

**TENTATIVE AGENDA
STATE WATER CONTROL BOARD MEETING
THURSDAY, DECEMBER 2, 2004
HOUSE ROOM C, GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS
RICHMOND, VIRGINIA**

Convene - 9:30 A.M.

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NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions arising as to the latest status of the agenda should be directed to Cindy M. Berndt at (804) 698-4378.

PUBLIC COMMENTS AT STATE WATER CONTROL BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for their consideration.

For **REGULATORY ACTIONS (adoption, amendment or repeal of regulations)**, public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period and one public meeting) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period and one public hearing). Notice of these comment periods is announced in the Virginia Register and by mail to those on the Regulatory Development Mailing List. The comments received during the announced

public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For **CASE DECISIONS (issuance and amendment of permits and consent special orders)**, the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. If a public hearing is held, there is a 45-day comment period and one public hearing. If a public hearing is held, a summary of the public comments received is provided to the Board for their consideration when making the final case decision. Public comment is accepted on consent special orders for 30 days.

In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

REGULATORY ACTIONS: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for **final** adoption. At that time, those persons who participated in the prior proceeding on the proposal (i.e., those who attended the public hearing or commented during the public comment period) are allowed up to 3 minutes to respond to the summary of the prior proceeding presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration.

CASE DECISIONS: Comments on pending case decisions at Board meetings are accepted only when the staff initially presents the pending case decision to the Board for final action. At that time the Board will allow up to 5 minutes for the applicant/owner to make his complete presentation on the pending decision, unless the applicant/owner objects to specific conditions of this permit. In that case, the applicant/owner will be allowed up to 15 minutes to make his complete presentation. The Board will then, in accordance with § 2.2-4021, allow others who participated in the prior proceeding (i.e., those who attended the public hearing or commented during the public comment period) up to 3 minutes to exercise their right to respond to the summary of the prior proceeding presented to the Board. Those persons who participated in the prior proceeding and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes or 15 minutes, whichever is less. New information will not be accepted at the Board meeting. No public comment is allowed on case decisions when a FORMAL HEARING is being held.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than pending regulatory actions or pending case decisions. Anyone wishing to speak to the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentation to not exceed 3 minutes.

NEW INFORMATION will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in **rare** instances new information may become available after the close of the public comment period. To provide for consideration of

and ensure the appropriate review of this new information, persons who participated during the prior public comment period **shall** submit the new information to the Department of Environmental Quality (Department) staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. For a regulatory action should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, an additional public comment period may be announced by the Department in order for all interested persons to have an opportunity to participate.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Cindy M. Berndt, Director, Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, P.O. Box 10009, Richmond, Virginia 23240, phone (804) 698-4378; fax (804) 698-4346; e-mail: cmberndt@deq.virginia.gov.

Minutes: Approval of minutes from August 31, 2004 meeting.

Significant NonCompliance Report: Five major facilities were reported to EPA on the Quarterly Noncompliance Report (QNCR) as being in significant noncompliance (SNC) for the quarter ending June 2004. The facilities and their reported instances of noncompliance are as follows:

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|----------------------------|---|
| 1. Permittee/Facility: | Pepper's Ferry Regional Wastewater Treatment Authority, Pepper's Ferry Regional Wastewater Treatment Plant |
| Type of Noncompliance: | Failure to Meet Effluent Limit (Total Suspended Solids) |
| City/County: | Montgomery County, Virginia |
| Receiving Water: | New River |
| River Basin: | New River Basin |
| Impaired Water: | The segment of the New River where the treatment plant discharges is listed on the 303(d) report as impaired for fish consumption due to the presences of PCBs, DDE and DDT in fish tissue. The segment is also listed as a "water of concern" due to the presence of Heptachlor epoxide found in fish tissue. The source of the contaminants is unknown. |
| Dates of Noncompliance: | February 2004 |
| Requirements Contained In: | Consent Special Order |
| DEQ Region: | West Central Regional Office |

The facility is the subject of a consent special order, which was amended at the Board's August meeting. The amendment extended the schedule for completion of upgrade of the wastewater treatment plant, but eliminated the interim effluent limits contained in the order. The amendment's date for upgrade completion has been met. The effect of eliminating the interim effluent limits contained in the original order was that the Authority was required to revert to meeting more stringent Permit effluent limits, as of the date of the Amendment, rather than being relieved of the requirement to meet those stringent limits until completion of the plant upgrade, as would have been the case under the order's original schedule of corrective action.

