



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

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

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Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

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### MINUTES STATE WATER CONTROL BOARD

Thursday, June 26, 2014  
House Room C, General Assembly Building  
9th & Broad Streets  
Richmond, Virginia

#### Board Members Present:

Robert L. Dunn, Chair  
Joseph H. Nash  
Ben Grumbles

William A. Pruitt, Vice-Chair  
Thomas V. Van Auken  
Heather L. Wood

#### Board Members Absent:

Thomas M. Branin

#### 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 Thursday, June 26, 2014, 10:03 a.m. and adjourned at 11:50 a.m.

Approved Minute # 2  
Sept. 29, 2014



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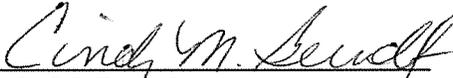
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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 26, 2014

#### MINUTE NO. 1 - Minutes

Mr. Berndt advised the Board that at its March 28, 2014, meeting, the Board had deferred action on the minutes from the December 17, 2013, meeting in order for staff to research a question from Dr. Van Auken regarding Minute No. 4. Ms. Berndt advised the Board that Dr. Van Auken's question had been researched and that Minute No. 4 was correct as drafted. The Board then approved the minutes from the December 17, 2013, meeting.

In addition, the Board approved the minutes of the March 28, 2014 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 26, 2014

### MINUTE NO. 2 – Regulation for Dispute Resolution (9VAC25-15), Fast-Track Amendment – Revision 1

Debra Harris with the Office of Regulatory Affairs presented Revision 1 to the Regulation for Dispute Resolution, 9VAC25-15, using the fast track regulatory process. Ms. Harris informed the Board that the regulation was adopted by the Board and became effective on July 1, 2001; however, the authorizing provisions under §10.1-1186.3 of the Code of Virginia make reference to statutory requirements for dispute resolution and mediation under Chapter 20.2 and Chapter 21.2 of Title 8.01 of the Code of Virginia and these chapters have been amended since 9VAC25-15 became effective. Ms. Harris also informed the board that a periodic review was conducted prior to this regulatory action and no comments were received. Ms. Harris then informed the Board that, based on the agency's review, changes to the regulation were necessary to: (i) include revised and additional requirements for dispute resolution and mediation under Title 8.01 of the Code of Virginia; (ii) update the APA references; and, (iii) update the document incorporated by reference. The Board had no questions and Ms. Harris presented the staff recommendation to the Board for consideration.

### BOARD DECISION

Based on the board book briefing items and staff presentation, the Board, on motion by William Pruitt and seconded by Joseph Nash, unanimously:

- Authorized the Department to promulgate the proposed Revision B14 to 9VAC5-210 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.
- Adopted the regulation 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 members of the public, or any member of the applicable standing committee of either house of the General Assembly or 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.
- Authorized the Department to set an effective date 15 days after close of the 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.

A handwritten signature in blue ink that reads 'Debra A. Harris'.

Debra A. Harris  
Policy and Planning Specialist



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 26, 2014

#### **MINUTE NO. 3 – Amendments to Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830); Erosion and Sediment Control Regulations (9VAC25-840); Virginia Stormwater Management Program (VSMP) Regulation (9VAC25-870); and General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880) – Implementing Chapters 151, 303 and 598 of the 2014 Acts of Assembly**

William K. Norris with the Office of Regulatory Affairs presented the proposed amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830); the Erosion and Sediment Control Regulations (9VAC25-840); the Virginia Stormwater Management Program (VSMP) Regulation (9VAC25-870) and the General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880) needed to implement the provisions of Chapters 151, 303 and 598 of the 2014 Acts of Assembly as contained in the Board book. The Board was asked to adopt the regulations as presented.

