



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

Fax: 804-698-4019 - TDD (804) 698-4021

www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4020
1-800-592-5482

MINUTES STATE WATER CONTROL BOARD

Monday, June 17, 2013
General Assembly Building, House Room C
Richmond, Virginia

Board Members Present:

Robert L. Dunn, Chair
William B. Bott
Heather L. Wood
Thomas V. Van Auken

William A. Pruitt, Vice-Chair
Roberta A. Kellam
Joseph H. Nash

Department of Environmental Quality:

David K. Paylor, Director
Debra A. Harris

Cindy M. Berndt

Attorney General's Office:

David C. Grandis, Assistant Attorney General

- 1) The attached minutes summarize activities that took place at this Board Meeting.
- 2) The meeting was convened on Monday, June 17, 2013, at 9:31 a.m., recessed at 10:47 a.m.; reconvened at 11:08 a.m.; recessed at 11:45 a.m., reconvened at 12:43 p.m.; and adjourned at 1:19 p.m.

Approved Minute No. 1
Sept. 30, 2013



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 17, 2013

MINUTE NO. 1 - Minutes

The Board approved the minutes from the March 14, 2013, meeting.


Cindy M. Berndt
Cindy M. Berndt



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 17, 2013

MINUTE NO. 2 - Amendments to Conform State Water Control Board Regulations to Chapter 348 of the 2013 Acts of Assembly

Ms. Cindy M. Berndt with the Office of Regulatory Affairs presented regulatory amendments to 9VAC25-31, 9VAC25-32, 9VAC25-220, and 9VAC25-230. Ms. Berndt explained that the amendments were necessary to implement the provisions of Chapter 348 of the 2013 Acts of Assembly which defines, in all statutory or regulatory provisions administered by the Department, "mail" to mean electronic or postal delivery and the term "certified mail" to mean electronically certified or postal certified mail, except that this provision shall apply only to the mailing of plan approvals, permits, or certificates issued under the provisions of this chapter and those of the Air Pollution Control Law, the Virginia Waste Management Act and the State Water Control Law, and only where the recipient has notified the Department of his consent to receive plan approvals, permits, or certificates by electronic mail.

Based on the staff presentation and Board book material, the Board unanimously adopted the amendments to 9VAC25-31, 9VAC25-32, 9VAC25-220 and 9VAC25-230; authorized publication of the amendments; and affirmed that the Board will receive, consider and respond to requests by any interested person at any time with respect to reconsideration or revision.


Cindy M. Berndt
Cindy M. Berndt



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 17, 2013

MINUTE NO. 3 – General VPDES Permit For Potable Water Treatment Plants (9VAC25-860)

Prior to the meeting the Board was provided briefing materials including a memorandum summarizing the significant changes to the regulation, the regulation showing amendments, a fact sheet for the permit and the agency townhall background document. Eleanore Daub from the Office of VPDES Permits presented a summary of the significant amendments to the general permit regulation.

Board Decision

The Board voted unanimously to adopt the amendments to the General VPDES Permit for Potable Water Treatment Plants, 9VAC25-860. The Board also voted to receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of this regulation, as provided by the Administrative Process Act.

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

Melanie D. Davenport
Water Division Director



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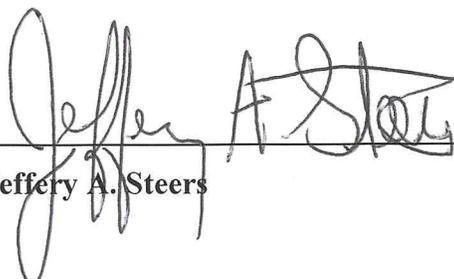
MINUTE NO. 4 Regulations- Final Groundwater Withdrawal Regulation 9VAC25-610-10 et seq.

Prior to the meeting, the Board was provided with amendments to the Groundwater Withdrawal Regulation (9VAC25-610-10 et seq.) These amendments were finalized by staff following a public comment period held October 22, 2012 through January 30, 2013, and public hearings held November 26, 2012, December 4, 2012, and January 14, 2013, regarding proposed amendments to the regulation. Changes were proposed to the regulation based on public comment.

Scott Kudlas gave the staff presentation and answered questions from the Board. Dr. Van Auken asked Mr. Kudlas if current groundwater withdrawals were sustainable. Mr. Kudlas responded that current withdrawals are not sustainable over the long term. Dr. Van Auken also inquired how long it will be until the state would be unable to meet groundwater withdrawal demands. Mr. Kudlas replied that the best estimates indicate that at current rates of withdrawal, it could take as long as 30-50 years to reach that point. Mr. Peter Mansfield, a commenter on the proposed regulations, presented public comment. Mr. Kudlas concluded with a recommendation for the Board to adopt the final Groundwater Withdrawal Regulation (9VAC25-610-10 et seq.) as presented.

