



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4020
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MINUTES STATE WATER CONTROL BOARD

December 14, 2011
General Assembly Building, House Room C
Richmond, Virginia

Board Members Present:

W. Shelton Miles, III, Chair
William B. Bott
Roberta A. Kellam
Thomas V. Van Auken

Robert L. Dunn, Vice-Chair
William A Pruitt
Heather L. Wood

Department of Environmental Quality:

David K. Paylor, Director

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 Wednesday, December 14, 2011, at 9:30 a.m., recessed at 11:30 a.m., reconvened at 11:40 a.m., recessed for lunch at 12:02 p.m. and reconvened at 12:59 p.m., and adjourned at 1:55 p.m.

[Note: The second day, December 15, 2011, was cancelled.]

Approved Minute No. 1
April 4, 2012



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON DECEMBER 14, 2011

MINUTE NO. 1 - Election of Vice-Chair

The Board unanimously elected Robert L. Dunn as Vice-Chair of the Board.



Cindy M. Berndt



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MINUTE NO. 2 - Minutes

The Board approved the minutes from the September 22, 2011, meeting as contained in the Board book.



Cindy M. Berndt



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MINUTE NO. 3 – Major Modification No. 1 of Virginia Water Protection Permit No. 06-1574, Ragged Mountain Reservoir Expansion Project

Staff presented information on the project and the proposed modifications to the Virginia Water Protection permit, as public noticed on September 29, 2011. These modifications were proposed as a result of the permittee's March 24, 2011 request to modify the permit, and a subsequent request to remove a restriction regarding the Indiana bat (July 6, 2011), as well as to correct omitted information and grammatical errors. The revisions included revising surface water impacts to reflect an earth-fill dam; revising the restriction for tree clearing due to the potential impact to the Indiana bat; inserting intermediate-expansion flow limits within existing flow scenarios; including the omitted mandatory water use restrictions for golf courses in Attachment A of the permit; eliminating redundant statements regarding unauthorized impacts to surface waters; and correcting grammatical errors.

Sixteen speakers commented to the Board. Mr. Tom Frederick with the Rivanna Water and Sewer Authority (permittee) concurred with the staff recommendations and answered the Board's questions regarding the urban water system components. Of the remaining speakers, six were in support of the modification as recommended by staff: Mr. Clarence Roberts, Chairman, Albemarle County Service Authority Board of Directors; Ms. Kay Slaughter; Dr. Liz Palmer, Albemarle County Service Authority Board of Directors; Mr. Bill Kittrell, The Nature Conservancy; Ms. Sally Thomas, representing the League of Women Voters and the Rivanna Conservation Society; and Mr. Jason Halbert. Seven speakers were opposed to the proposed modification, mostly citing faulty demand projections, safe yield calculations, and lack of enough flow data and monitoring locations: Dr. Richard Lloyd; Mr. Dan Bieker; Mr. Stratton Salidas; Mr. Tom Olivier; Ms. Rebecca Quinn, representing Citizens for a Sustainable Water Plan; Ms. Dede Smith; and Ms. Joanna Salidas. Eight speakers requested that the existing, issued permit be revoked or terminated, citing multiple regulatory provisions: Mr. Brandon Collins; Mr. John Morrison; Mr. Francis Fife; Mr. Lee Morgan Politis; Ms. Joanna Salidas; Ms. Dede Smith, representing Citizens for a Sustainable Water Plan; Ms. Rebecca Quinn, representing Citizens for a Sustainable Water Plan; and Ms. Clara Belle Wheeler. One speaker, Mr. John Martin, supported the staff recommendations provided that triggers be placed into the

modified permit that required the permittee to expand the project to the 686 foot elevation and install the connecting pipeline between the Ragged Mountain Reservoir and the South Fork Rivanna Reservoir.

Prior to hearing Ms. Quinn's, Ms. Smith's, and Ms. Salidas' comments, DEQ requested the Board's vote on whether or not a report supplied by Ms. Quinn on December 12, 2011 was considered "new information", and thus be made part of the case record. After discussion with Board counsel, the Board voted unanimously that the report was new information and would not be accepted in support of Ms. Quinn's comments.

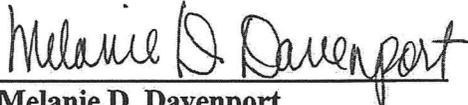
After hearing the staff recommendations to the Board, Dr. Thomas Van Auken asked for clarification regarding the presence of a stream flow gage on the Moormans River, and how inflow to Sugar Hollow Reservoir and the South Fork Rivanna Reservoir was determined. DEQ management verified that no gage currently exists due to cost and access. DEQ modeling staff explained the process by which gages were used to determine inflows. Dr. Van Auken asked if the pipeline between the Ragged Mountain Reservoir and the South Fork Rivanna Reservoir was a requirement of the permit. Staff responded that the permit conditions authorized the pipeline, but that it was not a requirement of the permit. Mr. Tom Frederick with the Rivanna Water and Sewer Authority also made response to explain how the pipeline is to operate and when it's expected to be built. Ms. Roberta Kellam asked for clarification regarding the establishment of wetlands around the perimeter of the reservoir and if easements would protect these areas. Staff responded that compensation credit is not typically provided when perimeter wetlands re-establish due to difficulty with defining the easement area when water levels fluctuate; that there are often already protective easements for water quality established on water supply reservoirs; and that lost functions and values are rarely replaced.

