



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE
Charlotte Amalie, V.I. 00802
340-774-0001

OFFICE OF THE
SENATE PRESIDENT

15 APR 21 AM 8:49

SENATOR
NEVILLE A. JAMES

April 20, 2015

Honorable Neville James
Senate President
Thirty First Legislature of the U.S. Virgin Islands
Capitol Building
St. Thomas, Virgin Islands 00802

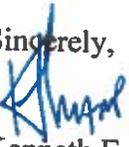
Dear Mr. President:

Transmitted herewith in accordance with the provisions of Title 12, §911(e) of the Virgin Islands Code are three (3) originals of Major CZM Permit No. CZX-2-15(W) along with one (1) copy of the exhibits.

Major Coastal Zone Management Permit No. CZX-2-15(W) allows the Permittee to dredge approximately 38,800 cubic yards of material from within the existing Schooner Bay Channel, located in the Christiansted Harbor, St. Croix, Virgin Islands.

Your prompt and favorable consideration of Major CZM Permit No. CZT-2-15(W) will be greatly appreciated.

Sincerely,


Kenneth E. Mapp
Governor

MAJOR COASTAL ZONE MANAGEMENT PERMIT NO. CZX-2-15W

1. **AUTHORITY.** This permit is issued by the Commissioner of the Department of Planning and Natural Resources and is administered and monitored by the Department pursuant to Title 12, Chapter 21, and Virgin Islands Code. As herein, "Permitter" is the **Government of the Virgin Islands** and "Permittee" is **The Virgin Islands Port Authority (VIPA)**.
2. **SCOPE.** This permit allows the Permittee to dredge approximately 38,800 cubic yards of material from within the existing Schooner Bay Channel, located in the Christiansted Harbor, St. Croix, Virgin Islands.
3. **TERM.** This permit is effective upon its signing by the Commissioner of the Department of Planning and Natural Resources, approval by the Governor of the Virgin Islands, and approval by the Legislature of the Virgin Islands. As used herein, the "Effective Date" or "the date hereof" means the date of such ratification. This permit will expire twenty (20) years after the Effective Date. The Permittee shall have the option to renew the permit within ninety (90) days before the permit expires and the terms are subject to negotiations. This permit is issued for a definite term, twenty (20) years, and shall not constitute a property right. The Permit shall be renewed only if the requirements of Title 12 of the Virgin Islands Code, Section 911, are met.
4. **DOCUMENTS INCORPORATED BY REFERENCE.**
 - EXHIBIT A – CZM Permit Application dated December 3, 2014**
 - EXHIBIT B - Site plan stamp dated December 3, 2014**
 - EXHIBIT C - Environmental Assessment Report dated November 2014**
 - EXHIBIT D – Water Quality Certificate dated April 10, 2015**
5. **GENERAL CONDITIONS.**
 - (a) **Liability.** The Permittee agrees to assume full and complete responsibility for all liability to any person or persons, including employees, as a result of its control of the area described in Paragraph 2 of this permit, and all improvements thereon (which area and improvements are herein after referred to as "the premises") and to hold the Permitter free and harmless from civil or other liability of any kind during the time the Permittee is in control of the premises pursuant to this permit.
 - (b) **Personal Property and Damage.** All personal property of any kind or description

whatsoever, located on the premises will be there at the Permittee's sole risk.

- (c) Assignments or Transfer. This permit may not be transferred or assigned except as provided in Section 910-15 of the Regulations of the Coastal Zone Management Act.
- (d) Permit to be displayed. A placard evidencing the permit shall be posted in a conspicuous place at the project site during the entire period of work.
- (e) Reliance on Information and Data. The Permittee affirms that the information, and data which he/she provided in connection with his/her permit application is true and accurate, and acknowledges that if subsequent to the effective date of this permit such information and data proves to be false or inaccurate, the permit may be modified, suspended or revoked in whole or in part, and that the Commissioner may, in addition, institute appropriate legal action.
- (f) Development to be Commenced. Any and all development approved by this Coastal Zone Management Permit shall be commenced within twelve (12) months from the date this permit becomes effective. Failure to perform substantial work within such period and thereafter until completion of construction will cause the permit to lapse and render it null and void unless an extension is granted by the Commissioner.
- (g) Notification of Completion. Upon completion of any activity authorized or required by this Coastal Zone Management Permit, the Permittee shall promptly so notify the Director of the Division of CZM ("The Director") and where the service of a professional engineer were required in undertaking the activity, a certification of compliance provided by the project engineer that the plans and specifications of the project and all applicable Virgin Islands Code requirements have been met, shall be filed with the Director.
- (h) Inspection. The Commissioner or his authorized agents or representatives shall have the power to enter at reasonable time during projects working hours upon any lands or waters for which a Coastal Zone Permit has been issued. The Permittee shall permit such entry for the purpose of inspection and ascertaining compliance with the terms and conditions of said Coastal Zone Management Permit. The Permittee shall provide access to such records as the Commissioner in the performance of his duties under the Act may require the Permittee to maintain. Such records may be examined and copies shall be submitted to the Commissioner upon request.
- (i) Conditions of premises. The development authorized by this permit shall be maintained in a safe, attractive and satisfactory condition and in accordance with the description, plans or drawings approved by the Commissioner.