Board Decision

Based on the briefing materials and the staff presentation, the Board voted unanimously to accept the staff recommendation to adopt amendments to the Groundwater Withdrawal Regulation presented to the Board.



Jeffery A. Steers

Division of Land Protection and Revitalization Director



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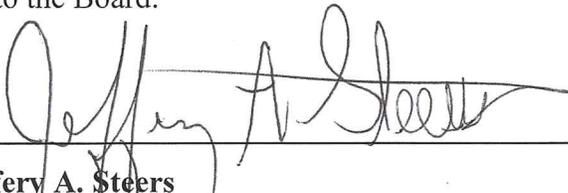
MINUTE NO. 5 Regulations- Final Eastern Virginia Groundwater Management Area Regulation 9VAC25-600-10 et seq.

Prior to the meeting, the Board was provided with amendments to the Eastern Virginia Groundwater Management Area Regulation 9VAC25-600-10 et seq. A public comment period was held October 22, 2012 through January 30, 2013, and public hearings held November 26, 2012, December 4, 2012, and January 14, 2013, regarding proposed amendments to the regulation. No changes were made to the regulations in response to comments.

Scott Kudlas gave the staff presentation and answered questions from the Board. Mr. Kudlas concluded with a recommendation for the Board to adopt the amendments to the Eastern Virginia Groundwater Management Area Regulation (9VAC25-600-10 et seq.) as presented.

Board Decision

Based on the briefing materials and the staff presentation, the Board voted unanimously to accept the staff recommendation to adopt amendments to the Eastern Virginia Groundwater Management Area Regulation presented to the Board.



Jeffery A. Steers
Division of Land Protection and Revitalization Director



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING OF JUNE 17, 2013

MINUTE NO. 6 Regulations- Fast-Track amendments to the Eastern Virginia Groundwater Management Area Regulation 9VAC25-600-10 et seq. and Order Declaring the Eastern Shore of Virginia- Accomack and Northampton Counties- as a Critical Ground Water Area (9VAC25-620 et seq.)

Scott Kudlas presented the Board with a fast-track amendment to the Eastern Virginia Groundwater Management Area Regulation (9VAC25-600-10). This fast track regulatory action lists Accomack and Northampton Counties as part of the Eastern Shore Groundwater Management Area in the Designated Groundwater Management Area Regulation. Accomack and Northampton Counties would no longer be declared as part of the Critical Ground Water Area. The Order Declaring the Eastern Shore of Virginia- Accomack and Northampton Counties- as a Critical Ground Water Area (9VAC25-620) would be repealed. This regulatory action would consolidate all localities included in groundwater management areas within a single regulation.

The Board was asked to approve the use of the fast-track process and to adopt the amendments to the Eastern Virginia Groundwater Management Area and repeal the Order Declaring the Eastern Shore of Virginia- Accomack and Northampton Counties- as a Critical Ground Water Area (9VAC25-620 et seq.)

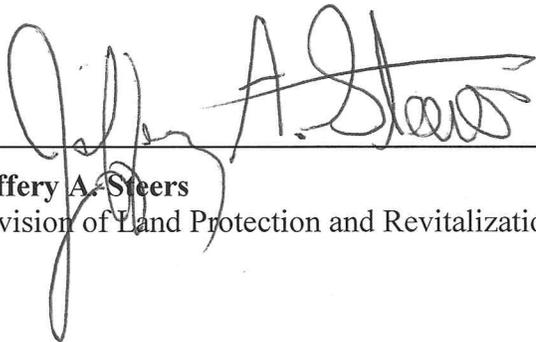
Board Decision

Based on the briefing materials and the staff presentation, the Board voted unanimously to authorize the department to:

1. Promulgate the proposal for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The Board's authorization should also be understood to constitute its adoption of the amendments to the Designated Ground Water Management Area Regulation (9VAC25-600 and repeal of the Order Declaring the Eastern Shore of Virginia- Accomack and Northampton Counties as a

Critical Ground Water Area (9VAC25-620) at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.

2. Set an effective date 15 days after close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the department does not find it necessary to make any changes to the proposal.



