



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

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

Wednesday, May 17, 2017
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia

Board Members Present:

Robert L. Dunn, Chair
Roberta A. Kellum
Thomas M. Branin

Heather L. Wood, Vice-Chair
Robert H. Wayland, III
G. Nissa Dean

Board Members Absent:

Lou Ann Jessee-Wallace

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 10:00 a.m., recessed at 11:45 a.m., reconvened at 12:47 p.m., and adjourned at 2:30 p.m.

Approved Minute No. 1
July 19, 2017



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 17, 2017

MINUTE NO. 1 – Modification of Agenda/By-Laws

Mr. Dunn advised the Board that the By-Laws agenda item was being deferred to a future meeting when all Board members were in attendance.


Cindy M. Berndt



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MINUTE NO. 2 - Minutes

The Board approved the minutes of the December 12, 2016, Board meeting.


Cindy M. Berndt



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MINUTE NO. 3 - Modification of Virginia Pollution Abatement (VPA) Permit Number VPA01576, Synagro Central, LLC–Nelson County

Staff made a presentation regarding the modification of the existing Virginia Pollution Abatement Permit for the land application of biosolids in Nelson County by Synagro Central, LLC. The presentation included a discussion of the project, a summary of the comments received during the public comment period, and staff's responses to the comments. Staff did not recommend any changes to the permit in response to the comments.

After staff's presentation, the Board heard from John Uzupis, representing Synagro Central, LLC., Tyla Matteson, Kathy Walker, Eleanor Amidon, Janet Hunter, Lara Sullivan, and Heidi Berthoud.

Following the comments made by citizens, staff then made the following recommendations:

Based on the draft permit file, the comments received during the public comment period and any explanation of comments previously received during the public comment period made at the Board meeting, the staff recommends that the Board:

1. Find that:
 - a. The permit has been prepared in conformance with all applicable statutes, regulations and agency practices;
 - b. The limits and conditions in the permit have been established to protect public health and the environment; and
 - c. All public comments relevant to the permit have been considered;
2. Approve the permit and conditions as presented to the Board today.
3. Authorize the Director to issue the permit as approved by the Board.

The Board, based on the Board book material and presentations at the meeting, voted unanimously in favor of the staff recommendation.


Melanie D. Davenport
Director, Water Permitting Division



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MINUTE NO. 4 – Final Exempt - VPDES Permit Regulation (9VAC25-31) and VSMP Regulation (9VAC25-870) Amendments - Incorporation of Electronic Reporting Rule

Debra Harris, Office of Regulatory Affairs, presented a final exempt regulatory action incorporating the EPA's National Pollution Discharge Elimination System Electronic Reporting Rule into the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation, 9VAC25-31, and the Virginia Stormwater Management Program (VSMP) Regulation, 9VAC25-870. Ms. Harris provided the Board the background on the EPA's electronic reporting rule and explained that this rule requires the use of electronic reporting instead of paper-based reporting. Ms. Harris covered the phased implementation approach of the rule for VPDES facilities, noted that the Department is currently working with EPA on the implementation of this rule and is working on expanding the Department's electronic reporting application for discharge monitoring reports. After providing the background information, Ms. Harris then presented a summary of the changes made to Chapter 31 and 870 incorporating the EPA's rule and noted that this amendment to the regulations is a final exempt regulatory action under the APA as the amendment is necessary to conform to the changes in the federal regulations (§2.2-4006.A.4.c) and also provides clarification of the 24 hour reporting provisions (§2.2-4006.A.4.a). After the presentation and in response to the Board's question, the Department staff provided the Board with additional details on the electronic reporting rule including the waiver process and who can request permanent or temporary waivers.

BOARD DECISION

Based on the board book briefing items and staff presentation, the Board, on motion by Ms. Kellam and seconded by Ms. Wood, adopted the amendment incorporating EPA's electronic reporting rule into its regulations under 9VAC25-31 and 9VAC25-870, authorized its publication, and affirmed that the Board will receive, consider and respond to requests by any interested person at any time respect to reconsideration or revision.

