



COMMONWEALTH of VIRGINIA

Marine Resources Commission

380 Fenwick Road

Building 96

Fort Monroe, VA 23651

Justin D. Worrell
Acting Commissioner

STOP WORK ORDER

Certified Mail

Chesapeake Bay Foundation
Attn: Mr. Chris Moore
3663 Marlin Bay Drive
Virginia Beach, VA 23455

No. 22-05
Date: June 2, 2022

Pursuant to §28.2-1212(C) of the Code of Virginia, I hereby certify that a substantial violation of Chapter 12, Article 2 of the Code of Virginia has occurred at the following locations in the City of Virginia Beach:

Pleasure House Creek Oyster Reef, VMRC Permit #2021-0632, 36.903331 N, -76.100893 W

Browns Cove Reef P, VMRC Permit #2021-0631, 36.875681 N, -76.061678 W

* Keeling Drain Reef M, VMRC Permit #2021-0011, 36.895318 N, -76.078682 W

Based on onsite inspections at the above-referenced reefs and the Lesner Wharf staging area, the following noncompliance issues with the aforementioned VMRC permits have been noted:

Pleasure House Creek Oyster Reef: although initially discovered by VMRC staff and discussed in our March 15, 2022 meeting, asphalt and metal wire remain visible on the outer surface of the reef. Additionally, reef material was found to exceed the permitted maximum one-foot elevation above the substrate.

Browns Cove Reef: based on our recent onsite inspections, concrete has been placed outside of the permitted footprint.

Keeling Drain Reef: photographic evidence depicting plastic and paper waste originating from the deployment of the concrete rubble base material was provided to this office and to the Department of Environmental Quality.

An Agency of the Natural and Historic Resources Secretariat

www.mrc.virginia.gov

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

Due to the collective non-compliance issues noted, and the Permittee's failure to ensure that the concrete rubble base remains free of asphalt, metal wire, plastic, and paper trash, all installation activities for previously authorized permits is hereby suspended. A detailed plan addressing how compliance will be achieved for the aforementioned violations must be submitted to this office for review and approval. The plan should minimally address and include:

1. A revised proposal for the physical inspection of material at the staging area to ensure the removal of all asphalt, metal wire or rebar, plastic and paper waste, etc. from the concrete base material prior to deployment. The new plan should identify how future prevention will be accomplished since the previously submitted 10-point plan submitted for the Pleasure House Creek reef has proven ineffective;
2. The removal of all unauthorized material from the Pleasure House Creek reef. The final layer of oyster shell and spat on shell shall not be installed prior to VMRC confirmation and approval;
3. An explanation of how the use of hydraulic water cannons accurately locates and restricts the reef material within the permitted footprint;
4. An executed contract with an independent observer who shall be required to (1) certify that all staged material loaded is free of asphalt, metal, plastic, and paper waste, and (2) observe all reef deployments. The observer shall complete daily logs for submittal to VMRC;
5. A revised plan for the Browns Cove reef that removes all unauthorized concrete material placed outside of the permitted footprint and redeploys it west of a line struck between points 3 and 6 on original VMRC permit drawings (as previously agreed upon at the May 27, 2022 meeting).

Until the above-referenced plan is received and approved by VMRC, no additional installation in the Lynnhaven River may be undertaken by the Chesapeake Bay Foundation. *Work at the Keeling Drain reef may resume provided conditions 1 and 4 are met.

Chesapeake Bay Foundation
June 2, 2022
Page Three

We continue to encourage your consideration of using clean stone or oyster shell as an alternative base for reef construction in lieu of the continued use of recycled concrete rubble. We additionally suggest the use of a barge-mounted excavator for the precise placement of reef material on sites permitted near navigable thoroughfares or with narrow reef footprints.

Randal D. Owen

Chief, Habitat Management Division

RDO/tb:tsb

HM

cc: Peggy Sanner, Chesapeake Bay Foundation
Justin D. Worrell, Acting Commissioner
Senator Bill DeSteph
Delegate Anne Ferrell Tata
City of Virginia Beach, Department of Public Works
Army Corps of Engineers
Department of Environmental Quality
Virginia Institute of Marine Science
Kelci Block, Assistant Attorney General
Colonel Matthew Rogers, Law Enforcement
Michael Steelman, Seaduce, LLC
U.S. Coast Guard

Chesapeake Bay Foundation
June 2, 2022
Page Four

COMMONWEALTH OF VIRGINIA
City of Hampton, to-wit:

I, Teresa Sanzo Boyd, a notary public within and for the City of Hampton, Commonwealth of Virginia, hereby certify that Randy Owen, VMRC Designated Enforcement Officer whose name is assigned to the foregoing, has acknowledged the same before me in the City aforesaid.

Given under my hand this 2nd day of June, 2022

My Commission expires on the 30th day of April, 2023


Notary Public

TERESA SANZO BOYD
NOTARY PUBLIC
REG. # 7828300
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES 4/30/2023