Jeffery A. Steers
Division of Land Protection and Revitalization Director



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 17, 2013

MINUTE NO. 7 - General VPDES Permit For Nonmetallic Mineral Mining (9VAC25-190)

Prior to the meeting the Board was provided briefing materials including a memorandum summarizing the significant changes to the regulation, the regulation showing proposed amendments and the agency townhall background document. Elleanore Daub from the Office of VPDES Permits presented a summary of the significant proposed amendments to the general permit regulation.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously to authorize a public comment period and public hearing for amendment and reissuance of the General VPDES Permit For Nonmetallic Mineral Mining, 9VAC25-190. The Board also authorized the staff to serve as hearing officer for the public hearing.


Melanie D. Davenport
Water Division Director



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MINUTE NO. 8 - General VPDES Permit For Stormwater Discharges Associated with Industrial Activity (9VAC25-151)

Prior to the meeting the Board was provided with a draft of the amended regulation and a memorandum summarizing the significant proposed changes to the Industrial Stormwater general permit regulation. Burt Tuxford gave a brief summary of the significant proposed amendments to the regulation.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously to authorize a public comment period and public hearing for amendment and reissuance of the General VPDES Permit For Stormwater Discharges Associated with Industrial Activity, 9VAC25-151. The Board also authorized the staff to serve as hearing officer for the public hearing, with one Board member voting against the recommendation.

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

Melanie D. Davenport
Water Division Director



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MINUTE NO. 9 – Report on Facilities in Significant Noncompliance

Kathleen O'Connell, Water Enforcement Program Manager, reported to the Board that there were no major facilities to be reported as being in significant noncompliance for the quarter ending December 31, 2012.

The Board accepted the report.


Kathleen F. O'Connell
Water Enforcement Program Manager
Division of Enforcement



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MINUTE NO. 10 – VPDES Program Consent Special Orders

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Orders for:

1. Loudoun County Sanitation Authority
2. Town of Middleburg
3. Ronile, Inc.
4. Coeburn-Norton-Wise Regional Wastewater Treatment Authority
5. George's Chicken, LLC
6. Powhatan County, Dutoy Creek Wastewater Treatment Plant
7. Charles City County: Administration Building, Hideaway, Mt. Zion and Rustic, Roxbury Industrial Center and Ruthville Wastewater Treatment Plants

The Board unanimously approved the Orders and further authorized the Department's Director 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.

A handwritten signature in black ink that reads "Kathleen F. O'Connell".

Kathleen F. O'Connell
Water Enforcement Program Manager
Division of Enforcement



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MINUTE NO. 11 – VWP/Groundwater Permit Program Consent Special Orders

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Orders for:

1. R. Income Properties, I-95 Industrial Park
2. Willow Pond II, LLC
3. Bank of America, National Association
4. King William County, Central Garage Water System

The Board unanimously approved the Orders and further authorized the Department's Director 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.


Kathleen F. O'Connell
Water Enforcement Program Manager
Division of Enforcement



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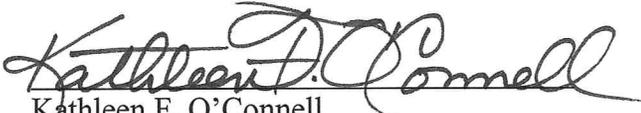
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MINUTE NO. 12 – UST/Oil Programs Consent Special Orders

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Orders for:

1. Holtzman Oil Corp.
2. Midget Mart No. 2, Inc.
3. Master Fleet Services, Inc.
4. Washington Street Inc.

The Board unanimously approved the Orders and further authorized the Department's Director 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.


Kathleen F. O'Connell
Water Enforcement Program Manager
Division of Enforcement



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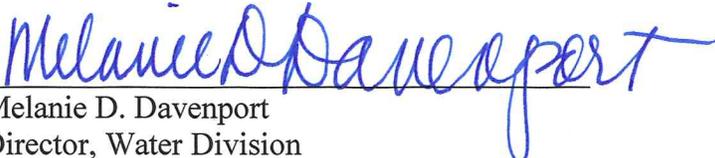
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MINUTE NO. 13 - Other Business, Cobbs Creek Mitigation Plan

Brenda Winn, representing the Virginia Water Protection Permit Program, began with the staff introduction, at which time, Board member Mr. William "Bill" Pruitt, Vice-Chairman, recused himself to Chairman Robert Dunn, citing a potential conflict of interest regarding the final compensatory mitigation plan. Mr. Pruitt excused himself from the Board meeting at that time. Ms. Winn continued the staff presentation, providing a brief background, summary, and status of the Final Compensatory Mitigation Plan for the Cobbs Creek Reservoir project, permitted under Virginia Water Protection Permit No. 05-0852.

