

TENTATIVE AGENDA AND MINIBOOK
STATE WATER CONTROL BOARD MEETING
THURSDAY, JULY 28, 2016

HOUSE ROOM C, GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS
RICHMOND, VIRGINIA 23219

CONVENE – 9:30 A.M.

TAB

I. Permits

Chesterfield Economic Development Authority Virginia Water
Protection Permit (Chesterfield County)

Dunaway

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II. Other Business

Future Meetings (September 22-23, December 12-13)

ADJOURN

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions arising as to the latest status of the agenda should be directed to the staff contact listed below.

PUBLIC COMMENTS AT STATE WATER CONTROL BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory actions and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for its consideration.

For Regulatory Actions (adoption, amendment or repeal of regulations), public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period). Notice of these comment periods is announced in the Virginia Register, by posting to the Department of Environmental Quality and Virginia Regulatory Town Hall web sites and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For Case Decisions (issuance and amendment of permits), the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. If a public hearing is held, there is an additional comment period, usually 45 days, during which the public hearing is held.

In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

Regulatory Actions: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration.

Case Decisions: Comments on pending case decisions at Board meetings are accepted only when the staff initially presents the pending case decision to the Board for final action. At that time the Board will allow up to 5 minutes for the applicant/owner to make his complete presentation on the pending decision, unless the applicant/owner objects to specific conditions of the decision. In that case, the applicant/owner will be allowed up to 15 minutes to make his complete presentation. The Board will then allow others who commented during the public comment period (i.e., those who commented at the public hearing or during the public comment period) up to 3 minutes to respond to the summary of the prior public comment period presented to the Board. No public comment is allowed on case decisions when a FORMAL HEARING is being held.

Pooling Minutes: Those persons who commented during the public hearing or public comment period and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes, or 15 minutes, whichever is less.

New information will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in rare instances, new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department of Environmental Quality (Department) staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. In the case of a regulatory action, should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period in order for all interested persons to have an opportunity to participate.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda, pending regulatory actions or pending case decisions. Those wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Cindy M. Berndt, Director, Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4378; e-mail: cindy.berndt@deq.virginia.gov.

Proposed Issuance of Virginia Water Protection Program Permit No. 16-0731, Project Buzzard, Chesterfield County, Virginia: Joint Permit Application (JPA) Number 16-0731 was submitted on May 5, 2016, by the applicant, Chesterfield Economic Development Authority. The applicant proposes to construct a 600,000 square foot industrial facility, with associated infrastructure such as parking, utilities, and roads. The project is located within Meadowville Technology Park in Chesterfield County. The identity of the proposed user of the facility was not provided within the permit application, due to ongoing confidential negotiations between the applicant and the user.

This proposed project is essentially identical to a project presented in March 2015 in Joint Permit Applicant No. 15-0331. In April 2015, DEQ issued a draft VWP Permit, and the applicant published the public notice. During the public comment period for VWP Permit No. 15-0331, DEQ received 63 individual requests for a public hearing. At the close of the comment period, the applicant withdrew the application, citing market concerns. DEQ staff notified the commenters of the application withdrawal, and did not issue the VWP permit.

Because of the substantial public interest in the previous application and the applicant's proposed construction schedule, the applicant requested that DEQ forego the initial public comment period on the draft permit and immediately proceed to schedule a public hearing and corresponding public comment period for the current application. DEQ agreed to this request and published a public notice announcing the comment period and hearing in the *Richmond Times-Dispatch* on May 25, 2016.

Proposed Impacts to Surface Waters

The proposed project will result in permanent impacts to no more than 0.22 acre of emergent wetland (PEM), 8.21 acres of isolated forested (PFO) wetland, 1.44 acres of forested wetland (not isolated) and 84 linear feet of stream bed. Project activities will also cause the permanent conversion of 0.05 acre forested wetland to emergent wetland.

The current proposed activity is considered a "single and complete project" with previously authorized portions of the Meadowville Technology Park, development of which began in 1997. Total cumulative impacts

for the Park, including those authorized by this permit and previous permits, include permanent impacts to 0.85 acres of emergent wetlands, 8.95 acre of isolated forested wetlands, 2.947 acres forested wetlands and 312 linear feet of stream bed; conversion of 0.753 acre of forested wetlands to emergent wetlands; and temporary impacts to 0.32 acre of emergent wetlands and 0.148 acre of forested wetlands.

