

MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING

THURSDAY, DECEMBER 3, 2020

ELECTRONIC COMMUNICATION MEETING

Board Members Present:

Roy A. Hoagland, Chair
Richard D. Langford
Dr. Lornel G. Tompkins
Gail Bush (Ms. Bush left the meeting for the duration of the permit agenda item)

Kajal B. Kapur, Vice-Chair
Staci F. Rijal
Hope F. Cupit

Board Members Absent: None

Department of Environmental Quality:

David K. Paylor, Director
Debra A. Harris

Cindy M. Berndt

Attorney General's Office:

Paul Kugelman, Senior Assistant Attorney General/Section Chief

These minutes summarize activities that took place at this Board meeting. The meeting was convened at 10:00 a.m., recessed at 1:12 p.m., reconvened at 1:45 p.m., recessed at 1:47 p.m. (office closure), reconvened at 3:04 p.m., and adjourned at 6:35 p.m.

The Board convened the meeting electronically consistent with Governor Ralph Northam's Executive Order No. 51 (2020), Item 4-0.01 g of Chapter 1289 of the 2020 Acts of Assembly and the applicable provisions of § 2.2-3708.2 of the Freedom of Information Act. Further, the Board stated that a meeting was necessary for the Board to discharge its lawful purposes, duties, and responsibility; but impracticable or unsafe for the Board to assemble in a single location due to the declaration of a state of emergency for COVID-19.

Minute No. 1 - Review and Approval of Agenda: The Board, on a motion by Mr. Langford and seconded by Dr. Tompkins, unanimously approved the agenda as announced. The vote, taken by roll call was 7 - 0.

Minute No. 2 - September 17, 2020, Minutes: The Board, on a motion by Ms. Cupit and seconded by Ms. Kapur, approved the minutes from the Board's meeting on September 17, 2020. The vote, taken by roll call, was 7-0.

Minute No. 3 - U.S. Navy Norfolk Naval Shipyard Draft Prevention of Significant Deterioration Permit and Stationary Source Permit to Construct and Operate - Registration # 60326: Mr. Michael G. Dowd, Director of the Division of Air and Renewable Energy, and Mr. Patrick Corbett presented the draft Prevention of Significant Deterioration Permit and Stationary Source Permit to Construct and Operate for the U.S. Navy Norfolk Naval Shipyard (Shipyard) Registration # 60326 for the Board's consideration.

The staff presentation included information on Board permit review processes, a summary of the project, an overview of the applicable permitting law and regulation, detailed information on the Department's preliminary determination on the permit (proposed emission limits, air quality analyses, BACT), and a summary of public comments and response. The staff presentation also included information on factors considered under § 10.1-1307 E of the Code of Virginia and environmental justice.

In summary, Mr. Dowd advised the Board that (i) the draft permit requires state of the art air pollution control technology, (ii) environmental risks faced by residents of area will not be worsened by proposed CHP plant and area's air quality will remain substantially cleaner than that of state as a whole, (iii) air modeling indicates emissions from the proposed CHP plant will not result in a statistically significant negative effect to existing air quality, and (iv) no data indicate CHP plant would impose any disproportionate adverse environmental or health impacts on surrounding area.

The Board then heard from Captain Butler and other representatives of the Shipyard who made brief comments on the draft permit and responded to questions from the Board. The Board then received comments from Narissa Turner, Lauren Landis, Darya Minovi, Bob Albertini, Ariel Solaski, Tess Amoruso, Mary Finley-Brook, Ralph Grove and Lynn Godfrey. Captain Butler returned to make additional comments; and he and other representatives of the Shipyard answered additional questions from the Board.

After hearing public comment and asking additional questions, the Board requested staff recommendations on the draft permit.

Staff Recommendations: Mr. Dowd informed the Board that the staff based its recommendation to the Board on public comments received during the public comment period, explanations of the previously received comments, and information contained in the agency files; and presented the following staff recommendation:

The staff recommends that the Board, based on

- (1) the Board book material that contains a memorandum to the Board, a copy of the draft final permit, a track change copy of the permit engineering analysis, a list of commenters and a sampling of all written comments received; and a summary of and response to public comments;
- (2) the public comments made available to the Board;
- (3) the agency files on the draft permit, including the application for a permit;
- (4) public comments made at the Board meeting;
- (5) the staff presentation; and
- (6) Board discussions,

and based on consideration of the reasonableness of the activity involved and the regulations proposed to control it pursuant to § 10.1-1307E,

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 today; and
3. authorize the Director to issue the permit as approved by the Board.

The staff further recommends that the Board incorporate the above-referenced memorandum, permit engineering analysis, and response to comments into its decision to approve the permit.

Board Decisions: The Board then discussed and acted on the following motions regarding the draft permit:

Motion by Ms. Kapur, and seconded by Ms. Cupit, that the Board determine that the community impacted by the facility is an environmental justice community. The vote, recorded by roll call, was 6 - 0.

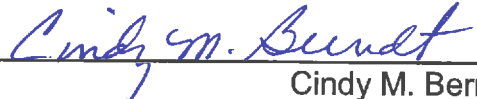
Motion by Ms. Rijal, and seconded by Mr. Langford, that the Board conclude, after considering the competing evidence received from the applicant, the Department, and the public comment and resolving the conflicts by vote, that particulate matter emitted from the facility does not have a disproportionate impact on the environmental justice community. The vote, recorded by roll call, was 5 - 0 with Ms. Cupit abstaining

Motion by Mr. Langford, and seconded by Ms. Kapur, that based on competing evidence received from the applicant and agency and public comment, conclude that air emissions from the facility will have no disproportionate impact on an environmental justice community. The vote, recorded by roll call, was 6 - 0.

Motion by Mr. Langford, and seconded by Ms. Rijal, that the Board conclude, in light of the facts presented to the Board, that the provisions of § 10.1-1307 E of the Code of Virginia have been met and complied with. The vote, recorded by roll call, was 4 - 2 with Mr. Langford, Dr. Tompkins, Ms. Kapur, and Ms. Rijal voting aye and Mr. Hoagland and Ms. Cupit voting no.

The Board then, on a motion made by Mr. Langford and seconded by Dr. Tompkins, approved the staff recommendations. The vote, recorded by roll call, was 5 - 1 with Ms. Cupit voting no.

Minute No. 4 - Future Meetings: The Board confirmed April 23, June 25, September 27 and December 3, 2021, as the dates of their future meetings.


Cindy M. Berndt

(Note: Due to the length of time spent on the permit action, the following items on the agenda were not brought up: High Priority Violators Report, Director/Division Director Report, Public Engagement Committee Update, Board Member/Public Communications Discussion, and Public Forum.)

*Approved Minute No. 2
April 23, 2021*