The Authority indicated that the total suspended solids effluent limit violation was the result, in part, of disruptions to plant operations caused by plant upgrade activities.

2. Permittee/Facility Town of Abingdon, Wolf Creek Water Reclamation Facility
 Type of Noncompliance: Failure to Meet Effluent Limit (Total Chlorine)
 City/County: Abingdon, Virginia
 Receiving Water: Wolf Creek
 Impaired Water: Wolf Creek is listed on the 2004 303(d) report as impaired because of fecal coliform levels and because of moderate impairment of the benthic community in the creek. Additionally the creek is listed as “waterbody of concern” due to the presence of PCBs. The source of the PCB contamination is unknown. Urban and agricultural non-point sources are listed as the probable causes of the benthic impairment and high fecal coliform levels.

 River Basin: Tennessee/Big Sandy River Basin
 Dates of Noncompliance: December 2003 and January and April 2004
 Requirements Contained in: VPDES Permit
 DEQ Region: Southwest Regional Office

The Town has found it difficult to meet its chlorine effluent limits in part because of hydraulic overloading of the plant. In order to address this problem the Town is expanding the plant and switching from chlorine to ultraviolet disinfection. A consent special order which provides a deadline for completing these projects will be presented by the staff of the Southwest Regional Office at the December Board meeting, for the Board’s approval.

3. Permittee/Facility: Omega Protein Inc., Reedville Facility
 Type of Noncompliance: Failure to Meet Effluent Limits (Ammonia Nitrogen, Cyanide)
 City/County: Reedville, Virginia
 Receiving Water: Cockrell’s Creek
 Impaired Water: Cockrell’s Creek is listed on the 2004 303(d) report because of a VDH shellfish restriction, in effect since 1993. The cause of the contamination which lead to the restriction is unknown.

 River Basin: Chesapeake Bay
 Dates of Noncompliance: May and June 2004
 Requirements Contained In: VPDES Permit
 DEQ Region: Piedmont Regional Office

The staff of the Piedmont Regional Office are evaluating the violations and have had preliminary discussions with the corporation regarding the necessity of enforcement action to settle the violations.

4. Permittee/Facility: Tyson Chicken, Inc., Temperanceville Facility
 Type of Noncompliance: Failure to Meet Effluent Limit (Chronic Toxicity) and Unauthorized Discharge
 City/County Temperanceville, Virginia
 Receiving Water: Tributary to Sandy Bottom Branch
 Impaired Water: Both the tributary and Sandy Bottom Branch are listed on the 2004 303(d) report because of impairments to the water bodies’ benthic communities as

well as because of elevated levels of fecal coliform. In addition Sandy Bottom Branch is listed as impaired because of elevated levels of copper. The specific source of the elevated copper and benthic impairments is unknown, although copper is present in the facility's wastewater discharge and the corporation did violate its copper limits in June and July of this year. On-site sewage treatment systems at residences bordering Sandy Bottom Branch are a potential source of the elevated levels of fecal coliform, although the specific source of the impairment is unknown.

River Basin: Chesapeake Bay
Dates of Noncompliance: May and June 2004
Requirements Contained In: VPDES Permit and State Water Control Law
DEQ Region: Tidewater Regional Office

At a May 2004 inspection, staff from the Tidewater Regional Office noted an unauthorized discharge of process wastewater from the Facility's stormwater retention pond. In addition, the corporation reported that it had violated its Chronic Toxicity effluent limit in June of this year. Tidewater Regional Office staff are currently discussing the terms of a consent special order with Tyson. The order will address the referenced violations