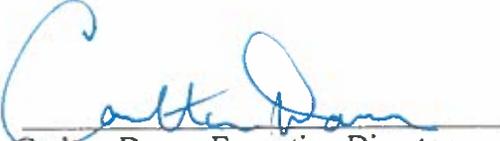
- (j) Restoration of Area. The Permittee, upon revocation or expiration of the permit, shall upon order of the Commissioner, and his sole discretion, remove all structures authorized by the permit and restore the area to its original condition, and/or modify such structures, and/or comply with any directive of the Commissioner in satisfying the original permit condition in such time and manner as the Commissioner may direct.
- (k) Notices. All notices sent or required to be sent hereunder must be certified mail, return receipt requested. If addressed to the Permitter, same shall be sent to the Commissioner of the Department of Planning and Natural Resources, Government of the Virgin Islands, No. 45 Estate Mars Hill, Frederiksted, St. Croix, U.S. Virgin Islands 00840 or to such place as the Permitter may herein after designate by certified mail. If addressed to the Permittee, same shall be sent to Carlton Dowe, Executive Director, Virgin Islands Port Authority, P.O. Box 1307, Christiansted, Virgin Islands 00820 or to such place as the Permittee may hereinafter designate by certified mail, return receipt requested.
- (l) Nonwaiver. One or more waivers by the Permitter of any covenant or condition of this permit shall not be construed as a waiver or breach of the covenant or condition, and the consent or approval of the Permitter to or of any acts by the Permittee requiring the Permitter's consent or approval shall not be construed as approval of any subsequent similar act by the Permittee.
- (m) Revocation. It is specifically understood that all foregoing covenants and agreements, as well as other terms and special conditions hereby agreed to by Permittee, are to be well and faithfully kept by Permittee and that any failure by Permittee to keep same will result in revocation of this permit.
- (n) Other Approval. If the development covered under this permit requires separate and distinct approval from the United States Government or any agency, department, commission or bureau thereof, then no development or occupancy is allowed under this permit until such permits or approvals have been obtained.
- (o) Abandonment. If the Permittee abandons, deserts or vacates the premises or discontinues its operations at the premises for a period totaling six (6) consecutive months, then the permit will terminate automatically and be rendered null and void.
- (p) Damage and Repair of Premises Described in Paragraph 2. In the event of damage to or destruction of the premises described in Paragraph 2 hereof, repair work may be done only after a request to do so has been submitted in writing to the Department and permission in writing has been granted. Repair must duplicate the original work, and must be in accordance with applicable law, rules and regulations.

- (q) Signatures on the Permit Document. The applicant shall sign and return the permit document to the Department within sixty (60) days of receipt thereof. Failure to return the signed permit within the time period specified herein will be considered a rejection of the terms and conditions of the permit and will render the offer of the permit null and void, unless a written extension is requested and granted.

