



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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

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www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4020
1-800-592-5482

MINUTES STATE WATER CONTROL BOARD

Monday, December 12, 2016
House Room C
General Assembly Building
9th & Broad Streets
Richmond, Virginia

Board Members Present:

Robert L. Dunn, Chair
Roberta A. Kellum
Joseph H. Nash

Heather L. Wood
Lou Ann Jessee-Wallace
Thomas M. Branin

Board Members Absent:

G. Nissa Dean

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 at 9:31 a.m., recessed at 10:49 a.m., reconvened at 11:07 a.m., and adjourned at 12:05 p.m.

Approved Minutes No 2.
May 17, 2017



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON DECEMBER 12, 2016

MINUTE NO. 1 - Minutes

The Board approved the minutes of the September 22, 2016, Board meeting.


Cindy M. Berndt
Cindy M. Berndt



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MINUTE NO. 2 – WATERSHED PROGRAMS

Craig Lott, Watershed Programs, presented one Total Maximum Daily Load (TMDL) report, with two revised waste load allocations for Board approval and amendment to the Water Quality Management Planning Regulation (WQMPR) (9 VAC 25-720).

The proposed actions pertain to water bodies in the Tennessee-Big Sandy River Basin. The TMDL report is the *Bacteria and Benthic Total Maximum Daily Load (TMDL) Revision for the Beaver Creek Watershed located in Bristol City and Washington County, Virginia.*

Craig Lott, Watershed Programs, also presented two revisions to the Water Quality Management Planning regulation. The proposed actions included revisions to update waste load allocations for water bodies in the Tennessee-Big Sandy River Basin.

Board Decision:

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

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

A handwritten signature in blue ink that reads 'Jutta Schneider'.

Jutta Schneider
Director, Water Planning Division



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MINUTE NO. 3 – 9VAC25-820 General VPDES Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia

This proposed regulation is for the reissuance of the watershed general permit for nutrient discharges to the Chesapeake Bay watershed. The current general permit will expire on December 31, 2016. Allan Brockenbrough from the Office of Water Permit and Compliance Assistance presented to the Board proposed amendments to this general permit made in response to the Chesapeake Bay TMDL, comments received during two public comment periods and an EPA objection to the originally proposed permit.

Board Decision:

Based on the briefing material and the staff presentation, the Board voted unanimously to adopt the General VPDES Watershed Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia (9VAC25-820) and to affirm that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of the regulation, as provided by the Administrative Process Act.


Melanie D. Davenport
Director, Water Permitting Division



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MINUTE NO. 4 - General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Vehicle Wash Facilities and Laundry Facilities (9VAC25- 194)

Prior to the meeting the Board was provided materials including a briefing memo to the Board which included the regulation showing proposed amendments, the town hall agency background document and a list of the technical advisory committee membership. Elleanore Daub from the Office of VPDES Permits presented a summary of the comments received during the NOIRA, a summary of the technical advisory committee discussions and a summary of the changes 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 Vehicle Wash Facilities and Laundry Facilities, 9VAC25-194. The Board also authorized the staff to serve as hearing officer for the public hearing.



Melanie D. Davenport
Director, Water Permitting Division



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MINUTE 5 — Water Quality Standards: Remaining Issues from Triennial Review

Mr. John Kennedy, Director of the Office of Ecology, made a presentation to the Board pertaining to the “follow-on” rulemaking that addressed issues remaining after the Board’s January 2016 approval of Triennial Review amendments to Virginia’s Water Quality Standards (9 VAC 25-260). Mr. Kennedy summarized the proposed amendments to the criteria for bacteria, ammonia, cadmium and 94 human health parameters. The Board was given information on the major issues discussed by the Regulatory Advisory Panel, the optional actions to take, and staff recommendations for proposed amendments to all parameters. One clarifying question from the Board was answered, on the subject of Relative Source Contribution, as it applied to the human health criteria.