Board Decision:

The Board voted unanimously to approve the following staff recommendations:

1. that the Board finds the permit modification has been prepared in conformance with all applicable statutes, regulations, and agency practices;
2. that the Board finds the proposed activity is consistent with the provisions of the Clean Water Act and State Water Control Law and will protect instream beneficial uses;
3. that the Board finds the proposed permit modification addresses avoidance and minimization of surface water impacts to the maximum extent practicable;
4. that the Board finds the effect of the proposed activities, together with other existing or proposed impacts to surface waters, will not cause or contribute to significant impairment of state waters or fish and wildlife resources;
5. that the Board approves the revisions drafted in the modification relative to: dam construction materials; flow and release values; surveys for the Indiana bat; mandatory water conservation measures; and grammar;

6. that the Board finds no revisions to the draft modification are necessary relative to: dredging the South Fork Rivanna Reservoir, data contained in project-related reports, administrative/planning/coordination processes, public access, permit compliance, seismic safety, and compensatory mitigation;
7. that the Board authorizes the Director to modify Virginia Water Protection Permit No. 06-1574; and
8. that the Board denies the request to terminate or revoke the currently effective Virginia Water Protection Permit No. 06-1574.


Melanie D. Davenport
Director, Water Division



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON DECEMBER 14, 2011

MINUTE NO. 4 – Report on Facilities in Significant Noncompliance

Kathleen O'Connell, Water Enforcement Program Manager, reported to the Board that there were two regulated parties to be reported as being in significant noncompliance for the quarter ending June 30, 2011. The first party, New Kent County, had experienced violations of permit effluent limitation for Total Kjeldahl Nitrogen both before and after completion of an upgrade of its Parham Landing wastewater treatment plant. The upgrade was designed to ensure compliance with all permit effluent limitations. Because of this continuing issue of noncompliance, Ms. O'Connell reported that the staff of the Piedmont regional office was evaluating the New Kent County matter for formal enforcement action. Ms. O'Connell reported that the second party, the Town of Elkton, had failed to meet a deadline for completion of upgrade of its sewage treatment plant and reminded the Board that this violation was addressed by an amendment to New Kent's consent special order which was approved by the Board at its August 5, 2011 meeting.

The Board accepted the report.

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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MINUTE NO. 5 – VPDES Program Consent Special Orders

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

1. The Madeira School Incorporated
2. Aqua Virginia Utilities, Inc.
3. Dupont Teijin Films U.S. Limited Partnership
4. S. B. Cox Ready Mix, Inc.
5. KVK Precision Specialties, Inc.
6. Shrine Mont, Incorporated

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, appearing to read 'Kathleen F. O'Connell'.

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



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MINUTE NO. 6 – VWP Program/Ground Water Program Consent Special Orders

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

1. Brambleton Group, LLC
2. Dr. Lawrence V. Phillips

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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MINUTE NO. 7- VPA Consent Special Order

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Order for Loudoun County Sanitation Authority.

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 cursive script, reading "Kathleen F. O'Connell".

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



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MINUTE NO. 8 – Oil and Other Programs, Potomac Electric Power Company Consent Special Order

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Order for Potomac Electric Power Company.

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 DECEMBER 14, 2011

MINUTE NO. 9 – Oil and Other Programs, Virginia Electric and Power Company, d/b/a Dominion Virginia Power Consent Special Order

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Order for Virginia Electric and Power Company, d/b/a Dominion Virginia Power.

The Board approved the Order with a 6 to 0 vote (Mr. Van Auken recusing himself) 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 blue ink that reads "Kathleen F. O'Connell".

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



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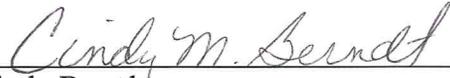
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MINUTE NO. 10 – Virginia Pollution Discharge Elimination System Permit Program Regulation, 9VAC25-31, CFR Regulatory Update - Immediate Final Rule 2011

Debra Miller, Office of Regulatory Affairs, presented final amendments to the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation, 9VAC25-31. This regulatory amendment updates the Title 40 of the Code of Federal Regulations (CFR) citations within 9VAC25-31 to the most current CFR as revised as of July 1, 2011. Referenced CFR dates within this regulation were deleted and a new section, 9VAC25-31-25, was added which will update all references to the CFR to July 1, 2011. This new section will simplify future CFR updates for this regulation as only 9VAC25-31-25 will need to be amended. The Board was asked to adopt this amendment as a final regulation.

BOARD DECISION

Based on the board book briefing items and staff presentation, the Board unanimously adopted the amendments to 9VAC25-31 as presented, and affirmed that the Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.


