Commonwealth's response is sent to:

Shari A. Miller  
Environmental Planning Lead  
NASA Wallops Flight Facility  
Wallops Island, VA 23337  
(757) 824-2327  
shari.a.miller@nasa.gov