Decision:

Based upon the information provided to the Board and the staff recommendation, the Board by a unanimous vote approved the following actions:

1. Authorize staff to proceed to public comment with proposed amendments to the Water Quality Standards Regulation, 9 VAC 25-260, as presented.
2. Convene public hearing(s) on the proposed amendments with a Board member serving as hearing officer.

A handwritten signature in blue ink that reads "Jutta Schneider".

Jutta Schneider, Director
Water Planning Division



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MINUTE NO. 6 – Petition for Exceptional Waters Designation – Portion of Laurel Fork

David Whitehurst, with the Water Quality Standards unit in the Water Planning Division, informed the Board of the location and extent of the petitioned segment of Laurel Fork and gave a brief overview regarding the purpose and potential impacts of Exceptional State Water (ESW) designations. He then reviewed the activities that had occurred since the Board received the petition at the September 22, 2016 meeting.

Mr. Whitehurst then provided a summary of the required staff site visit along with some images of Laurel Fork. He briefly explained that the nominated water body must exhibit an exceptional environmental setting **and** either support an exceptional aquatic community **or** support exceptional recreational opportunities which do not require modification of the existing natural setting. The Board members were informed of the staff conclusion that the petitioned segment of Laurel Fork met sufficient eligibility criteria for regulatory consideration, in that that the segment appears to meet the exceptional environmental setting and exceptional aquatic community criteria.

Mr. Whitehurst summarized for the Board citizen comment received. Opposing comment was received from one riparian landowner (Tamarack of Highland, LLC) and from a company leasing land from Tamarack with expectations of constructing a wind farm for electricity generation (Highland New Wind Development, LLC). Both commenters object to the petition to the extent that it includes property that is part of Tamarack and their concern that there may be potential negative impacts from the ESW designation to future development of electricity generating wind farm and timbering operations. Four comments were received in support of the petition stating the need to protect the beauty, biological integrity, and the unique ecology and its associated endemic species as reasons. No locality comment was received. Staff acknowledged the concerns expressed in these comments and stated that the comment periods provided during a rulemaking will provide for an opportunity to engage the petitioner and concerned parties in a dialogue regarding these issues.

Board Decision

Based on the briefing materials and the staff presentation, the Board, by unanimous vote, instructed staff to initiate a rulemaking to consider amending section 9 VAC 25-260-30.A.3 of the Water Quality Standards to designate Laurel Fork in Highland County, from approximately 0.33 miles upstream of the confluence with Collins Run downstream to a point approximately 0.5 miles upstream from the confluence of Mullenax Run as Exceptional State Waters.

Julia Schneider

Julia Schneider
Director, Water Planning Division



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MINUTE NO. 7 – Significant Noncompliance Report

Kathleen O'Connell, Water Enforcement Program Manager, informed the Board that one permittee was reported to EPA on the Quarterly Noncompliance Report as being in significant noncompliance for the quarter ending March 31, 2016. The permittee, the facility and the instances of noncompliance were reported as follows:

1. City of Franklin, Franklin Wastewater Treatment Plant, failure to demonstrate compliance with the Total Recoverable Silver Concentration Average VPDES permit effluent limitation for the months of December 2015 and March 2016.

Ms. O'Connell reported that the noted violations were apparently the result of commercial laboratory error which has since been addressed through a change in service provider and that staff of the Tidewater Regional Office do not anticipate the need for further action to address the lab issue.

Ms. O'Connell also informed the Board that two permittees were reported to EPA on the Quarterly Noncompliance Report as being in significant noncompliance for the quarter ending June 30, 2016. The permittees, the facilities and the instances of noncompliance were reported as follows:

1. Greensville County, Three Creek Sewage Treatment Plant, failure to comply with interim consent order monthly and weekly average concentration effluent limitations for Total Recoverable Copper for the month of May 2016.
2. Dupont Teijin Films, Hopewell Wastewater Treatment Plant, failure to demonstrate compliance with Biochemical Oxygen Demand VPDES permit effluent limitations for the months of January and April 2016.

Ms. O'Connell reported that the noted violation for Greenville County will be addressed through permit action and that staff of the Piedmont Regional Office anticipate addressing the Dupont violations with an administrative penalty order.

