



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY  
Street address: 629 East Main Street, Richmond, Virginia 23219  
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TDD (804) 698-4021  
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L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

(804) 698-4000  
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## MINUTES STATE WATER CONTROL BOARD

July 29, 2008  
House Room C  
General Assembly Building  
9<sup>th</sup> & Broad Streets  
Richmond, Virginia

### Board Members Present:

W. Shelton Miles, III, Chair	Komal K. Jain, Vice-Chair
R. Michael McKenney (left at noon)	Thomas D. C. Walker
W. Jack Kiser	John B. Thompson
Robert H. Wayland, III	

### Staff Present:

David K. Paylor, Director	Cindy M. Berndt
Department of Environmental Quality	Department of Environmental Quality

### Attorney General's Office:

Alfred B. Albiston, Assistant Attorney General

- 1) The attached minutes summarize activities that took place at this Board Meeting.
- 2) The meeting was convened at 9:35 a.m. on July 29, 2008, recessed at 11:55 a.m., reconvened at 12:50 p.m. and adjourned at 3:20 p.m.

Approved Minute 2  
Oct. 16-17, 2008



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## EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

### MINUTE NO. 1 – Minutes

The Board approved the minutes from their meeting on April 10, 2008.

  
Cindy M. Berndt  
Cindy M. Berndt



COMMONWEALTH of VIRGINIA  
DEPARTMENT OF ENVIRONMENTAL QUALITY

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD  
AT ITS MEETING ON JULY 29, 2008

**MINUTE NO. 2 – Craigsville STP**

Brandon Kiracofe, VRO Water Permit Writer, made the staff presentation regarding the proposed issuance of VPDES Permit No. VA0091821 for the operation of Craigsville STP. This matter was presented to the Board due to controversy surrounding the proposed permit action and the decision to hold a public hearing on May 6, 2008.

Mr. Kiracofe provided a brief background, then referred to the materials in the Board books for a detailed summary of the comments that were received prior to and during the public hearing, and through the close of the hearing record, as well as the staff's responses to those comments.

Following Mr. Kiracofe's presentation, Harvey Sprouse, a representative for the applicant, provided comments supporting the issuance of the permit. William Bashaw and Stuart Jones then presented comments in opposition to the permit issuance. Mr. Kiracofe, Amy Owens (VRO Regional Director), and Todd Boykin (engineer for the applicant) responded to questions raised by the Board. Ray Griffin, Executive Director of the Central Shenandoah Planning District Commission, then provided comments supporting the issuance of the permit.

Upon request from the Board, Mr. Kiracofe provided the staff recommendation that the Board authorize the issuance of VPDES Permit No. VA0091821, as drafted.

**Board Decision**

By unanimous vote, the Board voted to authorize the issuance of VPDES Permit No. VA0091821, as drafted.

A handwritten signature in black ink that reads "Amy Thatcher Owens".

Amy Thatcher Owens  
Regional Director  
Valley Regional Office



# COMMONWEALTH of VIRGINIA

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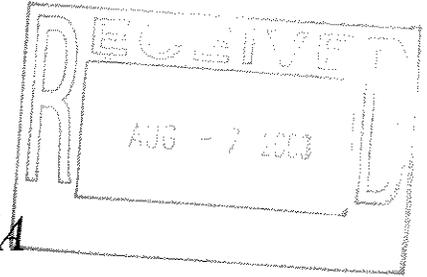
Dallas R. Sizemore  
Regional Director

## EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD FROM ITS MEETING ON JULY 29, 2008

MINUTE NO. 3: VWP Permit Number 07-2334, Dominion VA Power - VA City Hybrid Energy Center:

Mark Trent provided the DEQ staff presentation. Mr. Trent discussed the history of the project, the significant public comment, the details of the public hearing, and a slight modification to the draft permit as a result of public comment. Kim Lanterman, Project Manager for Dominion provided a presentation and asked the Board to approve the permit. Virginia House of Delegates member David A. Nutter spoke on behalf of the project and also requested the Board approve the permit. Mr. Trent gave the staff recommendation that the Board issue the permit as modified to address the public comments. The Board unanimously voted to approve the issuance of the permit, with the exception of Mr. Kiser who abstained.