#### **Board Action:**

Based upon the Board book material and staff presentation, the Board voted unanimously to accept the following staff recommendations:

#### Adopt as Final:

- 9VAC25-840 – Erosion and Sediment Control Regulations;
- 9VAC25-870 – Virginia Stormwater Management Program (VSMP) Regulation;
- 9VAC25-880 – General VPDES Permit for Discharges of Stormwater from Construction Activities; &
- 9VAC25-830 – Chesapeake Bay Preservation Area Designation and Management Regulations

  
William K. Norris



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 26, 2014

#### MINUTE NO. 4 – WATERSHED PROGRAMS

Liz McKercher, Watershed Programs, presented two Total Maximum Daily Load (TMDL) reports and three waste load allocations for Board approval and amendment to the Water Quality Management Planning Regulation (WQMPR).

The proposed actions pertain to water bodies in the James River Basin and the Tennessee–Big Sandy River Basin. The TMDL reports included the following:

1. Colliers Creek, North Fork Buffalo Creek, South Fork Buffalo Creek, Buffalo Creek, Maury River, and Cedar Creek Bacteria TMDL and Colliers Creek Sediment TMDL (Augusta, Bath, and Rockbridge counties and the cities of Lexington and Buena Vista; James River Basin)
2. Lower Clinch River Watershed Bacteria and Sediment TMDLs (Russell, Scott, Tazewell, and Wise counties; Tennessee-Big Sandy River Basin)

#### Board Decision:

Based on the briefing material and the staff presentation, the Board voted unanimously to:

1. Approve the two Total Maximum Daily Load (TMDL) reports for inclusion into the Water Quality Management Plan, and
2. Adopt three corresponding TMDL Waste Load Allocations into the Water Quality Management Planning Regulation.

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

Melanie D. Davenport  
Director, Water Division



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 26, 2014

#### MINUTE NO. 5 – Significant Noncompliance Report

Kathleen O'Connell, Water Enforcement Program Manager, informed the Board that four permittees were reported to EPA on the Quarterly Noncompliance Report as being in significant noncompliance for the quarter ending December 31, 2013. The permittees, the facilities and the reported instances of noncompliance were reported as follows:

1. King George County Service Authority, Dahlgren WWTP, failure to meet interim Total Nitrogen effluent limit.
2. Dupont Teijin Films, Dupont Teijin Treatment Plant, failure to meet interim Biochemical Oxygen Demand effluent limit.
3. Coeburn-Norton-Wise Regional Treatment Authority, Regional WWTP, failure to meeting interim Ammonia as Nitrogen effluent limit.
4. Greenville County Water and Sewer Authority, Three Creek WWTP, failure to meet final Copper effluent limit.

Ms. O'Connell reported that consent special orders addressing Dupont's and Greenville's violations were currently at public notice, that no further action was anticipated for Coeburn-Norton-Wise as it was currently subject to an order that required upgrade of the WWTP and the Ammonia violation was attributable to the required upgrade, and that regional office staff would soon be meeting with King George County to discuss a proposed administrative order containing a significant penalty.

The Board accepted the report.

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



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 26, 2014

#### MINUTE NO. 6 – VPDES Permit Program Consent Special Order, McGill Environmental Systems of N.C., Inc.

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Order for McGill Environmental Systems of N.C., Inc. The Board unanimously approved the Order and further authorized the Department's Director 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, appearing to read "Kathleen F. O'Connell".

Kathleen F. O'Connell

Water Enforcement Program Manager  
Division of Enforcement



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 26, 2014

#### MINUTE NO. 7 – VWP Permit Program Consent Special Orders

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

1. Celebrate Virginia South, LLC
2. Iluka Resources, 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.

A handwritten signature in cursive script, reading "Kathleen F. O'Connell".

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



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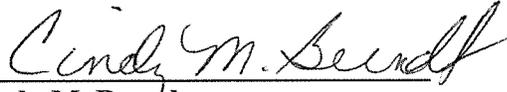
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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 26, 2014

#### MINUTE NO. 8 – Public Forum

Mr. Michael L. Toalson, Chief Executive Officer of the Home Builders Association of Virginia, appeared during the public forum to thank the staff for their efforts to implement the stormwater management program and the timely renewal and reissuance of coverages under the general permit for stormwater discharges from construction activities.

