



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 East Main Street, Suite 1400, Richmond, VA 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

STATE WATER CONTROL BOARD MEETING

THURSDAY, JUNE 27, 2019

DOUBLETREE BY HILTON RICHMOND AIRPORT

445 INTERNATIONAL CENTER DRIVE

SANDSTON, VIRGINIA 23150

Board Members Present:

Heather L. Wood, Chair

G. Nissa Dean

James A. Lofton

Robert H. Wayland, III

Timothy G. Hayes

Paula H. Jasinski

Board Members Absent:

Lou Ann Jessee-Wallace, Vice-Chair

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 10:03 a.m. The Board voted to go into closed session at 11:41 a.m. The Board returned to open session and certified closed session discussions at 2:04 p.m. The meeting was adjourned at 3:41 p.m.

Approved Minute No. 1
September 6, 2019



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 East Main Street, Suite 1400, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov


Matthew J. Strickler
Secretary of Natural Resources

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

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019

MINUTE NO. 1 - Minutes

The Board approved the minutes of the meetings on December 13, 2018, March 1, 2018, and April 15, 2019.


Cindy M. Berndt



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

**EXCERPT FROM THE PROCEEDINGS OF THE STATE
WATER CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019**

**MINUTE NO. 2 – Virginia Pollutant Discharge Elimination System Regulation 2019
Legislation Amendment**

Prior to the meeting the Board was provided materials including a briefing memo, the regulation showing proposed amendments, and the town hall agency background document. Melanie Davenport, Water Permitting Director provided the legislative language and the revisions to 9VAC25-31-250.

Board Decision

Based on the briefing material and the staff presentation, the Board voted to adopt the amendment to 9VAC25-31-250. The Board also affirmed that they will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of the regulations, as provided by the Administrative Process Act.

Handwritten signature of Melanie D. Davenport in blue ink.

Melanie D. Davenport
Director, Water Permitting Division



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

**EXCERPT FROM THE PROCEEDINGS OF THE STATE
WATER CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019**

**MINUTE NO. 3 – Virginia Water Protection Permit Program Regulation – 2019
Legislation Amendment**

Prior to the meeting the Board was provided materials including a briefing memo, the regulation showing proposed amendments, and the town hall agency background document. Melanie Davenport, Water Permitting Director provided the legislative language and the revisions to 9VAC25-210.

Board Decision

Based on the briefing material and the staff presentation, the Board voted to adopt the amendments to 9VAC25-210. The Board also affirmed that they will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of the regulations, as provided by the Administrative Process Act.



Melanie D. Davenport
Director, Water Permitting Division



COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219
P.O. Box 1105, Richmond, Virginia 23218
800-592-5482
www.deq.virginia.gov

Mathew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
804-698-4000

**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT
ITS MEETING OF JUNE 27, 2019**

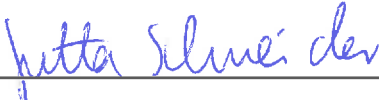
**MINUTE NO. 4 - Final Regulation: Ground Water Withdrawal Regulation - Technical
Amendments**

Melissa Porterfield presented the State Water Control Board (Board) with a final exempt amendment to the Groundwater Withdrawal Regulations (9VAC25-610). This regulation is being modified to correct a statutory citation in 9VAC25-610-360.

Board Decision

Based on the briefing materials and the staff presentation, the Board voted unanimously to accept the staff recommendation to:

- Adopt the amendment to the Groundwater Withdrawal Regulations (9VAC25-610) as presented and directed the agency to make the regulation effective as soon as possible; and
- Affirm that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

 7/1/19

Jutta Schneider
Division of Water Planning



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019

MINUTE 5 — James River Chlorophyll Water Quality Criteria Amendments

Prior to the staff presentation, Ms. Jasinski recused herself due to prior involvement in the James River Chlorophyll Study. Mr. John Kennedy, Director of the Office of Ecology, then introduced the presentation to the Board regarding final recommended amendments to the James River Chlorophyll Criteria and Assessment Method in Virginia's Water Quality Standards Regulation (9 VAC 25-260-310 (bb)). The Board was given a brief background on the James River Chlorophyll Study, with the primary purpose of examining the scientific defensibility of the criteria and their assessment methodology and to develop alternatives if deemed necessary.

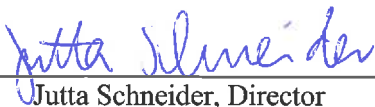
Dr. Tish Robertson then provided details on the criteria derivation, the revisions to the seasonal mean criteria and the new short-duration, summer-only criteria, as well as improvements to the assessment methodology. In response to a question from Mr. Lofton, Dr. Robertson explained the protectiveness of the criteria regarding "back-to-back" seasonal mean exceedances and the additional lines of evidence that would be examined to render an appropriate assessment determination for the aquatic life use.

Mr. Kennedy then completed the presentation, describing the improved water quality model developed for the James River and nutrient loading scenarios that had been run; a summary of the comments received during the Notice of Public Comment which ran from 1/21/19 – 3/22/19, along with the DEQ responses; and, the certification received from the Attorney General's Office that the Board had the authority to adopt the amendments. Nine speakers then addressed the Board, representing seven wastewater treatment facilities/authorities and VAMWA, along with two environmental organizations, supporting the amendments and thanking the Board and DEQ for the public involvement afforded throughout the study and rulemaking.