5. Permittee/Facility: Massanutten Public Service Corporation/Massanutten Public Service Corporation Sewage Treatment Plant
Type of Noncompliance: Failure to Meet Compliance Schedule (End Construction)
City/County: McGaheysville, Virginia
Receiving Water: Quail Run
Impaired Water: Quail Run is listed on the 2004 303(d) report as impaired because of elevated levels of fecal coliform and because of severely impaired benthic ratings. The source of the impairment is the Massanutten treatment plant.
River Basin: Potomac & Shenandoah River Basins
Dates of Noncompliance: May 2003 through June 2004
Requirements Contained In: Consent Special Order
DEQ Region: Valley Regional Office

The Service Authority has completed construction of and is operating an upgraded treatment plant. The upgraded plant has been meeting final permit effluent limits since May of 2003. Upgrade of the plant is expected to result in improvement of water quality in Quail Run. However, due to a discrepancy between design and as-built plans and specifications, the Authority was unable to obtain final certification for the upgraded treatment units, and has therefore been unable to fully meet the order's requirements for completion of construction. In addition, wet weather flows over the course of the past eighteen months have indicated that the plant's collection system is subject to significant inflow and infiltration. The foregoing being the case, the staff of the Valley Regional Office presented to the Board, at its August meeting, an amendment to the order, which allows the Authority additional time to resolve its design plan discrepancies and which requires the Authority to address its infiltration and inflow problems. The Board approved the amendment and the Authority is meeting its requirements.

Town of Berryville, Consent Special Order w/ Civil Charges: The Town of Berryville owns and operates a sewage treatment plant ("the Facility") serving the Town of Berryville with approximately 3,000 residents in Clarke County, Virginia. The Town's sewage collection system receives excessive I&I which is causing the Facility's design capacity to be exceeded. The Facility's design capacity of 0.45 MGD has been exceeded in 12 months out of the last 19 months. In

addition, these excessive flows caused problems with the Facility's ability to convey all of the treated effluent to the permitted receiving stream. The Facility's permitted outfall is located at the end of a 3.9-mile long effluent line to the Shenandoah River. The Town found that the effluent line could not handle all of the excessive flows, causing the effluent to back up and discharge into Dog Run. Discharges to Dog Run are not authorized under the Permit. The Facility has also experienced CBOD and TSS effluent limitation violations. The proposed Order would require Berryville to take corrective action to improve the performance of the Facility, eliminate the unpermitted discharges to Dog Run and to initiate I&I corrective actions. Civil Charge: \$4,700

Ruxton Health Care X, LLC, Consent Special Order w/ Civil Charge: Ruxton Health Care X, LLC ("Ruxton") owns and operates the Ruxton Health at the Village Sewage Treatment Plant ("STP"). The STP was formerly owned by Fork Union Medical Investors, L.P. ("FUMI"). The STP is the subject of a VPDES Permit issued July 19, 1999 to FUMI. Pursuant to the VPDES Permit Regulation and the Permit, FUMI was required to submit a complete application for reissuance of the Permit on or before January 21, 2004. Based on FUMI's failure to submit the application for reissuance by January 21, 2004, DEQ issued a Warning Letter to FUMI on January 30, 2004. Based on FUMI's failure to respond to the Warning Letter, on February 25, 2004, DEQ issued a Notice of Violation to FUMI. On June 22, 2004, DEQ issued another Notice of Violation to FUMI citing effluent limitation and operational violations. Based on FUMI's continuing failure to apply for reissuance of the Permit, on July 19, 2004, the Permit expired. During a subsequent meeting, DEQ was advised that ownership of the STP had transferred from FUMI to Ruxton. Following its expiration, Ruxton applied for reissuance of the Permit. The Order requires Ruxton to complete a set of corrective actions to return the STP to compliance with the Permit. The cost of injunctive relief is estimated at \$3,000. Civil Charge: \$7,100.

