



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
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STATE WATER CONTROL BOARD MEETING

THURSDAY, DECEMBER 13, 2018

**HOUSE COMMITTEE ROOM
POCAHONTAS BUILDING
900 EAST MAIN STREET
RICHMOND, VIRGINIA 23219**

Board Members Present:

Heather L. Wood, Chair
Robert H. Wayland, III
Timothy G. Hayes
Paula H. Jasinski

Lou Ann Jessee-Wallace, Vice-Chair
G. Nissa Dean
James A. Lofton

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., recessed at 11:36 a.m., reconvened at 11:45 a.m., recessed at 1:00 p.m., reconvened at 1:54 p.m., and was adjourned at 3:14 p.m.

Approved Minute No. 1
Jan 27, 2019



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON DECEMBER 13, 2018

MINUTE NO. 1 - Election of Officers

The Board, on a motion by Mr. Wayland and seconded by Ms. Wallace, unanimously elected Heather L. Wood as Chair.

The Board, on a motion by Mr. Hayes and seconded by Ms. Dean, unanimously elected Lou Wallace as Vice-Chair.


Cindy M. Berndt



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MINUTE NO. 2 - Minutes - August 21, 2018 Meeting

Ms. Berndt advised the Board that action on the Minutes from the Board's August 21, 2018, meeting had been deferred due to a question raised by Ms. Kellam. The question concerned the accuracy of the wording in Minute No. 6 of Mr. Wayland's motion regarding modifying or revoking certification of Nationwide Permit 12 as it relates to the Atlantic Coast Pipeline and Mountain Valley Pipeline projects. Ms. Berndt informed the Board that the meeting records had been reviewed and the wording of the motion stated in Minute No. 6 was correct.

Based on that information, the Board unanimously approved the minutes from the August 21, 2018, meeting.



Cindy M. Berndt



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MINUTE NO. 3 - Minutes - September 20, 2018 Meeting

The Board unanimously approved the minutes from the September 20, 2018, meeting.

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

Cindy M. Berndt



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MINUTE NO. 4 - Virginia Pollutant Discharge Elimination System General Permit Regulation for Discharges Resulting From the Application of Pesticide to Surface Waters (9VAC25-800)

Prior to the meeting the Board was provided materials including a briefing memo to the Board, which included a list of the technical advisory committee membership, the regulation showing proposed amendments, and the town hall agency background document. Peter Sherman, from the Office of VPDES Permits, presented a summary of the significant changes to the regulation since proposal.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously to authorize the amendment and reissuance of the VPDES Pesticide General Permit, 9VAC25-800. 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.

A handwritten signature in blue ink that reads "Melanie D. Davenport".

Melanie D. Davenport
Director, Division of Water Permitting



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MINUTE 5 — Freshwater Ammonia Water Quality Standards Amendments

Mr. John Kennedy, Director of the Office of Ecology, made a presentation to the Board regarding final recommended amendments to the freshwater ammonia criteria in Virginia's Water Quality Standards Regulation (9 VAC 25-260-155). The ammonia criteria amendments, which are essentially twice as stringent as the current criteria, were separated from the most recent Triennial Review (begun in 2013) with the Board's approval on 1/14/16 (along with bacteria, cadmium and 94 human health criteria). This was to allow additional time to consider and address significant public comments received on potential difficulties in implementing the new criteria and fiscal impact on permitted dischargers. A second deferral on the ammonia criteria was approved by the Board at their 8/21/18 meeting to allow time for DEQ to incorporate the General Assembly's mandate that a Phased Implementation Program (PIP) accompany the adoption of the amended criteria.

The Board was given a background on the new criteria recommended by the Environmental Protection Agency, the reason for increased stringency (protection of sensitive mussels and snails that had been added to the toxicity database) and the content of the PIP. A single "change since proposed" on the final criteria was presented, which was inclusion of a 4-day average chronic criterion in response to a comment from EPA. It was explained that research indicates this is not a significant change in terms of impact on permitted dischargers or additional assessments of state waters as "impaired".

