Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

David L. Bulova
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

October 20, 2026

SENT VIA E-MAIL: office@wetheringtonhomes.com

Re: Notification that a Virginia Water Protection (VWP) Permit/Coverage is Not Required
JPA No. 26-0055
For Reference Only - Federal Permit Number: NAO-2026-00081
1001 Virginia Avenue Condominiums, Virginia Beach, Virginia

The Virginia Department of Environmental Quality (DEQ) has received your JPA on January 12, 2026. Provided that the size or scope of the project does not change, the project will not require issuance of a VWP individual permit or VWP general permit coverage per the selected checkboxes below.

If unauthorized impacts occur, you **must** contact DEQ at vwp.tro@deq.virginia.gov or 757-518-2077 (TRO) within 24 hours of discovery. Any fish kills or spills of fuels or oils shall be reported to DEQ immediately upon discovery at 757-518-2077 (TRO) If DEQ cannot be reached, the spill or fish kill shall be reported to the Virginia Department of Emergency Management (VDEM) at 1-804-750-8845 or the National Response Center (NRC) at 1-800-424-8802. Any spill of oil as defined in § 62.1-44.34:14 of the Code of Virginia that is less than 25 gallons and that reaches, or that is expected to reach, land only is not reportable, if recorded per § 62.1-44.34:19.2 of the Code of Virginia and if properly cleaned up.

It is the applicant's responsibility to obtain any required approvals, authorizations, or permits from other government agencies or programs for the proposed activities. Note that 23-SPGP-PASDO Category C projects may require coordination with VDEQ's Office of Environmental Impact Review for an individual Coastal Zone Management Act (CZMA) federal consistency determination. Questions regarding federal consistency with Virginia's Coastal Zone Management Program should be directed to Bettina Rayfield at (804) 659-1915 or bettina.rayfield@deq.virginia.gov.

A. Virginia Water Protection Permit Program regulations or State Water Control Law:

☐ 1. The project is not proposing impacts to surface waters.

☐ 2. The project qualifies for an exclusion from the permitting requirements per 9VAC25-210-60 and/or the provisions noted:

☐ 2.a. Discharges of dredged or fill material into state waters, *except wetlands* [emphasis added], which are addressed under a U.S. Army Corps of Engineers (USACE) Regional, General or Nationwide Permit, and for which no [individual] § 401 Water Quality Certificate[Certification] is required.

☐ 2.b. Any stormwater discharge from municipal separate storm sewer systems or land disturbing activities authorized by 9VAC25-870, or discharges authorized by a Virginia Pollutant Discharge Elimination System (VPDES) permit in accordance with 9VAC25-31 or a Virginia Pollution Abatement (VPA) permit in accordance with 9VAC25-32.

☐ 2.c. Any activity in a wetland governed under Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia, unless state certification is required by § 401 of the Clean Water Act. Even where such certification is required due to a pending USACE permit action, such certification is waived if the activity meets the provisions of subdivision 10.a of 9VAC25-210-60 - see below. (§ 62.1-44.15:21.G; 9VAC25-210-220.C)

> [As referenced: (9VAC25-210-60.10.a) Construction or maintenance of farm ponds or impoundments, stock ponds or impoundments, or irrigation ditches that are operated for normal agricultural or silvicultural purposes, and are less than 25 feet in height or create a maximum impoundment capacity smaller than 100 acre-feet.]

☐ 2.d. Normal residential gardening and lawn and landscape maintenance in a wetland. (§ 62.1-44.15:21.G)

☐ 2.e. Maintenance of currently serviceable structures.

☐ 2.f. Impacts to open waters that do not have a detrimental effect on public health, animal life, or aquatic life or to the designated uses of such waters.

☐ 2.g. Flooding or back-flooding impacts to surface waters resulting from the construction of temporary sedimentation basins on a construction site.

☐ 2.h. Normal agriculture and silviculture activities in a wetland. (§ 62.1-44.15:21.G)

☐ 2.i. Construction or maintenance of farm ponds or impoundments, stock ponds or impoundments, or irrigation ditches, or the maintenance (but not construction) of drainage ditches, provided that: (i) no surface water withdrawal is proposed; (ii) the final dimensions of the maintained ditch do not exceed the average dimensions of the original ditch; and, (iii) the farm or stock pond or impoundment does not fall under the authority of the Virginia Soil and Water Conservation Board pursuant to Article 2 (§ 10.1-604 et seq.) of Chapter 6 pursuant to normal agricultural or silvicultural activities. (§ 62.1-44.15:21.H)

☐ 2.j. Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment.

☐ 2.k. Wetland and open water impacts to a stormwater management facility that was created on dry land for the purpose of conveying, treating, or storing stormwater. (§ 62.1-44.15:21.I)

☐ 3. The activities cause impacts to an isolated wetland of minimal ecological value as defined in 9VAC25-210-10 (§ 62.1-44.15:21.D; 9VAC25-210-220.A).

☐ 4. The activity does not impact instream flows; the activity qualifies for a permit issued by the USACE; and the project proponent receives a permit from the Virginia Marine Resources Commission or wetlands boards, pursuant to Chapter 12 (§ 28.2-1200 et seq.) or Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia (9VAC25-210-220.B).

☐ 5. The activity involves the restoration of surface waters, which is intended to improve water quality, habitat, or other functions of those surface waters. The activity may involve grading, filling, or temporary flooding in surface waters; however, the ultimate goal of the activity is to improve overall ecological conditions and functions of aquatic resources (9VAC25-210-50.A.; "Permitting for Surface Water Restoration and Reforestation" Memorandum – September 9, 2025).

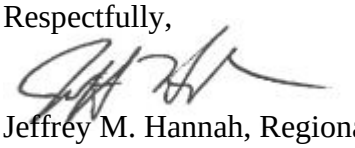
☒ 6. The activity is authorized under a USACE Nationwide Permit for which general § 401 Water Quality Certification was granted on November 6, 2025 (9VAC25-210-130.H and I).

B. Section 401:

☒ 1. This letter confirms a waiver of § 401 Water Quality Certification for purposes of federal permits. No public notice is required by 9VAC25-210 *et seq*.

Please contact DEQ at vwp.tro@deq.virginia.gov or 757-518-2000 (TRO) if you have any questions.

Respectfully,



Jeffrey M. Hannah, Regional VWPP Program Manager
Virginia Department of Environmental Quality
757-407-2510
jeffrey.hannah@deq.virginia.gov
Tidewater Regional Office
5636 Southern Boulevard
Virginia Beach, Virginia 23462
757-518-2000

cc: Brian Owen, MSA, P.C.
Southern Virginia Regulatory Section, U.S. Army Corps of Engineers
jpa.permits@mrc.virginia.gov