  
Dallas R. Sizemore, Director  
Southwest Regional Office



**COMMONWEALTH of VIRGINIA**

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Secretary of Natural Resources

David K. Paylor  
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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER  
CONTROL BOARD AT ITS MEETING ON JULY 29, 2008**

**Minute No. 4 - Issuance of VWP Individual Permit No. 06-0553 – Town of Warrenton – Town of Warrenton  
Recreation Center – Fauquier County**

DEQ staff made a presentation for the issuance of a Virginia Water Protection Individual Permit for the Town of Warrenton Recreation Center project to the Town of Warrenton. The project will permanently impact 607 linear feet of a perennial stream channel to construct an approximately 4-acre pond for the purpose of recreation, irrigation and stormwater management as part of the overall project that includes athletic fields, an aquatic center and associated infrastructure. Staff informed the Board that the U.S. Army Corps of Engineers (USACE) upheld their denial of the Town's application for a USACE Individual Permit. Staff then briefed the Board on the proposed project and the environmental conditions and summarized the concerns received during the two comment periods and staff's response to comments. A variety of concerns were discussed including concerns related to downstream flow, water quality, avoidance and minimization, compensation, the recreational purpose of the pond and review of the project on a watershed level.

Following the presentation, the Board asked questions, which were addressed by DEQ staff, Kenneth McLawhon, Town Manager for the Town of Warrenton, Edward Tucker, Jr., Public Works & Utilities Director for the Town of Warrenton, and John Byrum with Troutman Sanders LLP. After questions from the Board, the Board heard from Dennie Sutherland, Town Council Member for the Town of Warrenton.

Staff then recommended that the Board issue the permit as provided in their Board package with an edit to Special Condition Part I.K.1.

A motion was made to issue the permit as found in the Board package with an edit to Special Condition Part I.K.1.

**Board Decision**

The Board, based on the Board book material and presentations at the meeting, voted 7 to 0 in favor of staff's recommendation.

Thomas A. Faha  
Director, Northern Regional Office



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### EXCERPT FROM THE PROCEEDINGS OF THE BOARD AT ITS MEETING ON JULY 29, 2008

#### **MINUTE NO. 5 – WATER RECLAMATION AND REUSE REGULATION – DEFERRED SECTION 105**

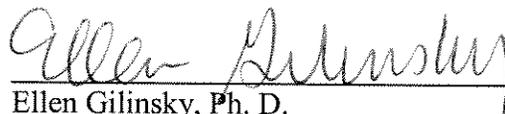
Valerie Rourke, Office of Land Application Programs, recommended that the Board delete 9VAC25-740-105 in its entirety; and either:

1. Establish a committee consisting of regional experts on non-point sources of water pollution, faculty from Virginia Tech and staff of DEQ and DCR to conduct a study that will:
  - a. Quantify the loss of nutrients from non-bulk (or urban and residential) irrigation reuse with non-BNR reclaimed water for comparison with nutrient losses from non-bulk irrigation reuse with BNR reclaimed water, and
  - b. Identify or develop an accounting mechanism for non-point source nutrient losses from non-bulk irrigation reuse with non-BNR reclaimed water contingent upon the results of 1.a;or, in the absence of funding for the study,
2. Direct DEQ staff to assemble, review and report on, as available, monitoring data of monthly N and P loads for non-bulk irrigation reuse of non-BNR reclaimed water to a service area submitted by permittees in accordance with subdivision 9VAC25-740-100.C.3.c(4) of the regulation. This loading rate could be compared to recommended fertilizer rates for lawn turf most common to the region to roughly determine if nutrients are being over applied by non-bulk irrigation reuse within the service area. This would indicate if the issue of nutrient loss could be of concern.

#### **Board Decision**

The Board voted unanimously to:

1. Delete 9VAC25-740-105 of the Water Reclamation and Reuse Regulation;
2. Pursue source of funding for establishing committee and conducting study as detailed in item 1;
3. If funding not obtained by March 1, 2009, then have DEQ staff implement item 2 of the staff recommendations; and
4. Have DEQ staff provide a report to the Board in December 2009 on the progress of the study or staff findings regarding data submitted by permittees that supply non-BNR reclaimed water for non-bulk irrigation reuse.



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Ellen Gilinsky, Ph. D.