Decision:

Based upon the information provided to the Board and the staff recommendation, the Board approved, by a vote of 5-0 (with Ms. Jasinski recused and Ms. Jessee-Wallace absent), the following action:

- Adopt the final amendments to the Water Quality Standards Regulation at 9 VAC25-260-310 (bb), James River chlorophyll criteria and assessment method, as presented.



Jutta Schneider, Director

Division of Water Planning



Date



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 East Main Street, Suite 1400, Richmond, VA 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019

MINUTE NO. 6 – TOTAL MAXIMUM DAILY LOADS (TMDLS)

Kelly Meadows, Watershed Programs, presented three Total Maximum Daily Load (TMDL) reports, with twenty new and three revised waste load allocations for Board approval and amendment to the Water Quality Management Planning Regulation.

The proposed actions pertain to water bodies in the Potomac-Shenandoah River Basin, James River Basin, and Rappahannock River Basin. The TMDL reports included the following:

1. Revision of the Benthic Total Maximum Daily Load (TMDL) Developed for the Blacks Run and Cooks Creek Watershed Located in the City of Harrisonburg and Rockingham County
2. Bacteria and Sediment Total Maximum Daily Load (TMDL) Development for the James River and Tributaries Located in Botetourt and Craig Counties Virginia
3. Bacteria Total Maximum Daily Load (TMDL) Development for the Rappahannock River and Tributaries Located in Caroline, Essex, King George, Richmond, and Westmoreland Counties Virginia

Board Decision:

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

1. Approve the three TMDL reports for inclusion into the Water Quality Management Plan, and
2. Adopt the corresponding twenty new and three revised TMDL waste load allocations into the Water Quality Management Planning Regulation and affirm that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

A handwritten signature in cursive script that reads "Jutta Schneider".

Jutta Schneider
Director, Water Planning Division



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482


EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019

MINUTE NO. 7 – Significant Noncompliance Report

Jeffery Steers, Interim Enforcement Director, informed the Board that two permittees were reported to EPA on the Quarterly Noncompliance Report as being in significant noncompliance for the quarter ending December 31, 2018. The permittees reported were:

1. Town of Front Royal for the Front Royal WWTP
2. Halifax County Service Authority for the Maple Ave WWTP

The Board accepted the report with no comment.



Jeffery A. Steers
Interim Director
Division of Enforcement



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019

MINUTE 8 – Living Shorelines Loan Program Guidelines and Local Plan Guidelines Revisions

Ms. Karen Doran, Program Manager of the Department's Clean Water Financing and Assistance Program (the Program), made a presentation to the Board based on a memorandum dated May 15, 2019. The memorandum discussed the recent legislation expanding eligibility of the Living Shorelines Loan Program and Local Plan to include loans from a local program to businesses located within a locality that is in the Rural Coastal Virginia Community Enhancement Authority and is a bed-and-breakfast, campground, restaurant, or has a working waterfront. The memorandum also outlined the staff determination of the need to revise the Living Shorelines and Local Plan Guidelines to incorporate the change.

Ms. Doran explained to the Board that the revised guidelines were presented to the public for a 30-day public comment period from May 13 to June 12, 2019 and no comments were received. Ms. Doran recommended the Board approve the revised guidelines.

Board Decision: The Board voted unanimously to approve the revised Living Shorelines Loan Program and Local Plan Guidelines.

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

Valerie Thomson
Director of Administration



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019

MINUTE 9 – Agricultural Best Management Practice Loan Program Guidelines Revisions

Ms. Karen Doran, Program Manager of the Department's Clean Water Financing and Assistance Program, made a presentation to the Board based on a memorandum dated May 15, 2019. The memorandum discussed the recent legislation expanding the list of eligible applicants, allowing for grants to producers, and expanding eligible practices to include renovation, improvement or equipping of facilities and riparian buffers planted in trees. The memorandum also outlined the staff determination of the need to revise the Agricultural Best Management Practice (BMP) Loan Program Guidelines to incorporate the changes.


Ms. Doran explained that during the drafting of the revisions to the guidelines, DEQ reached out to several key stakeholders that provided an integral role in the implementation of the program. Based on their input, DEQ produced the first draft of the revised guidelines. The draft guidelines were then provided to a larger stakeholder group including Virginia Farm Bureau, Natural Resources Conservation Service, Virginia Dairyman's Association, Virginia Cattleman's Association, Virginia Association of Soil and Water Conservation Districts, Agribusiness Council, Grain Producers Association, Poultry Federation, Farm Service Agency, and the Virginia Cooperative Extension. Stakeholder comments were discussed and resolved during a stakeholder meeting held on April 12, 2019. DEQ incorporated stakeholder input and made additional revisions to the guidelines.