6. SPECIAL CONDITIONS.

1. The Permittee shall notify the Division of Coastal Zone Management (CZM) two (2) working days prior to the commencement of development activities.
2. All applicable Territorial and Federal permits or other necessary approvals must be obtained and copies submitted to the Division of CZM prior to commencement of any construction activities.
3. Turbidity curtains must be installed at adequate depths in order to prevent suspended sediments from migrating outside the immediate work area.
4. Water quality monitoring shall be as out lined in the Water Quality Monitoring Plan and as approved in the Water Quality Certificate issued by the Division of Environmental Protection.
5. Barging of dredged material from the Schooner Bay Channel to the Gordon Finch Molasses Port must sail outside of the East-End Marine Park. The park boundaries extends three mile from the low water mark beginning at the Chenay Bay Beach Resort and extending in an easterly direction to three mile offshore of Estate Great Pond, St. Croix.
6. Pursuant to Title 12 Ch. 21 Section 910-5(e), prior to commencement of dredging activities, the Permittee must submit to DPNR, payment in the amount of \$38,800.00.
7. FEES. Pursuant to 12 VIC, Section 911(f), a reclamation fee of Thirty Eight Thousand, Eight Hundred Dollars (\$38,000.00) is charged for the dredging activities authorized under this permit. The fee is assessed at \$1.00 per cubic yard of dredged pursuant to 12 VIRREGS Section 910-5.
8. IT IS EXPRESSLY UNDERSTOOD by the parties hereto that the title to all submerged lands or filled land which is altered or occupied on the basis of this permit is in the Government of the Virgin Islands, and the Permittee shall have no right or interest therein, of any kind whatsoever, other than such rights as are expressly set forth herein, and that this instrument is not a lease.

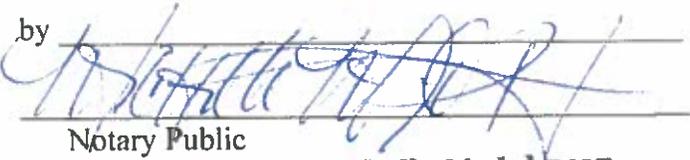
I, Carlton Dowe, do hereby certify that as Executive Director of Virgin Islands Port Authority, I am duly authorized and empowered to sign this Permit on behalf of Virgin Islands Port Authority.


Carlton Dowe, Executive Director
Virgin Islands Port Authority

4/13/15
Date

SWORN AND SUBSCRIBED before me

this 13th Day of April, 2015.

by 
Notary Public

Michelle M. Johnson
Notary Public
NP#: NP-061-11
My Commission Expires: July 14, 2015
St. Thomas/St. John District

IN TESTIMONY WHEREOF, the parties herein have hereunto set their hands and seals on the days and years appearing herein below.

DEPARTMENT OF PLANNING AND NATURAL RESOURCES
PERMITTOR



Masserae Webster
Chairperson, St. Croix CZM Committee

April 7, 2015
Date

PERMITTEE



Carlton Dowe
Executive Director, VIPA

4/13/15
Date

APPROVED



The Honorable Kenneth E. Mapp
Governor of the U.S. Virgin Islands

04-17-15
Date

APPROVED
Legislature of the Virgin Islands

The Honorable Neville A. James
President, 31st Legislature

Date

GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES
DEPARTMENT OF PLANNING AND NATURAL RESOURCES
DEVELOPMENT PERMIT APPLICATION

EXHIBIT A

FORM L&WD-2
PERMIT APPLICATION

Date Received: 12/3/14

Date Declared Complete: _____

Permit No. C2402-15 W

Application is hereby made for a Earth Change/Coastal Zone Permit

1. Name, mailing address and telephone number of applicant.
David Mapp, Assistant Executive Director
VI Port Authority
PO Box 301707, St. Thomas, VI 00803 340 774-1629

2. Name, title, mailing address and telephone number of owner of property and of developer.

<u>Owner</u>	<u>Developer</u>
<u>Virgin Islands Government</u>	<u>Same as above</u>
_____	_____
_____	_____

3. Location of activity. Plot No. Schooner Channel
Estate Gallows Bay Island St. Croix

4. Zoning District N.A.

5. Name, mailing address and telephone number of project designer.
CDR Maguire Inc.
1142 King Street, Christiansted, St. Croix VI 00822 340 690-0308

6. Name, mailing address and telephone number of principal earthwork contractor.
To be Determined

7. Summary of proposed activity. Include all incidental improvements such as utilities, roads, etc. (Use additional sheets if necessary).
Maintenance dredging of Schooner Channel to a depth of -18 feet.