Director

Division of Water Quality Programs



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## EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

### **MINUTE NO. 6 – Repeal of Virginia Department of Health’s Biosolids Use Regulation**

Ms. Cindy M. Berndt, Director, Office of Regulatory Affairs, presented the repeal of the Biosolids Use Regulations of the State Department of Health as set forth in 12 VAC 5-585.

Ms. Berndt explained that as part of the 2007 General Assembly’s action to transfer the biosolids program from the Virginia Department of Health to the Board the General Assembly also transferred the Virginia Department of Health’s biosolids use regulation to the Board. In addition, Ms. Berndt advised the Board that the Board’s biosolids program became effective on January 1, 2008, through amendments to the VPA (9VAC 25-32), VPDES (9 VAC 25-31), SCAT (9 VAC 25-790), or Fee (9 VAC 25-20) regulations as appropriate. Therefore, the Virginia Department of Health regulations were no longer necessary.

Based on the board book material and staff presentation, the Board repealed 12VAC5-585 - Biosolids Use Regulations as a final exempt action under Section 2.2-4006 A 4 a of the Code of Virginia.

A handwritten signature in cursive script that reads "Cindy M. Berndt".

**Cindy M. Berndt**



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

#### **MINUTE NO. 7 - Proposed Regulations: Protection Of Eastern Shore Waters For Clams And Oysters (9 VAC 25-260-275)**

The staff presented a draft amendment to the Water Quality Standards which is intended to provide additional water quality protection for clams and oysters in waters on the Eastern Shore of Virginia and to ensure that the wastewater management disposal alternative chosen for that area has less of an environmental impact than other alternatives. The purpose of the proposal is to reduce condemnations of shellfish waters on the Eastern Shore so more waters may be protected for clam and oyster production, including aquaculture.

#### **Board Decision**

Based on the Board book material, staff presentation and Board discussion, the Board voted 4-1 to authorize public hearings on the draft regulation amendment (9 VAC 25-260-265 (Messrs. Miles, Thompson and Wayland and Ms. Jain voted aye, Mr. Kiser voted no and Mr. Walker abstained).

A handwritten signature in cursive script that reads 'Ellen Gilinsky'.

**Ellen Gilinsky, Ph.D.**  
**Director, Water Division**



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

#### MINUTE NO. 8 – Report on Facilities in Significant Noncompliance

Melanie Davenport, Director of the Division of Enforcement, reported to the Board that there were no facilities reported to EPA as being in significant non-compliance for the quarter ending December 30, 2007.

  
Melanie D. Davenport, Director  
Division of Enforcement



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

#### MINUTE NO. 9 – VPDES Consent Special Orders

Melanie Davenport, Director of the Division of Enforcement, presented to the Board, for its approval, the Consent Special Orders for:

1. Evergreen Country Club, Inc.
2. Hartland Institute of Health & Education
3. Town of Appomattox
4. The Scotts Company LLC of Ohio
5. Associated Naval Architects, Inc.
6. Hercules, Inc.

The Board unanimously approved the Orders and further authorized the Department's Director, or his designee, to execute the Orders on the Board's behalf and to refer violations of the Orders to the Office of the Attorney General for appropriate legal action.

  
Melanie D. Davenport, Director  
Division of Enforcement



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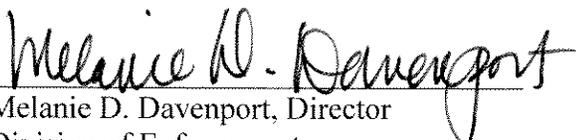
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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

#### MINUTE NO. 10 – VPA Consent Special Order

Melanie Davenport, Director of the Division of Enforcement, presented to the Board, for its approval, the Consent Special Order for the Town of Craigsville. The Board unanimously approved the Order and further authorized the Department's Director, or his designee, to execute the Order on the Board's behalf and to refer violations of the Order to the Office of the Attorney General for appropriate legal action.