  
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 26, 2014

#### MINUTE 9 – Combined Sewer Overflow Grants

Mr. Walter Gills, Program Manager of the Department's Clean Water Financing and Assistance Program, made a presentation to the Board based on a memorandum dated May 28, 2014. The memorandum discussed and identified the staff recommendation for the authorization of two grants from the state's Combined Sewer Overflow (CSO) Fund.

Mr. Gills discussed the purpose of the Fund and notified the Board that the General Assembly had authorized \$75 million of state bond proceeds to the Fund to make a \$30 million grant to the City of Lynchburg and a \$45 million grant to the City of Richmond to fund a portion of the cost of their CSO projects. He explained that the Board also had to authorize those funds in accordance with the budget language and that both Cities were now in position to have those grants awarded.

Board Decision: The Board voted unanimously to authorize the disbursement of grant funds in the amounts of \$30 million to the City of Lynchburg and \$45 million to the City of Richmond for the purpose of implementing their CSO projects.

A handwritten signature in black ink that reads 'Valerie Thomson'.

Valerie Thomson

Director, Division of Administration



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 26, 2014

#### **MINUTE NO. 10 – Division Director’s Report: DEQ Director’s Approval Being Requested for TMDL Documents under Delegated Authority, Proposed No Discharge Zones, and Nutrient Trading Ratio Study**

Melanie Davenport reviewed four Total Maximum Daily Load (TMDL) reports for the Board and informed the Board that the Department would be approving the reports. In addition, she presented four proposed No Discharge Zones (NDZ), located in Lancaster, Northumberland, Richmond, and Westmoreland Counties. Ms. Davenport also summarized the public comments received on the proposed NDZ. Ms. Davenport closed with a status update on the trading ratio study and recent EPA guidance pertaining to nutrient trading ratios.

The proposed TMDL actions pertain to water bodies in the Chesapeake Bay–Small Coastal–Eastern Shore Basin and the Tennessee–Big Sandy River Basin. The water bodies include the following:

#### **Delegated TMDL Report Approval**

1. Poquoson River and Back Creek Bacteria TMDLs (City of Poquoson and York County, Chesapeake Bay–Small Coastal–Eastern Shore Basin)
2. Back River Bacteria TMDLs (York County and cities of Hampton, Poquoson, and Newport News; Chesapeake Bay–Small Coastal–Eastern Shore Basin)
3. Middle Clinch River Watershed Bacteria TMDLs (Russell and Tazewell counties, Tennessee–Big Sandy River Basin)
4. Clinch River and Cove Creek Watershed Bacteria TMDLs (Russell, Scott, and Lee counties; Tennessee–Big Sandy River Basin)

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

Melanie D. Davenport  
Director, Water Division



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING OF JUNE 26, 2014

#### MINUTE NO. 11- Coastal Plain Groundwater Briefing

Scott Kudlas gave the Board a briefing on the status of the coastal plain aquifer system. He indicated that after nearly a decade of intensive study, staff had concluded that the aquifer system was not being used sustainably and impacts such as declining water levels, increased upconing of salt water, and land subsidence have been documented. He indicated that staff conclusions had been peer reviewed and confirmed by a nationally recognized groundwater expert. Potential administrative, regulatory, and legislative options under consideration to reduce overall groundwater withdrawals were reviewed. Mr. Kudlas answered questions from the Board.

#### Board Decision

This was an informational agenda item and there was not an action required of the Board.

A handwritten signature in black ink that reads "Jeffery A. Steers".

Jeffery A. Steers

Division of Land Protection and Revitalization Director



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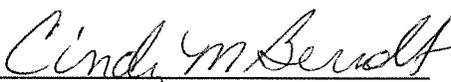
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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 26, 2014

#### MINUTE NO. 12 – Future Meetings

The Board confirmed September 29-30 and December 11-12, 2014, as the dates of their future meetings.

  
Cindy M. Berndt  
Cindy M. Berndt