Compensatory Mitigation

The proposed permit requires that the applicant purchase wetland and stream mitigation credits in the amounts shown below as compensatory mitigation for proposed impacts. In accordance with Va. Code §62.1-44.15:23(A), all credits must be purchased from a DEQ-approved mitigation bank within the same United States Geological Survey Hydrologic Unit Code (HUC) as the project site, or in an adjacent HUC and in the same river watershed. Standard impact to mitigation ratios were applied to the proposed wetland impacts. The number of stream credits necessary to offset impacts to stream bed was determined using the Unified Stream Methodology (USM), which is standard practice for DEQ and the Norfolk District of the U.S. Army Corps of Engineers.

Permanent Impact	Mitigation Ratio	Required Mitigation Bank Credits
8.21 acres isolated forested wetlands	2:1	16.42 wetland credits
1.44 acres forested wetlands (non-isolated)	2:1	2.88 wetland credits
0.22 acre of emergent wetlands (non-isolated)	1:1	0.22 wetland credits
0.05 acre conversion of forested to emergent wetlands (non-isolated)	1:1	0.05 wetland credits
84 linear feet of stream bed (non-isolated)	n/a	73 USM credits

Status of U.S. Army Corps of Engineers Individual Permit

The applicant must also obtain an individual permit from the U.S. Army Corps of Engineers (USACE) for the impacts to non-isolated surface waters associated with this proposed project. The USACE held a 30-day public comment period in 2015 regarding the original 2015 application. No comments were received. As of July 1, 2016, the USACE has not issued a final permit for this project, but does plan to issue in the near future.

Authorization to Convene a Public Hearing

Due to the significant public interest in the previous application (JPA No. 15-0331), on May 19, 2016, the applicant requested and the Director authorized staff to hold a public hearing regarding the proposed issuance of VWP Permit No. 16-0731.

Public Notice

The public comment period began on May 25, 2016 with the publication of the public notice in the *Richmond Times-Dispatch* on May 25, 2016. The comment period will be open until 4 p.m. on July 13, 2016. Notification of the draft permit, public comment period, and public hearing, and copies of the public notice were sent to the locality in which activities are proposed. Copies of the public notice were also sent to those individuals that commented on the 2015 permit application (JPA No. 15-0331).

Public Hearing

The public hearing was held at 6:30 p.m. on June 28, 2016, in the Central Conference Room of Chesterfield County Central Library. Mr. Robert Dunn of the State Water Control Board served as the Hearing Officer. No members of the public attended the hearing. Four representatives of the applicant attended and one provided verbal comments in support of the project.

Public Comments Received To Date

As of July 1, 2016, DEQ has received 7 requests for information regarding the proposed project, but no written comments have been received. Verbal comments in support of the project were provided by a representative of the applicant at the public hearing.

As described above, the proposed project is essentially identical to that presented in March 2015 in Joint Permit Applicant No. 15-0331, which was later withdrawn. During the public comment period that was conducted in 2015 for proposed VWP Permit No. 15-0331, DEQ received requests for a public hearing from 63 individuals. The comments and DEQ’s response are as follows:

Comment	Response
Compensatory mitigation is too far away to offset functional losses of wetlands and streams on the site.	Mitigation banks are more ecologically preferable and more reliable as compared to on-site or nearby compensation performed by the permittee. Bank credits will provide similar functional benefits on a watershed scale.
Wetland losses may negatively affect Longwood University monitoring and restoration of the Appomattox River	The project does not drain to the Appomattox River, and therefore DEQ does not anticipate adverse effects to this waterbody.
Project may negatively impact fish or shellfish consumption	According to VDH, the area of the James River to which this project eventually drains is too low in salinity to support shellfish. This permit authorizes only the discharge of fill material into surface waters. The permit does not authorize the discharge of pollutants that could affect the fish consumption.
Project may impact marine life or other water-dependent mammals or birds.	US FWS, VA DCR, and VA DGIF did not anticipate adverse effects on fish or wildlife resources.
Alternative site designs may be available.	VA DEQ required an analysis of alternative layouts but no other layouts were feasible and still met user requirements.

Contact Information

Any additional comments received after this memorandum will be summarized and provided to the Board at the close of the comment period on July 13, 2016.