



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

September 10, 2019

Western Virginia Regulatory Section
Action ID Number: NAO-2014-00708

Mr. Christian Goodwin, Louisa County Administrator
Mr. Eric Dahl, Fluvanna County Administrator
James River Water Authority
132 Main Street
Post Office Box 540
Palmyra, Virginia 22963

Dear Messrs. Goodwin and Dahl:

Please reference your Nationwide Permit 12 Pre-Construction Notification (PCN) package, submitted on your behalf by the Timmons Group, to us for proposed impacts to waters of the U.S. for the purpose of constructing a new raw water intake and pump station along the James River as well as installing new raw water lines and upgrading an existing access road. Specifically, your proposal includes 195 square feet (0.01 acre) of temporary disturbance to palustrine emergent wetlands, 446 square feet (0.01 acre) of temporary disturbance to palustrine forested wetlands, 255 square feet (0.01 acre) of permanent conversion from palustrine forested wetlands to palustrine emergent wetlands, 245 square feet (0.01 acre) of permanent fill to palustrine forested wetlands, 1,212 linear feet (1.59 acres) of temporary stream impact, and 104 linear feet (0.08 acre) of permanent stream impact.

As you know, the Corps, in cooperation with the James River Water Authority, the Virginia Department of Cultural Resources (VDHR), and the Advisory Council on Historic Preservation (ACHP), have been working through the Section 106 of the National Historic Preservation Act (NHPA) process and, to date, we have been unable to reach an agreed-upon Memorandum of Agreement. In addition, we continue to receive information from consulting parties regarding the degree of adverse impact to historic properties.

Most recently, we received the September 6, 2019 correspondence from VDHR, attached, regarding their determination that Ms. Carol Tyrer, owner and principal archaeologist for Circa ~ Cultural Resource Management, LLC does not meet The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation – Professional Qualifications Standards for Archeology (48 FR 44739). This potentially calls into question the information underpinning the consultation to-date.

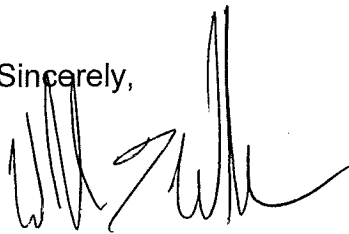
The Corps has a responsibility to ensure that all NHPA actions and documentation related to the Federal Action meet applicable standards and qualifications. We will continue to work with the VDHR and you to understand more fully the implications of this latest development and determine the appropriate course of action.

Based on concerns and uncertainty regarding the proposed project's impacts to historic properties, the Corps has determined that further analysis supporting the public interest evaluation is required. To facilitate this evaluation, we have determined that the appropriate permitting process for this proposed activity is the standard individual permit process. Therefore, pursuant to the Corps' discretionary authority granted at 33 CFR 330.4(e), we determine that the proposed activity is not authorized under any of the Corps' Nationwide or Regional General Permits at this time. Please note that 33 CFR 330.4(e)(3) allows us to restore authorization under a Nationwide Permit at any time we determine that our reasons for exerting discretionary authority no longer have merit.

Should you decide to pursue this project as proposed, please contact our office for instructions on applying for a Department of the Army Standard Individual Permit.

The Corps is furnishing a copy of this letter to the Virginia Department of Environmental Quality, the Virginia Marine Resources Commission, the VDHR, and the ACHP. If you have any questions, please contact Mr. Steven VanderPloeg, Corps Project Manager at (804) 323-7071 or steven.a.vanderploeg@usace.army.mil or Ms. Jennifer Frye, Western Virginia Regulatory Section Chief at (540) 344-1498 or jennifer.s.frye@usace.army.mil.

Sincerely,

A handwritten signature in black ink, appearing to read 'William T. Walker', with a stylized flourish at the end.

William T. Walker
Chief, Regulatory Branch



COMMONWEALTH of VIRGINIA

Department of Historic Resources

2801 Kensington Avenue, Richmond, Virginia 23221

Matt Strickler
Secretary of Natural Resources

Julie V. Langan
Director

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September 6, 2019

Mr. William T. Walker, Chief, Regulatory Branch
USACE, Norfolk District
803 Front Street
Norfolk, VA 23510

RE: Permit Application for the Archaeological Excavation of Human remains in Support of the James River Water Authority Project (NAO-2014-00708)

Dear Tom:

It has come to our attention that Carol Tyrer, owner of and principal archaeologist for Circa~ Cultural Resource Management LLC, does not meet The Secretary of the Interior's *Standards and Guidelines for Archeology and Historic Preservation - Professional Qualifications Standards for Archeology* (48 FR 44739). Considering this development, the Department will not be approving any permit application that identifies Ms. Tyrer as the principal archaeologist. I have enclosed the relevant correspondence from the Department to the James River Water Authority and Ms. Tyrer.

The Army Corps of Engineers is responsible under the National Historic Preservation Act (54 U.S.C. § 306131(a)(1)(a)) and its implementing regulations (36 C.F.R. § 800.2(a)(1) and (3)) to ensure that all actions and resulting documentation completed by or on behalf of a Federal agency or its applicant in support of that agency's responsibilities under 54 U.S.C. § 306108 must meet applicable standards and guidelines. We encourage the Corps to take into consideration the lack of appropriate qualifications in its review of all documents submitted by Circa~. We look forward to discussing with the Corps how it intends to address this matter.

Sincerely,

Julie V. Langan
Director

Encl.

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