



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

MONDAY, JUNE 29, 2020

ELECTRONIC COMMUNICATION MEETING

Board Members Present:

Heather L. Wood, Chair
Lou Ann Jessee-Wallace, Vice-Chair
Robert H. Wayland, III
Timothy G. Hayes (arrived at 10:13 a.m.)
Paula H. Jasinski
Jillian Cohen

Board Members Absent:

James A. Lofton

Department of Environmental Quality:

David K. Paylor, Director
Cindy M. Berndt
Debra A. Harris

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 10:01 a.m., recessed at 10:12 a.m., reconvened at 10:23 a.m., recessed at 12:10 p.m., reconvened at 12:43 p.m., recessed at 3:25 p.m., reconvened at 3:35 p.m., and adjourned at 4:00 p.m.
- 3) The Board convened the meeting electronically, consistent with Governor Ralph Northam's Executive Order No. 51 (2020), Item 4-0.01 g of Chapter 1283 of the 2020 Acts of Assembly and the applicable provisions of § 2.2-3708.2 of the Freedom of Information Act. The meeting was necessary for the Board to discharge its lawful purposes, duties, and responsibility; but it is impracticable or unsafe for the Board to assemble in a single location due to the declaration of a state of emergency for COVID-19.

Approved Minute No. 1
Sept. 24, 2020



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 29, 2020

MINUTE NO. 1 - Minutes

The Board approved the minutes of the meeting on December 13, 2019. (Vote was 5 - 0 - 0 and was taken by roll call: Mr. Wayland, Ms. Jasinski, Ms. Cohen, Ms. Wallace and Ms. Wood voted aye, no nays and no abstentions.)


Cindy M. Berndt
Cindy M. Berndt



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE
WATER CONTROL BOARD AT ITS MEETING ON JUNE 29, 2020**

**MINUTE NO. 2 – Virginia Pollutant Discharge Elimination System Permit Regulation
(VPDES) 9VAC25-31 Final Exempt Amendments**

Prior to the meeting the Board was provided materials including a briefing memo, the regulation showing final exempt amendments and the town hall agency background document. Elleanore Daub, from the Office of VPDES Permits, presented a summary of the significant changes to the regulation. The Board was advised that the Environmental Protection Agency had not approved the amendments and the regulation would not be filed with the Register until such letter had been received.

Board Decision

The Board approved the staff recommendation to adopt the amendments to the Virginia Pollutant Discharge Elimination System (9VAC25-31) as amended and presented and affirmed that the Board will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of this regulation, as provided by the Administrative Process Act, by a roll call vote of six to zero.

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

Melanie D. Davenport
Director, Water Permitting Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING OF JUNE 29, 2020**

MINUTE NO. 3 - Occoquan Policy (9VAC25-410) Amendments - Adoption

Melissa Porterfield presented the State Water Control Board (Board) with a final exempt amendment to the Occoquan Policy (9VAC25-410) regulation. This regulation is being modified to correct citations in §§ 10 and 20, correct the name of a regulation in §20, and correct the name of the UOSA, formerly known as the Upper Occoquan Sewage Authority, to the current name of Upper Occoquan Service Authority.

Board Decision

Based on the briefing materials and the staff presentation, the Board voted by a roll call vote of 6 (Wayland, Hayes, Jasinski, Cohen, Wallace, Wood) to 0 to approve the staff recommendation to:

- Adopt the amendment to the Occoquan Policy (9VAC25-410) regulation 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.

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

Melanie D. Davenport
Director, Water Permitting Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE
WATER CONTROL BOARD AT ITS MEETING ON JUNE 29, 2020**

**MINUTE NO. 4 – Virginia Pollutant Discharge Elimination System General Permit
Regulation for Discharges of Domestic Sewage of Less Than or Equal to 1,000 Gallons Per
Day (9VAC25-110)**

Prior to the meeting the Board was provided materials including a briefing memo, 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 proposed changes to the regulation.

Board Decision

Based on the briefing material and the staff presentation, a vote was taken by roll call and the Board unanimously approved the staff recommendations to authorize a public comment period and public hearing for amendment and reissuance of the VPDES Domestic Sewage General Permit (9VAC25-110), and to authorize the staff to serve as hearing officer for the public hearing, by a vote of six to zero.


Melanie D. Davenport
Director, Water Permitting Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE
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**MINUTE NO. 5 – General Virginia Pollutant Discharge Elimination System (VPDES)
Permit for Seafood Processing Facilities (9VAC25-115)**

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

Board Decision

Based on the briefing material and the staff presentation, a vote was taken by roll call and the Board approved the staff recommendations to authorize a public comment period and public hearing for amendment and reissuance of the General VPDES Permit for Seafood Processing Facilities (9VAC25-115), and to authorize the staff to serve as hearing officer for the public hearing, by a vote of six to zero.