The Board accepted the report.

A handwritten signature in blue ink that reads "Kathleen F. O'Connell". The signature is written in a cursive style and is positioned above a horizontal line.

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



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MINUTE NO. 8 – Article 11, Oil Discharge; Consent Special Orders, Allied Aviation Fueling of National Airport, Inc. and Virginia Electric and Power Company.

Lee M. Crowell, Petroleum & Wetlands Enforcement Manager, presented to the Board the Consent Special Order for Allied Aviation Fueling of National Airport, Inc. and Virginia Electric and Power Company. 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 "Lee M. Crowell", written over a horizontal line.

Lee. M. Crowell

Petroleum & Wetlands Enforcement Manager
Division of Enforcement



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MINUTE NO. 9 - Public Forum

No one appeared during the public forum.



Cindy M. Berndt



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON DECEMBER 12, 2016

MINUTE 10 – FY 2017 VCWRLF Loan Authorizations

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 November 16, 2016. The memorandum identified the staff's recommended loan amounts, terms, and interest rates for 24 projects being recommended for FY 2017 Virginia Clean Water Revolving Loan Fund (VCWRLF) assistance.

Mr. Gills began his presentation by summarizing the actions taken by the Board at its September 2016 meeting, targeting 26 projects for FY 2017 assistance. He explained that he had met with all the potential FY 2017 loan recipients to verify the schedules and financial data used to evaluate the local impact and that the staff had completed its user charge impact analyses for the targeted recipients in order to establish the interest rates in accordance with Board guidelines. Based on the initial meetings with and requests from the applicants, there were several changes being made to the previously-approved funding list, resulting in a revised total loan amount of \$131,696,731 for 24 projects.

A public meeting on the proposed funding list was held on October 24, 2016 and comments were received from the City of Martinsville regarding the Henry County Public Service Authority project, which involves reactivation of the County's Lower Smith River Wastewater Treatment Plant. The City of Martinsville currently provides wastewater treatment for the area, including Henry County. The City stated that only 40% of the City's WWTP capacity is currently being utilized, and that the County's project would be unnecessary and redundant, located next to a state scenic river, counter to the Commonwealth's policy of encouraging regional solutions to water and wastewater challenges, and a wasteful use of public funds. The City also noted that the project would be financially detrimental to the City in that it would result in annual net lost revenues of \$500,000 to \$600,000 to the City. Mr. Gills explained that the staff had evaluated the comments from the City of Martinsville and was still recommending that the Henry County PSA project be authorized for funding. He said that while DEQ would greatly prefer that the County and City work together to implement the most cost effective regional solution for providing wastewater services to the area, DEQ does not believe it is appropriate for the Board to take any actions that would favor one locality over another or to intervene in issues regarding regional agreements between local jurisdictions.

At their September meeting, the Board expressed concerns about approving a loan to the City of Petersburg because of the City's financial difficulties, including their recent inability to pay for the

wastewater services provided to the City by the South Central Wastewater Authority, and asked the staff to obtain information from the Virginia Resources Authority (VRA) regarding VRA's financial analysis of a loan to the City. Staff noted that VRA has been closely monitoring the City's financial and budgetary challenges and, prior to any credit approval by VRA and loan closing with the City, their short and intermediate term liquidity needs would need to be addressed, a convincing long-term financial plan would need to be adopted by the City council that matches expenses with sustainable revenues, and permanent City administration would need to be in place to execute the plan. The DEQ staff believes that the City of Petersburg application is for a good water quality project and recommended that the Board continue to include the Petersburg project on the project funding list, which is subject to receipt of a favorable financial capability analysis report and supporting recommendation from VRA.