- 7a. State type of Land Uses as specified in the VI Zoning Law, which are applied for e.g., restaurant, hotel, single dwelling, etc.
Mini-cruise ships berthing and cargo ship handling

**FORM L&WD-2/PERMIT APPLICATION
CONT'D**

8. Date activity is proposed to start ~~permit approval~~ ^{Four months after} be completed Four months after start of dredging

9. Classification of minor or major permit. Check one:

() Minor Permit Application

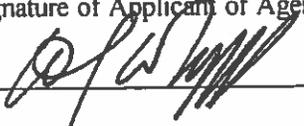
(X) Major Permit Application

State below which criterion applies in making above check.

Chapter 21, Section 910 (c)

10. Application is hereby made for a permit to authorize the activities described herein. I agree to provide any additional information/data that may be necessary to provide reasonable assurance or evidence to show that proposed project will comply with the applicable territorial water quality standard or other environmental protection standards both during construction and after the project is completed. I also agree to provide entry to the project site for inspectors from the environmental protection agencies for the purpose of making preliminary analysis application, and that to the best of my knowledge and belief such information is true, complete and accurate. I further certify that I possess the authority to undertake the proposed activities.

Signature of Applicant or Agent



Date

11/6/2014

Signature of Owner (Where Applicant or Agent is not Owner)

**FOR DEPARTMENT USE ONLY
Inspector Record**

Date Inspected: _____

() Permit Approved
() Permit Disapproved

Inspector's Remarks: _____

Inspector

Date

Commissioner, Planning & Natural Resources

Date



GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES

DEPARTMENT OF PLANNING AND NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL PROTECTION

45 MARS HILL

FREDERIKSTED, ST. CROIX, VI 00840

PHONE: (340) 773-1082, FAX: (340) 773-9310

**Coastal Zone Permit Application
Water Quality Review and Certification**

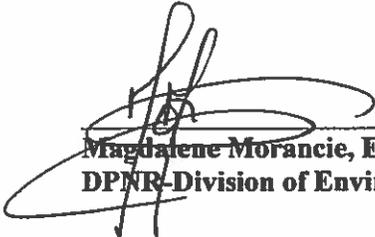
1. CZM PERMIT APPLICATION N^o: CZX-2-15(X)
2. DPNR, DEP WATER QUALITY CERTIFICATE No: WQC-15-002(W)
3. **Date of Final Application:** November 2014
Date of Final Review: April 2015
4. **SHORT TITLE OF WORK:**
The Virgin Islands Port Authority (VIPA) proposes to conduct maintenance dredging (approx. 38,800 cubic yards) of Schooner Channel, St. Croix to the previously approved depth of -18feet. VIPA also proposes to dispose of dredge spoils at the old quarry site north of the Henry E. Rohlsen Airport and west of the William D. Roebuck Industrial Park. The dredge spoils will be temporarily stored at the Molasses Pier before they are transported to the Airport site.
5. **APPLICANT:** Virgin Islands Port Authority
Carlton A. Dowe, Executive Director
P.O. Box 1707
St. Thomas, VI 00803
6. **SUB-WATERSHED:** Christiansted Harbor HUC- 21020002010030
7. **WATER QUALITY CERTIFICATION:**
Approved: There is currently reasonable assurance that the proposed project can be executed without violations of the Water Quality Standards cited in Annotated (Ann.) Title (Tit.) 12 Virgin Islands Code Chapter 7, Section 186. The permittee shall comply with all Territorial Rules and Regulations, Federal Statutes, Orders, and permits issued by Territorial and/or Federal departments or agencies.
8. **COMMENTS OR SPECIAL RESTRICTIONS:**
 - A. Work shall be performed in a manner that will not adversely impact existing water quality. Existing water quality conditions will be determined in the baseline water quality monitoring survey, conducted by the applicant, and submitted to DPNR – Division of Environmental Protection (DEP) for review prior to the commencement of the project. In no case shall work be performed in a manner that causes any exceedence of the Virgin Islands Water Quality Standards found in Title 12, Chapter 7, Section 186 of the Virgin Islands Rules and Regulations. *The applicant should note that the Christiansted Harbor is an Impaired Waterbody with Total Maximum Daily Loads in place and therefore, special attention will be given to ensure that water quality is protected.*
 - B. The DEP reserves the right to temporarily suspend any activity which may cause any adverse environmental impact or results in any noncompliance with Title 12 of the Virgin Islands Rules and Regulations.