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

Melanie D. Davenport
Director, Water Permitting Division



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**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON June 29, 2020**

**MINUTE NO. 6 – Actions on the proposed amendments to the Virginia Pollution
Abatement Regulation and General Permit for Poultry Waste Management**

Betsy Bowles, the State Animal Feeding Operations Program Coordinator with the Office of Land Application Programs presented the proposed amendments to the Virginia Pollution Abatement (VPA) Regulation and General Permit for Poultry Waste Management, 9VAC25-630 et seq. Ms. Bowles explained that this amendment would allow the existing Regulation and General Permit for Poultry Waste Management to be reissued for another 10 year term. The VPA Regulation and General Permit governs the management of poultry feeding operations which confine 200 or more animal units (20,000 chickens or 11,000 turkeys), and establishes utilization, storage, tracking and accounting requirements related to poultry waste, including that transferred from poultry feeding operations.

Mr. Robert Wayland asked if there are setback requirements when land applying poultry waste. Staff responded that yes, there are numerous setbacks but the distance depends upon the environmentally sensitive site.

Board Decision

The subsequent vote was taken by a roll call of the members of the Board. Ms. Jasinski recused herself from the discussion and vote.

Based upon the Board book briefing material and information provided by staff, the Board, on the motion by Mr. Timothy Hayes and seconded by Ms. Lou Ann Jessee-Wallace, voted 5-0, with Ms. Paula Hill Jasinski recusing herself, to accept the staff recommendation to:

1. Approve for public comment and hearing the proposed amendments to the Virginia Pollution Abatement Regulation and General Permit for Poultry Waste Management as presented, and
2. Authorize staff to act as the hearing officer,

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

Melanie D. Davenport
Director, Water Permitting Division



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 29, 2020

MINUTE 7 – TOTAL MAXIMUM DAILY LOAD REPORTS AND WASTE LOAD ALLOCATIONS

Kelly Meadows, Watershed Programs, presented two Total Maximum Daily Load (TMDL) reports with eleven 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 Potomac-Shenandoah River Basin and the James River Basin. The TMDL reports included the following:

1. A TMDL and Watershed Management Plan to Address Sediment in North Fork Catoctin Creek Located in Loudoun County, Virginia
2. Benthic TMDL Development for the North Fork Rivanna River Watershed and Tributaries Located in Albemarle, Greene, and Orange Counties

Board Decision:

Based on the briefing material and the staff presentation, the Board voted unanimously (6-0 by roll call; Wayland, Hayes, Jasinski, Cohen, Wallace, and Wood in favor, none opposed) to:

1. Approve the two TMDL reports for inclusion into the Water Quality Management Plan, and
2. Adopt the corresponding eleven 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.



Jutta Schneider
Director, Water Planning Division



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 29, 2020

MINUTE NO. 8 – Significant Noncompliance Report

Kristen Sadtler, Water Enforcement Program Manager, informed the Board that one new permittee was reported to EPA on the Quarterly Noncompliance Report as being in significant noncompliance for the quarter ending September 30, 2019. The permittee reported was:

1. Westrock CP LLC for the West Point Paper Plant.

Additionally, Kristen reported that there were no new facilities reported to EPA on the Quarterly Noncompliance Report as being in significant noncompliance for the quarter ending December 31, 2019.

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 – VPDES Program Consent Special Order

Kristen Sadtler, Water Enforcement Program Manager, presented to the Board the Consent Order for the City of Richmond. The Board took a vote by roll call and unanimously approved the Order by a vote of 6-0 (Wayland, Hayes, Jasinski, Cohen, Wallace, and Wood) 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 cursive script that reads "Kristen Sadtler".