Mr. Gills explained that all the interest rate analyses have been finalized based on the Board's approved guidelines and the resulting recommendations were included in the memorandum to the Board. In order to attract and accommodate a larger number of localities and projects to the Program, staff recommended revisions to the ceiling rates and terms options offered to borrowers whose project type and impact to user rates results in a ceiling rate based on the Board's Guidelines. Based on consultation with the Virginia Resources Authority (VRA), he stated that the staff was recommending that the ceiling rate calculation vary depending on the term of the loan such that 20 year ceiling loan rates are set at 1.5% below the market as is the current practice, 25 year ceiling loan rates be 1.25 % below market, and 30 year ceiling loan rates be 1.0% below market. Market rates would be based on VRA's evaluation of the market conditions that exist the month prior to each loan closing.

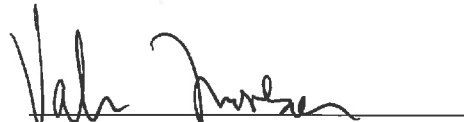
Mr. Gills noted that Congress had still not finalized the federal SRF appropriation for FY 2017 so that staff was unsure as to whether the appropriation bill would provide for any principal forgiveness. He stated that staff had analyzed the projects with regard to the program's hardship affordability criteria and was prepared to work with the Director on providing principal forgiveness to some projects as allowed by previous delegations if it is provided for by the federal appropriation.

After completion of the staff presentation, Mr. Eric Monday (Attorney for the City of Martinsville) spoke to the Board in opposition to the Henry County Public Service Authority (PSA) project. Mr. Tim Hall (Henry County Administrator and General Manager of the Henry County PSA) and Dale Wagoner (Assistant General Manager of the Henry County PSA) followed Mr. Monday and spoke separately to the Board in favor of the Henry County PSA project.

Board Decision: The Board voted unanimously to authorize the execution of loan agreements for the localities, loan amounts, interest rates and terms listed below and establish that the ceiling rate for wastewater projects with 20 year terms be set at 1.5% below market, 25 year ceiling loan rates be 1.25 % below market, and 30 year ceiling loan rates be 1.0% below market, based on VRA's evaluation of the market conditions that exist the month prior to each loan closing. Loan closings will be subject to receipt of a favorable financial capability analysis report and supporting recommendation from VRA.

FY 2017 Proposed Interest Rates and Loan Authorizations

	<i>Locality</i>	<i>Loan Amount</i>	<i>Rates & Loan Terms</i>
1	Town of Virgilina	\$310,045	0%, 20 years
2	City of Norfolk	\$10,000,000	0%, 20 years
3	Wise County PSA	\$1,399,034	0%, 20 years
4	Town of Wytheville	\$1,222,000	0%, 20 years
5	Town of Clifton Forge	\$1,349,739	0%, 20 years
6	City of Richmond	\$2,696,622	0%, 20 years
7	Hampton Roads Sanitation District	\$1,201,200	CRT
8	Town of Pennington Gap	\$1,652,791	0%, 20 years
9	City of Covington	\$498,000	0%, 20 years
10	Town of Marion	\$346,300	CRT
11	City of Petersburg	\$750,000	0%, 20 years
12	Hampton Roads Sanitation District	\$7,338,652	CRT
13	Hampton Roads Sanitation District	\$3,534,541	CRT
14	Hampton Roads Sanitation District	\$1,315,241	CRT
15	Henry County PSA	\$23,659,400	CRT
16	Hampton Roads Sanitation District	\$2,334,378	CRT
17	Alexandria Sanitation Authority	\$2,200,000	CRT
18	Town of Gate City	\$1,726,278	0%, 20 years
19	City of Martinsville	\$3,425,000	CRT
20	Hampton Roads Sanitation District	\$51,385,843	CRT
21	Hampton Roads Sanitation District	\$6,094,306	CRT
22	Harrisonburg/Rockingham RSA	\$2,700,000	CRT
23	City of Richmond (stormwater)	\$4,307,361	0%, 20 years
24	Middle Peninsula PDC (living shorelines)	\$250,000	0%, 15 years
	Total Request	\$131,696,731	CR= Ceiling Rate/Term


 Valerie Thomson
 Director of Administration



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON DECEMBER 12, 2016

MINUTE 11- Approval of Revised Stormwater Local Assistance Fund Guidelines

Mr. Walter Gills of the Department's Clean Water Financing and Assistance Program made a presentation to the Board based on a staff memorandum dated November 18, 2016 pertaining to the development of revisions to the Stormwater Local Assistance Fund (SLAF) Guidelines.