Ms. Doran explained to the Board that the revised guidelines were presented to the public for a 30-day public comment period from May 13 to June 12, 2019 and a total of four communications were received. Ms. Doran provided the Board with a one-page summary of the comments and DEQ responses and a four-page document with full comments and DEQ responses. Ms. Doran then summarized the comments and responses for the Board. Several comments requested additional practices be included in the list of eligible practices and Ms. Doran explained that DEQ has established a process and plans to evaluate each proposed practice in accordance with federal and state requirements. A number of other comments received had previously been provided by the stakeholders during the initial drafting period and had already been evaluated and addressed by DEQ. The remainder of the comments were requests for clarification or were related to the internal application process and no changes were made to the guidelines.

Two commenters expressed a concern that the new incentives offered by the Loan Program may pose tax liability for producers. DEQ researched this concern and identified IRS Publication 225, the Farmer's Tax Guide, as a resource for producers when evaluating tax liability. As a result, one change was made to Page 3 of the guidelines and this statement was added, "Loan applicants should consult IRS Publication 225 – Farmer's Tax Guide and a tax professional about potential tax liability associated with accepting principal forgiveness." Ms. Doran provided a copy of the proposed change to the Board.

Ms. Doran recommended the Board approve the revised guidelines including the amendment regarding tax liability.

Board Decision: The Board voted unanimously to approve the revised Agricultural BMP Loan Program Guidelines.



Valerie Thomson
Director of Administration



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019

MINUTE NO.10 — Water Planning Division Director's Report

The Board received an update from Ms. Jutta Schneider, Water Planning Division Director, on the Board's request from its April 15, 2019 meeting to develop, as part of the water quality standards triennial review, numeric standards for turbidity, consider development of turbidity standards a priority, and provide updates to the Board (Minute No. 7).

Ms. Schneider's report included an overview of the steps taken by the Department to date, as well as a summary of the typical triennial review process. Ms. Schneider also highlighted some of the technical and procedural challenges posed by the request in the absence of EPA recommendations for turbidity criteria, and answered questions about timing and potential resource needs. The Board will be provided with another update at its next meeting.

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

Jutta Schneider, Director
Water Planning Division



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 East Main Street, Suite 1400, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

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

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019

MINUTE NO. 11 - Closed Session

The Board, on a motion by Mr. Wayland and a second by Mr. Hayes, voted to go into a closed meeting pursuant to Section 2.2-3711(a)(7) of the Code of Virginia for consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation and Section 2.2-3711(a)(8) consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by counsel, concerning:

(1) the complaint filed by the Attorney General's Office in the Circuit Court of Henrico County on behalf of the Department of Environmental Quality and the State Water Control Board against Mountain Valley Pipeline, LLC.; and

(2) advice of counsel regarding the formal complaint against Mountain Valley Pipeline, LLC filed by Wild Virginia, Inc., Indian Creek Watershed Association, Preserve Craing, Inc., Neal J. Laferriere and Betty B. Werner with the Federal Energy Regulatory Commission.

The vote was unanimous.

Upon returning from the closed meeting, Mr. Wayland moved, and Mr. Hayes seconded, that the board end its closed meeting and certify that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the board.

Ms. Berndt called the roll and each member voted aye.

A handwritten signature in blue ink that reads "Cindy M. Berndt".

Cindy M. Berndt



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER
CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019**

MINUTE NO. 12 – Water Permitting Division Director Report

The Board received a report from Ms. Melanie Davenport, Water Permitting Division Director, on the status of the Mountain Valley Pipeline. As directed by the Board in April, 2019, Ms. Davenport provided an overview on construction activity, compliance and complaints received.


Melanie D. Davenport



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 East Main Street, Suite 1400, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov


Matthew J. Strickler
Secretary of Natural Resources

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

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019

MINUTE NO. 13 - Public Forum

The following persons appeared during the public forum to present concerns, complaints and requests for stop work orders and support for the complaint filed by Wild Virginia et. al. with the Federal Energy Regulatory Commission regarding the Mountain Valley Pipeline: David Sligh, Tina Badger, Tammy Belinsky, Neal LaFerriere, Mara Robbins, Jessica Sims, Emily Satterwhite, Freeda Cathcart, Coles Terry, Kathy Chandler, Roberta Bondurant, Eleanor Amidon, Michael Keegan, Peter Anderson, George Smith, Crystal Mello, Christiane Riederer, and Sharon Ponton


Cindy M. Berndt
Cindy M. Berndt



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 East Main Street, Suite 1400, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov


Matthew J. Strickler
Secretary of Natural Resources

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

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019

MINUTE NO. 14 - Future Meetings

The Board confirmed September 6 and December 13, 2019, as the dates of the next Board meetings.



Cindy M. Berndt



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 East Main Street, Suite 1400, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

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

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 27, 2019

MINUTE NO. 15 - Wild Virginia et al. - Mountain Valley Pipeline Complaint to Federal Energy Regulatory Commission (FERC)

The Board reported that the complaint filed with FERC by Wild Virginia, Inc., Indian Creek Watershed Association, Preserve Craig, Inc., Neal Laferriere and Betty B. Werner regarding the Mountain Valley Pipeline project had not been docketed and that the Board would monitor FERC's actions on the complaint.


Cindy M. Berndt
Cindy M. Berndt