- J. VIPA and its contractors **must** adhere to all established requirements related to sea turtles for lighting and acoustic impact minimization and protected species protection. VIPA and/or contractors **must** record all sea turtle and mammal sightings in the project area. If sighted, within the project area, the following information must be recorded: date, time, weather conditions, species identification, approximate distance from dredging area, direction, heading in relation to dredging area and behavioral observations. Additionally, to minimize sea turtle impact all National Marine Fisheries Service’s (NMFS) Sea Turtle and Smalltooth Sawfish Construction Conditions **must** be adhered to. In order to avoid and minimize an injury or death to marine mammals and sea turtles the NMFS measures from the Vessel Strike Avoidance Measures and Reporting for Mariners will be **taken by all vessels associated with the project and fuel transfer operation.**
- K. During in-water work, the number and health of all benthic invertebrates (to include sea cucumbers, anemones, urchins and mollusk) will be assessed on a **monthly** basis and include in the reports to be submitted to all relevant agencies.
- L. For the duration of this project, **no barge shall remain in the same location for longer than three (3) consecutive days at a time.**
- M. An Environmental Monitor must be present at the site **during all near/in-water activities.** The **Environmental Monitor must notify the VIPA and the DEP as soon as possible, but within 24 hours of exceedence,** if at any time during water quality does not comply with the Virgin Islands Water Quality Standards or exceed baseline values. Methods to reduce the impact must be implemented, including temporarily terminating construction and allowing the water quality to return to normal conditions.
- N. Any device that emits air pollution throughout the duration of the entire project may require Air Pollution Control Permit(s), i.e. generators and barge equipment. A Dust Control Plan may also be required by DEP-Air Pollution Control Program; this plan should describe the applicant’s means of mitigating dust during dredging and dewatering activities. Ms. Verline Marcellin, Environmental Program Manager of APC, can be contacted at (340) 773-1082 if further information is required on these issues.
- O. Unless specifically stated, the Applicant shall adhere to all provisions set forth in the submitted the Environmental Assessment Reports (November 2014); as well as, all related plans (or approved amendments) as submitted to the Department of Planning & Natural Resources.
- P. DPNR-DEP reserves the right to revise/amend this Water Quality Certificate.
- Q. VIPA and its contractor should note that this project will conducted in an **Impaired Waterbody.** The Christiansted Harbor is currently listed for Turbidity impairments. As such extra caution is to be taken to ensure that nothing occurs during this project will would further impact this sensitive waterbody.
- R. Spill containment materials as well as a copy of the Spill Prevention Control and Countermeasures (SPCC) Plan must be kept on the premises at all times.
- S. The general working area should remain clean at all times. All waste materials generated during the execution of the project should be disposed of in properly labeled containers. At completion of work, all construction debris must be removed from the site.
- T. In accordance with the project EAR, VIPA and/or its contractors are to establish the following at the disposal site: The existing vegetative cover that is removed prior to the site accepting the dredged material will be used to create a berm paralleling the silt fence which will enclose the disposal site. The silt fence will consist of metal posts, wire mesh and silt fence fabric and will be installed prior to any filling starts. The site will be graded consistently and when the final elevation is achieved it will be covered with erosion control blankets and natural vegetation allowed to grow. A stabilized 50’ construction entrance consisting of 6” of 2” stone will be in place prior to hauling of dredged spoils to the disposal site.

- U. A series of securely planted silt fences must be installed at various points surrounding the de-watering area in order to prevent sediments from entering the marine environment. Also, in the event of inclement weather, the dredged/removed material must be contained and secured in order to prevent the re-suspension and run-off of the dredged/removed material into the water body.
- V. The Applicant shall notify DEP ten (10) business days before the commencement of the proposed project. In addition, a letter of project completion must be submitted to DPNR-DEP no later than ten (10) business days after the project has been completed.
- W. With eight (8) weeks after project completion, a final report will be due to DPNR which provides a critical review of observed water quality degradation and any biological impacts from the project, to include status of Mitigation Plan. Additionally, within the first six (6) months after completion of the final photoquadrat and benthic analysis reports of the project area and the transplant location **must** be filed with DPNR's Divisions of Coastal Zone Management, Fish & Wildlife and Environmental Protection.
- X. The monitoring reports for the various transplanted species **must** be filed with DPNR's Divisions of Coastal Zone Management, Fish & Wildlife and Environmental Protection in accordance with **Condition H. above**.

9. APPROVED BY:



Magdalene Morancie, Esq., Acting Director
DPNR-Division of Environmental Protection

04/10/2015
Date