Mr. Gills reminded the Board that they had authorized the staff to present the draft revisions to the SLAF Guidelines to the public for their review and comment at their September, 2016 meeting. The public comment period was open from September 27, 2016 to November 1, 2016. Comments were received from five organizations and eight individuals and their comments were included in their entirety as an attachment to the Board memorandum. Also attached was a document that provided a summary of all the comments received as well as DEQ's response to each.

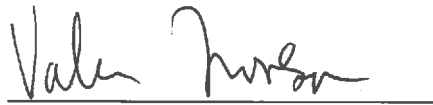
Mr. Gills noted that many of the commenters expressed appreciation and support for the revisions that had been made to the Guidelines and that no comments were received regarding the changes made to address the new non-point source eligibility. Many of the requests received during the official public comment period had been previously provided by the stakeholders during the initial drafting period, had already been evaluated by DEQ, and it had been determined that they would not be incorporated into the guidelines. A number of other comments involved requests or suggestions related to in house SLAF program processes or the SLAF application form and, while DEQ will be implementing changes that address those comments, no revisions to the actual Guidelines are required.

A number of comments related to SLAF funding of stream restoration projects, requesting additional project planning, design, and maintenance requirements as well as changes to the project ranking criteria. Conversely, the Virginia Municipal Stormwater Association had

cautioned against imposing additional requirements or restrictions on these projects at this time. Mr. Gills reminded the Board that the revisions approved by the Board in September had already included additional requirements for documentation of the site selection process for stream restoration projects. A review of that information will assist DEQ in determining the adequacy of the project planning/site selection process for future consideration.

The only new revisions being recommended by the staff were one small addition to the example documentation for stream restoration and correction of three references. The final revised version of the Guidelines was attached to the Board memorandum.

Board Decision: The Board voted unanimously to approve the revised Stormwater Local Assistance Fund Guidelines for implementation.

A handwritten signature in black ink, appearing to read "Valerie Thomson", is written above a solid horizontal line.

Valerie Thomson
Director of Administration



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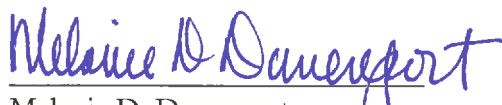
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MINUTE NO. 12 – Division Director's Report

Melanie Davenport informed the Board that no challenge had been filed to the Dominion-Chesterfield permit. She also reported that the Richmond Circuit Court had upheld the Dominion-Possum Point permit and no appeal had been filed.

Jutta Schneider notified the Board of upcoming action for proposed No Discharge Zones (NDZ), where discharge of treated vessel waste is prohibited, for Sarah Creek and Perrin River in Gloucester County. She presented a summary of the NDZ application and public comments. The application includes a description of the need for greater environmental protection for these waterbodies than afforded by Federal standards; a description of the adequacy and reasonableness of available pump-out facilities for the safe, sanitary removal and treatment of sewage from vessels; and a description of public participation during development of the NDZ application. The proposed NDZs will be submitted to the Secretary of Natural Resources for transmittal to the Environmental Protection Agency.


Melanie D. Davenport
Director, Water Permitting Division


Jutta Schneider
Director, Water Planning Division



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MINUTE NO. 13 – Future Meetings

The Board approved March 30, June 29, September 28 and December 11 as the dates of their meetings in 2017 noting that a second day may be added to a meeting based on the agenda for the meeting.


Cindy M. Berndt



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MINUTE NO. 14 – By-Laws

Ms. Roberta Kellam advised the Board that draft by-laws and draft standing rules had been drafted and provided a copy of each to the Board. She asked that Board members review the documents and provide comments to staff and advised that further discussion of the documents would be on the agenda of the March 2017 meeting.


Cindy M. Berndt