A summary was given of the public comments received during the second review period (8/6 – 10/5/2018), which focused mostly on the additional provisions of the Phased Implementation Program, along with the staff responses to comments. Several "changes since proposed" were described, which made reasonable accommodation of comments on the PIP's implementation schedule and size classes of affected industrial and municipal treatment facilities.

The Board then heard from several speakers representing municipal wastewater authorities who generally supported the proposed amendments, in particular the inclusion of the PIP, and a citizen environmental organization that encouraged implementation and compliance with the new criteria as soon as possible.

Decision:

Based upon the information provided to the Board and the staff recommendation, the Board approved, by a vote of 6-1 (with Chair Heather Wood dissenting), the following actions:

- Adopt the proposed amendments to the freshwater ammonia criteria for the protection of aquatic life, 9 VAC 25-260-155, as presented.
- Directed the staff to express throughout implementation of the amendments the Board's sense of urgency for compliance.

Jutta Schneider

Jutta Schneider, Director
Division of Water Planning

6/13/2019

Date



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MINUTE NO. 6 - Polychlorinated Biphenyls (PCBs) - Total Maximum Daily Loads (TMDLs)

Ms. Jutta Schneider, Director of the Water Planning Division, provided background information on polychlorinated biphenyls (PCBs): what they are and how they were used. She also discussed total maximum daily load (TMDL) development, including determinations of endpoints, source assessment and TMDL implementation.


Cindy M. Berndt



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MINUTE NO. 7 – TOTAL MAXIMUM DAILY LOADS (TMDLS)

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

The proposed actions pertain to water bodies in the Chesapeake Bay – Small Coastal – Eastern Shore River Basin and New River Basin. The TMDL reports included the following:

1. Total Maximum Daily Load for Bacteria and a Proactive Approach for Dissolved Oxygen Impairment for Rudee Inlet, Virginia Beach, Virginia
2. PCB Total Maximum Daily Load Development for Reed Creek the Upper New River, Peak Creek, Walker Creek, Stony Creek, and the Lower New River

Board Decision:

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

1. Approve the two TMDL reports for inclusion into the Water Quality Management Plan,
2. Adopt the corresponding seven new 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 blue ink that reads "Jutta Schneider".

Jutta Schneider
Director, Water Planning Division



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MINUTE NO. 8 – Significant Noncompliance Report

Kristen Sadtler, 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 June 30, 2018. The permittee reported was:

1. City of Franklin for the Franklin Wastewater Treatment Plant

The Board accepted the report with no comment.

A handwritten signature in cursive script that reads 'Kristen Sadtler'.

Kristen Sadtler
Water Enforcement Program Manager
Division of Enforcement



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MINUTE NO. 9 – VWP Program Consent Special Order

Justin Williams, Interim Enforcement Division Director, presented to the Board the Consent Order for Piedmont Neighborhoods LP. The Board unanimously approved the Order and further authorized the Department's Director to execute the Order and further authorized the Department's Director to execute the Order on the Board's behalf and refer violations of the Order to the Office of the Attorney General for appropriate legal action.

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

Justin Williams
Interim Enforcement Director
Division of Enforcement



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MINUTE NO. 10 - Public Forum

The following persons appeared during the public forum to present concerns, complaints and requests for stop work orders regarding the Mountain Valley Pipeline: Mark Barker, Craig Stevens, Kirk Bowers, Freeda Cathcart, Mara Robbins, Tammy Belinsky, Thomas Adams, Roberta Bondurant, Tina Smusz, Lynda Majors, Joshua Vana, Tina Badger, Mary Ann Capp, Deborah Kushner, Kira Young, Tracy Cannon, Marilyn Karp, Victoria Ronnau, Tom Burkett, and Jim West.

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

Cindy M. Berndt



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MINUTE 11 – FY 2019 VCWRLF Loan Authorizations

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 November 15, 2018. The memorandum identified the loan amounts, terms, and interest rates for 12 projects being recommended by staff for FY 2019 Virginia Clean Water Revolving Loan Fund (the Fund) assistance.