  
Melanie D. Davenport, Director  
Division of Enforcement



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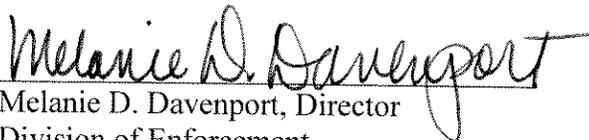
### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

#### MINUTE NO. 11 – VWP and Other Consent Special Orders

Melanie Davenport, Director of the Division of Enforcement, presented to the Board, for its approval, the Consent Special Orders for:

1. Ellis Land, LLC
2. C. W. Properties, LLC
3. Columbia Gas Transmission Corp.
4. New Town Associates, LLC and AIG Baker Williamsburg, LLC
5. American Timberland Company

The Board unanimously approved the Orders and further authorized the Department's Director, or his designee, to execute the Orders on the Board's behalf and to refer violations of the Orders to the Office of the Attorney General for appropriate legal action.

  
Melanie D. Davenport, Director  
Division of Enforcement



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

#### MINUTE NO. 12 – Wal-Mart Stores East, LP Consent Special Order

Allison Dunaway, Enforcement Program Manager for the Department's Piedmont Regional Office, presented to the Board, for its approval, the Consent Special Order for Wal-Mart Stores East, LP. After some discussion, the Board approved the Order with a 6 to 1 vote and further authorized the Department's Director, or his designee, to execute the Order on the Board's behalf and to refer violations of the Order to the Office of the Attorney General for appropriate legal action.

A handwritten signature in black ink that reads "Melanie D. Davenport".

Melanie D. Davenport, Director  
Division of Enforcement



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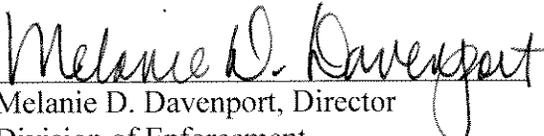
## EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

### MINUTE NO. 13 – Petroleum and Tank Consent Special Orders

Melanie Davenport, Director of the Division of Enforcement, presented to the Board, for its approval, the Consent Special Orders for:

1. W. Scott Baugh
2. Dann Marine Towing, LC
3. Five Star Property Holdings, LLC
4. Richmond Petroleum Marketing, Incorporated
5. Grottoes Ganesh, Inc.

The Board unanimously approved the Orders and further authorized the Department's Director, or his designee, to execute the Orders on the Board's behalf and to refer violations of the Orders to the Office of the Attorney General for appropriate legal action.

  
Melanie D. Davenport, Director  
Division of Enforcement



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## EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

### MINUTE NO. 14 – Public Forum

There were no speakers during the public forum.

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Cindy M. Berndt



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

#### MINUTE NO. 15 – Stream Compensation Process

Ellen Gilinsky gave a presentation on how DEQ and the Corps determine the amount of stream compensation required for impacts to streams under their permits. The Unified Stream Methodology( USM) was developed to allow for less compensation requirements for impacts to lower quality streams, and to give more credit for the more costly types of compensation (i.e. restoration) over the more passive types of compensation (i.e. preservation and buffers). The USM allows compensation to take the form of restoration, enhancement, preservation, or some combination of methods. It provides for consistent application of federal and state requirements to permits for stream impacts.

A handwritten signature in cursive script that reads "Ellen Gilinsky".

Ellen Gilinsky, Ph.D., Director  
Water Division



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## EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

### MINUTE NO. 16 –Director's Report

Ellen Gilinsky, Water Quality Division Director, informed the Board of two items of note:

Ellen Gilinsky provided a summary of the 2008 Integrated Assessment Report on the condition of Virginia's surface waters.

She also discussed the value of designating No Discharge Zones to protect water quality in boating areas, and described the process by which such designations are made.

A handwritten signature in cursive script that reads "Ellen Gilinsky".

Ellen Gilinsky, Ph.D., Director  
Water Division



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## EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

### MINUTE NO. 17 – Water Reuse and Conservation

Several members of the Board expressed an interest in tools available to the Board to increase the reuse and conservation of water. The Board asked the staff to investigate options available to the Board to increase water conservation and reuse and reclamation, including regulatory and policy options, and report back to the Board at the next meeting on the tools available.

  
\_\_\_\_\_  
Cindy M. Berndt



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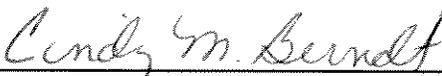
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## EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JULY 29, 2008

### MINUTE NO. 18 – Future Meetings

The Board set October 16-17, 2008, as the date of their next regular meeting.

  
Cindy M. Berndt  
Cindy M. Berndt