David Paylor, Director of the Department of Environmental Quality (DEQ), provided the Board an explanation of a letter received from Delegate Matt Farris, Campbell County, expressing concerns about the compensation being provided for the project and how it was derived.

After hearing the staff presentation, Chairman Dunn asked the Board members if they had any questions. Hearing none, the Chairman directed staff to move to the DEQ staff recommendations, which were that the Board 1) find that the final plan meets the requirements of the applicable sections of the VWP regulations and VWP Permit No. 05-0852, and 2) approve the submitted mitigation plan, and delegate to the Director of the Department of Environmental Quality the decision to approve revisions, if any, to the final wetland and stream compensation plan that provide concepts, protections, and water quality benefits for this type of project and that meets the requirements of 9VAC25-210-116.F.1, 9VAC25-210-116.F.2, and applicable conditions of VWP Permit No. 05-0852. The Board voted five to one in favor of the staff recommendation (Ms. Heather Wood voted no), thus approving the final compensatory mitigation plan and delegating future approval of any revisions to the plan to the Director of DEQ.


Melanie D. Davenport
Director, Water Division



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MINUTE NO. 14 – Trading Ratio Study Report

Russ Baxter, DEQ Chesapeake Bay Program Coordinator, made a presentation to the Board on the study conducted in 2012 – 2013 on the provision of the Chesapeake Bay Watershed General Permit requiring that new or expanding point sources acquire allocations or credits to offset the entirety of their nutrient load (9VAC25-820-70). A provision of the permit regulation allows for the offsets to include certified credits “[s]ubject to a trading ratio of two pounds reduced for every pound to be discharged.”

An enactment clause in Senate Bill 77 (2012) and House Bill 176 (2012) reads “[t]hat by July 1, 2013, (Acts of Assembly, 2012) the State Water Control Board shall reevaluate its trading ratio for nutrient allocation acquisition pursuant to subdivision B 1 b of § 62.1-44.19:15 of the Code of Virginia, giving full consideration to similar trading ratios established by § 10.1-603.8:1 of the Code of Virginia, §10.1-603.15:2 as added by this act, and trading programs in other Chesapeake Bay watershed states. The Board shall establish an advisory group of interested stakeholders for the purpose of receiving recommendations during the reevaluation regarding an appropriate ratio. If warranted based on the outcome of the reevaluation, the Board shall adopt a revised trading ratio for purposes of subdivision B 1 b of § 62.1-44.19:15 as soon as practicable following the completion of the reevaluation.”

The agency undertook the study with the assistance of a stakeholder advisory committee.

A copy of the full report is available at:

<http://www.deq.virginia.gov/Programs/Water/PermittingCompliance/PollutionDischargeElimination/NutrientTrading/TradingRatioStudy.aspx>

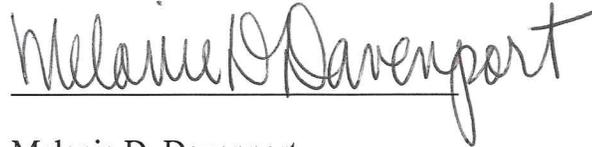
Staff Recommendations and Board Action

Following the presentation, staff recommended to the Board:

1. That the Board receive the report and accept the agency recommendations detailed in the report

2. Direct the Department to report, no later than July 1, 2014, on the status of the issues identified in the report and make any additional recommendations to the board related to this provision of the permit.

The staff recommendations were unanimously approved by the Board.

A handwritten signature in cursive script that reads "Melanie D. Davenport". The signature is written in black ink and is positioned above a horizontal line.

Melanie D. Davenport
Director, Water Division



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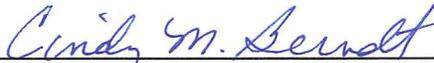
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MINUTE NO. 15 – Public Forum

No one appeared during the public forum.



Cindy M. Berndt



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MINUTE NO. 16 - Division Director's Report

Ms. Melanie D. Davenport presented a brief update to the Board on the transfer of the stormwater programs from the Soil and Water Conservation Board and Department of Conservation and Recreation to the State Water Control Board and Department of Environmental Quality.


Melanie D. Davenport
Melanie D. Davenport



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MINUTE NO. 17 – Future Meetings

The Board confirmed August 26-27, September 30-October 1 and December 9-10, 2013, as the dates of their next meetings.



Cindy M. Berndt