Ms. Doran began her presentation by providing a brief overview of the Clean Water Financing and Assistance Program and the Virginia Clean Water Revolving Loan Fund. Ms. Doran then summarized the FY 2019 application process for 12 projects targeted for a total of \$100,975,323 in assistance from the Fund. She explained that she had met with all of the potential FY 2019 loan recipients to verify the schedules and financial data used to evaluate the local impact and that staff had completed its user charge impact analyses for the targeted recipients in order to establish the interest rates in accordance with Board guidelines. She stated that a public meeting on the proposed funding list was held on November 7, 2018 and no comments were received.

Ms. Doran explained that all the interest rate analyses have been finalized in accordance with 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, and, as approved by the Board in previous years, staff recommended revisions to the ceiling rates and term options offered to borrowers whose project type and impact to user rates resulted in a ceiling rate based on the Board's Guidelines. Based on consultation with the Virginia Resources Authority (VRA), she stated that the staff was recommending that the ceiling rate calculation vary depending on the term of the loan.

Board Decision: The Board voted unanimously to authorize the execution of loan agreements for the applicants, 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% (150 basis points) below market, 25 year ceiling loan rates be 1.25% (125 basis points) below market, and 30 year ceiling loan rates be 1.0% (100 basis points) 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 favorable financial capability analysis reports and supporting recommendations from VRA.

FY 2019 Proposed Interest Rates and Loan Authorizations

	<i>Applicant</i>	<i>Loan Amount</i>	<i>Rates & Loan Terms</i>
1	City of Lynchburg	\$1,500,000	0%, up to 20 years
2	City of Covington	\$5,708,000	0%, up to 20 years
3	City of Norfolk	\$10,000,000	0%, up to 20 years
4	Town of Tazewell	\$10,656,046	0%, up to 25 years
5	Town of Honaker	\$1,152,736	0%, up to 25 years
6	Harrisonburg/Rockingham RSA	\$37,524,000	CR, up to 30 years
7	Lee County PSA	\$1,156,300	0%, up to 25 years
8	Wise County PSA	\$815,441	0%, up to 20 years
9	Alexandria Renew Enterprises	\$9,400,000	CR, up to 25 years
10	The Nature Conservancy (land conservation)	\$20,125,000	3%, up to 20 years
11	James City County (living shoreline)	\$2,687,800	CR, up to 20 years
12	Middle Peninsula PDC (living shoreline)	\$250,000	0%, up to 15 years
	Total Request	\$100,957,323	CR= Ceiling Rate



Valerie Thomson
 Director of Administration



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MINUTE NO. 12 - Division Director Report

The Board received an update from Ms. Jutta Schneider, Water Planning Division Director, on the groundwater withdrawal permitting initiative for poultry facilities on the Eastern Shore. Ms. Schneider provided status information on the facilities covered by consent special orders approved by the Board at the September 2018 meeting and reviewed the next steps to be taken by the Department to draft and process permits.



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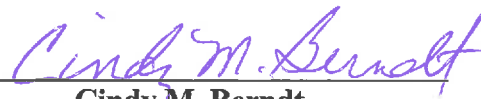
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MINUTE NO. 13 - Atlantic Coast Pipeline - Report to Board and Pipelines Updates

The Board received a presentation from Mr. James J. Golden, Director of Regional Operations, on the Section 401 Water Quality Certification issued to Atlantic Coast Pipeline, LLC Report to the Board on the Karst Mitigation Plan [Supplemental Karst Evaluation Plan], Annual Standards and Specifications, and Erosion and Sediment Control Plans and Stormwater Management Plans dated October 19, 2018.

Mr. Jerome Brooks, Office of Water Compliance, presented updated information on the status and compliance of the Atlantic Coast Pipeline and Mountain Valley Pipeline Projects.


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MINUTE NO. 14 - Mountain Valley Pipeline Project

The Board voted to go to notice and hearing to discuss revocation of the Section 401 Water Quality Certification for upland activities associated with the Mountain Valley Pipeline. The vote was 4 to 3 (Messrs. Wayland and Lofton, Ms. Dean and Ms. Jasinski voted aye. Ms. Wood, Ms. Wallace and Mr. Hayes voted nay.)


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MINUTE NO. 15 - Future Meetings

No dates for future meetings were confirmed at this meeting.



Cindy M. Berndt