Kristen Sadtler

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
June 29, 2020**

**MINUTE NO. 10: CHICKAHOMINY POWER GROUNDWATER
WITHDRAWAL PERMIT**

Scott Kudlas, Office of Water Supply, presented information to the Board regarding the groundwater withdrawal for the Chickahominy Power Plant located in Charles City County within the Eastern Virginia Groundwater Management Area. Mr. Kudlas referenced his December 13, 2019 presentation regarding the history of groundwater management in Virginia and some common geologic concepts and terms used within the groundwater management program. He reviewed the basic information associated with the proposed groundwater withdrawal including the limit of 7 years. Mr. Kudlas reviewed technical modeling conducted to evaluate the impact to the aquifer of the proposed withdrawal and the extent to which other existing wells may potentially be impacted. Mr. Kudlas identified the key questions evaluated during the application review process and the difference between a Withdrawal Permit and a Special Exception, including that the withdrawal was originally taken to public notice as a Special Exception. He reviewed key regulatory requirements of the evaluation criteria for permits in 9VAC25-610-110. Mr. Kudlas identified important permit conditions including a special condition that limits the withdrawal for a term not to exceed 7 years or completion of an interconnection to the New Kent County Public Water System, whichever comes first. Mr. Kudlas also noted that notwithstanding § 62.1-266 C of the Code of Virginia, or any provision of the Board's regulations, including 9VAC25-610-96, the permit will not be administratively continued under any circumstance. Mr. Kudlas reviewed the public involvement process, including several pre-public hearing public information sessions and the public hearing held for the proposed withdrawal. The public comment period was held from December 26, 2019 through February 14, 2020. There were 1,366 written comments received from 1,199 individuals/organizations during the comment period and 36 speakers commented during the public hearing held January 28, 2020 in Charles City County. Mr. Kudlas reviewed a summary of the comments received and the staff responses provided. The Board asked a number of

questions related to modeling, consideration of climate change in the model, potential impacts from the withdrawal on existing wells, environmental justice, and the change from a Special Exception to a Withdrawal Permit. Mr. Kudlas provided responses to these questions.

Following Board questions, the Board heard comment from Jef Freeman (Balico), Wanda Roberts, Steve Fuhrman, Kay Ferguson, Suzanne Keller, Evan Johns, Beth Kredaytus, Cynthia Robinson, Jorge Aguilar, Jessica Sims, Freeda Cathcart, Denise Bobadilla, Mary Finley-Brook, Barbara Adams, Suzanne Sandburg, Taylor Lilley, Stacy Lovelace, Betsie Pierotti, Benita Lewis, Rev. Henley, Kelsey Ryan, Gustava Angeles, La'Veesha Rollins. Mr. Kudlas provided responses to questions from the Board generated resulting from the public speakers. Mr. Kudlas presented the staff recommendation to the Board for consideration.

BOARD DECISION

Based on the Board Book materials, staff presentation, public comment, Board discussions, and agency files, the Board authorized the Director to issue the Groundwater Withdrawal Permit pursuant to Chapter 25 of Title 62.1 of the Code of Virginia (Ground Water Management Act of 1992) and § 62.1-44.15:02 P of the Code of Virginia. The Board adopted the motion to approve the permit in accordance with the staff recommendations and that the findings and conclusions of the staff recommendation will constitute the written finding that is required of the Board in § 62.1-44.15:02 P of the Code of Virginia. The motion was made by Mr. Hayes, seconded by Mr. Wayland, and approved unanimously (6 to 0) (Wayland, Hayes, Jasinski, Cohen, Wallace, Wood).



Jutta Schneider, Director

Water Planning Division



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MINUTE NO. 11- Chesapeake Bay Act Report

Mr. Justin Williams provided an overview of the Chesapeake Bay Preservation Act. He provided an overview of the statutory and regulatory requirements for the Tidewater Virginia localities subject to the requirements as well as Department compliance efforts on program reviews and addressing non-compliance.

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

Jutta Schneider
Director, Water Planning Division



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MINUTE NO. 12 - Future Meetings

The Board confirmed September 24 and December 9, 2020, as the dates of their next meetings.


Cindy M. Berndt
Cindy M. Berndt



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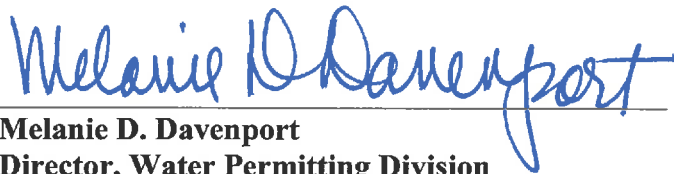
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MINUTE NO. 13 – Water Permitting Division Director’s Report

Ms. Melanie D. Davenport provided an update on the Mountain Valley Pipeline project. She (i) provided an update on the construction status of the project, (ii) reviewed the results of inspections conducted at the Sinking Creek Mountain area and Yellow Finch Lane, (iii) reviewed significant events that occurred during the current period including DEQ’s demand for stipulated penalties, (iv) provided compliance monitoring statistics, (v) reported common areas of concern observed by the inspectors, and (vi) provided complaint statistics.

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

Melanie D. Davenport
Director, Water Permitting Division