Cindy Berndt
Director, Office of Regulatory Affairs



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MINUTE 11 – FY 2012 VCWRLF Loan Authorizations

Mr. Walter Gills, Program Manager of the Department's Construction Assistance Program, made a presentation to the Board based on a memorandum dated November 22, 2011. The memorandum identified the staff's recommended loan amounts, terms, and interest rates for 25 projects being recommended for FY 2012 Virginia Clean Water Revolving Loan Fund assistance.

Mr. Gills began his presentation by summarizing the actions taken by the Board at its September 2011 meeting, of targeting 25 projects for FY 2012 assistance and directing the staff to present the Board's tentative list for public comment. He relayed that a public meeting was held on November 16, 2011 and that no adverse comments had been received. Mr. Gills explained that he had met with the potential FY 2012 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. He noted that the interest rate recommendation for Fauquier County had been left out of the Board memorandum pending their submittal of median household income information in the project area and that, since complete information had still not been provided, the staff was recommending a rate of 2.35% and would reevaluate that once the additional information was submitted.

Based on the initial meetings with the applicants, the staff recommended one modification to the previously-approved funding list, reducing the loan amount to the Town of Strasburg, resulting in a total loan amount of \$88,537,633 for the 25 projects. Mr. Gills explained that program policy calls for the program's ceiling rate to be set at 1% below the municipal bond market. Since the Virginia Resources Authority had recently sold VCWRLF bonds at an all in true interest cost of 3.35%, he noted that staff was recommending a ceiling rate of 2.35%, to be held until June 30, 2012, at which time it would be reevaluated and potentially revised based on market conditions.

Mr. Gills noted that Congress had still not finalized the federal SRF appropriation for FY 2012 so that staff was unsure as to whether the appropriation bill would include requirements similar to those newly established in FY2010 regarding green reserve project funding and principal forgiveness. He stated that staff believes that the two water reuse projects already included on this list would satisfy any green project reserve requirement that might be included. The staff had also analyzed the projects with regard to the program's hardship criteria and was prepared to work with the Director on providing principal

forgiveness to some projects as allowed by previous delegations if it is included in the federal appropriation language.

Board Decision: After some questions and a brief discussion, the Board voted unanimously to authorize the execution of 25 loans at the amounts, rates, and terms listed below. Loan closings are subject to the receipt of favorable financial capability analysis reports and supporting recommendations from VRA.

FY 2012 Loan Authorizations

	<i>Locality</i>	<i>Loan Amount</i>	<i>Rates & Loan Terms</i>
1	City of Lynchburg	7,000,000	0%, 30 years
2	City of Richmond	2,600,000	0%, 20 years
3	City of Norfolk	10,000,000	0%, 20 years
4	Alexandria Sanitation Auth.	5,174,000	2.35%, 20 years
5	Western VA Water Authority	9,828,000	2.35%, 20 years
6	Town of Coeburn	2,094,346	0%, 20 years
7	Town of Blackstone	3,713,241	0%, 20 years
8	Botetourt County	910,000	2.35%, 20 years
9	Southampton County	926,450	0%, 20 years
10	Bland County PSA	5,947,035	2.35%, 20 years
11	Town of Tazewell	2,847,806	2.35%, 20 years
12	Town of Strasburg	12,000,000	0%, 25 years
13	Fauquier County	7,102,800	2.35%, 20 years
14	Eastern Shore of VA PSA	4,000,000	0%, 30 years
15	Smyth County	472,930	2.35%, 20 years
16	Lee County PSA	712,000	0%, 20 years
17	Blacksburg-VPI SA	3,082,000	2.35%, 20 years
18	Louisa Co. Water Authority	1,595,000	2.35%, 20 years
19	Town of Rocky Mount	278,600	2.35%, 20 years
20	Town of Chilhowie	1,061,500	2.35%, 20 years
21	Town of Boydton	1,471,000	2.35%, 20 years
22	Alexandria Sanitation Auth.	2,600,000	2.35%, 20 years
23	CNW Wastewater Authority	2,469,675	2.35%, 20 years
24	Avon Holdings, LLC	531,250	0.25%, 10 years
25	Sembilan Enterprises, LLC	120,000	0.25%, 10 years
	Total Request	\$88,537,633	


 Melanie D. Davenport
 Director
 Water Division



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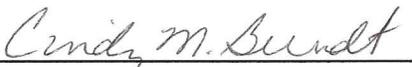
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MINUTE NO. 12 – Public Forum

Ms. Gayl Fowler of SAIF Water Wells, Inc. presented a report entitled: Analysis of Groundwater Samples from the Piney Point Aquifer in Four Counties of the Northern Neck of Virginia. Ms. Fowler presented the report for the Board's information and explained that the report was the result of a two-phase study that helps to characterize the domestic water supply conditions in the rural area of the Northern Neck.



Cindy M. Berndt



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 22, 2011

MINUTE NO. 13 – Water Division Director's Report

Ms. Melanie D. Davenport, Water Division Director, provided the Board with updates on the Memorandum of Agreement with the Eastern Shore Tomato Growers and the award of grants to several citizen monitoring groups.



Cindy M. Berndt



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MINUTE NO. 14 – Future Meetings

The Board confirmed April 5-6, June 25-26, September 27-28 and December 6-7, 2012 as the dates of their future meetings.



Cindy M. Berndt