A handwritten signature in blue ink, appearing to read "Debra A. Harris", written over a horizontal line.

Debra A. Harris
Policy and Planning Specialist



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MINUTE NO. 5– Significant Noncompliance Report

The Board members were informed, through a report included in their board books, that there were no new permittees reported to EPA on the Quarterly Noncompliance Report as being in significant noncompliance for the quarter ending September 30, 2016.

The Board accepted the report.


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



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MINUTE NO. 6: Archer Western Contractors, LLC Consent Special Order

Carla Pool, Enforcement Adjudication Manager, presented to the Board the Consent Special Order for Archer Western Contractors, LLC. The Board unanimously approved the Consent Special Order and further authorized the Department's Director to execute the Order on the Board's behalf and to refer any violations of the Consent Special Order to the Office of the Attorney General for appropriate legal action.

A handwritten signature in cursive script, reading "Carla Pool".

Carla Pool
Enforcement Adjudication Manager
Division of Enforcement



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MINUTE NO. 7 – Future Meetings

The Board confirmed cancellation of the June 29 and September 28, 2017 board meeting dates. The Board confirmed July 19 and December 11 as dates of future meetings and agreed to hold October 16, 17 and 18 and November 1 and 2, 2017 for a two-day meeting.


Cindy M. Berndt



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MINUTE NO. 8 - Public Forum

Mr. Harrison Moddy appeared during the public form to present the Annual Report for Code of Good Practice of the Virginia Biosolids Council. In addition, the following persons appeared to discuss concerns with the Mountain Valley and Atlantic Coast natural gas pipeline projects: Carolyn Dull, Russell Chisholm, Lara Mack, Marnie Slayton, Tom Adams, Lynda Majors, Mike Slayton, Donna Jones, Del Dyer, Tom Triplett, Cletus Bohon, Tina Smusz, Carolyn Reilly, Ann Rogers, Donald W. Jones, Greg Bupert, Patrick Calvert, Bobby Whitescarver, Nancy Sorrells, Kate Wofford, Mark Frondorf and Jennifer Lewis.


Cindy M. Berndt



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MINUTE 9 — DIVISION DIRECTORS' REPORT

Jutta Schneider, Water Planning Division Director, made a presentation regarding a petition from the Virginia Coal and Energy Alliance, received by letter dated December 12, 2016. The petition requested that the Board take action on recommended new water quality criteria for Selenium, issued by the U.S. Environmental Protection Agency in July 2016. VCEA contends that:

“Virginia’s acute and chronic selenium criteria are over 25 years old, do not reflect the latest scientific information, and are unnecessarily stringent to protect aquatic life. As long as the outdated and obsolete criteria remain on the books, we are concerned that our members will be placed in peril of unreasonable compliance obligations, misguided enforcement actions and baseless lawsuits.”

Ms. Schneider informed the Board that DEQ staff had reviewed the petition and determined it contains the information required under State Code (§2.2-4007: Petitions for new or amended regulations; opportunity for public comment) and Virginia Regulation (9VAC25-11-60: Petition for Rulemaking).

A summary was given of the next actions that will be taken following receipt of the petition:

- Per State Code §2.2-4007, within 14 days of receiving petition a notice with the required information must be submitted for publication in the VA Register; DEQ staff will comply.
- A 21 day public comment period will follow publication.
- Staff will consider comments received and form recommendations on the granting or denying of the petition for the Board’s consideration at a future meeting


There were no follow-up questions from the Board and the Director’s Report was accepted.

Melanie Davenport, Water Permitting Division Director reported that the Richmond Circuit Court had recently upheld the 2014 Construction General Permit. The Court found there was substantial evidence in the record to support the Board’s finding that proper implementation of permit conditions will protect water quality. No appeal was filed in the case.

Ms. Davenport also informed the Board that staff anticipated the public hearings on the proposed 401 certification for the natural gas transmission pipelines will occur sometime during the first and second weeks of August.



Melanie D. Davenport, Director
Water Permitting Division



Jutta Schneider, Director
Water Planning Division