City of Bedford Sewage Treatment Plant, Consent Order: The City of Bedford operates a wastewater treatment plant rated at 1.5 MGD on the Little Otter River. In recent years, the City has experienced problems with overflows in its wastewater collection system during wet weather. In June 2003, the City completed a multi-phased sewer system upgrade that included expansion of the Plant, upgrades to the three main pump stations, and rehabilitation of major portions of the wastewater collection system. Construction of the Plant upgrade began in the fall of 1999 and was completed in the spring of 2001. The pump station upgrades began in the fall of 2001 and were completed in June 2002. The collection system rehabilitation included replacement or lining of 47,500 linear feet of sewer line (representing 20% of the entire amount of sewer main in the system) and replacement or repair of over 300 manholes. The sewer system rehabilitation project began in October 2001 and was completed in June 2003. Although according to a recent evaluation of the system, the collection system rehabilitation projects have so far reduced overall flows by 29% and have reduced I&I by 50%, the City has continued to experience overflows at its pump stations in wet weather. Accordingly, the Order presented for consideration to the Board requires the City to perform an analysis of the collection system and submit for approval a capacity assurance plan with a schedule of corrective action. The order includes funding requirements to ensure that money is budgeted for the recommended repairs. Civil Charge: none.

Town of Abingdon, Wolf Creek Water Reclamation Facility, Special Order with Penalties: The Town of Abingdon operates its wastewater treatment plant and associated wastewater collection system pursuant to VPDES Permit VA0026531. For several months the Town has had a problem meeting chlorine limits. Variable flows and variable chlorine demand of the wastewater make it extremely difficult to control chlorine feed such that effluent limitations are met. Further, the Town has experienced a sludge spill that reached state waters and has had 13 sewage overflows over the

past 18 months. The Town of Abingdon Wastewater Treatment Plant is adequate for treating dry weather flows but has problems meeting effluent limitations during periods of heavy rains. The Town has been involved in an extensive program to remove Infiltration/Inflow (I/I) from its collection system. The excessive portion of I/I appears not to have been eliminated, therefore plant upgrade/expansion of the treatment plant is the chosen alternative to remedy the situation. Additionally, Wolf Creek is a TMDL listed segment because of benthic and fecal coliform impairment due to agriculture/urban sources. The proposed Consent Special Order requires the Town to, among other things, 1) make piping and operational changes to the anaerobic digesters and install alarms to prevent sludge overflows, 2) begin construction of the 4.95 MGD upgraded treatment plant by October 1, 2005, 3) complete construction of the new plant by June 30, 2007, 4) operate the facility in full compliance with the Town's VPDES permit by August 1, 2007, 5) meet interim effluent limitations for chlorine residual, and 6) operate the plant to maximize treatment of high flows during the construction period. Civil Charge: \$6000 civil charge. The civil charge is reduced by \$4500 down to \$1500 due a Supplemental Environmental Project that the Town is installing at the treatment plant. The Town is volunteering to remove the chlorination/dechlorination facilities at the plant and replace them with UV disinfection. Cost of the UV disinfection project is estimated at \$450,000.

DuVal Development, Consent Special Order with Civil Charges: On December 30, 2003, Department inspectors in response to a complaint of turbid water discovered an unauthorized discharge from the Oak Lake Business Center. DuVal Enterprises Inc. is the owner of the Oak Lake Business Center, an industrial development site of 144 acres. Three of these unpermitted properties had severe erosion that caused discharge of sediments into Falling Creek and its tributaries. A review of DEQ files indicates that DuVal Enterprises failed to obtain a general permit for storm water discharges for these three separate construction sites. Inspectors also observed a permanent road constructed across a stream channel. Neither DEQ or the Army Corps of Engineers issued a permit authorizing the construction of a permanent road crossing across the stream channel. The Order requires submission of a permit application for wetland and stream impacts associated with the road crossing at the Facility. The Order also requires compliance with the stormwater pollution prevention plan developed for the each of the construction sites. Civil Charge: \$6,100.

Hercules Incorporated, Consent Special Order with Civil Charges: Hercules owns and operates the Aqualon Division Facility in Hopewell, Virginia. This Facility is an industrial user that discharges process wastewater to the City of Hopewell's Regional Wastewater Treatment Facility (HRWTF). Between 8 p.m. and 10 p.m. on February 19, 2004, a 100,000 pound mix of 63% sodium hydroxide drained to the process sewer discharging to HRWTF. Hercules environmental staff discovered the lost caustic and reported it to HRWTF mid-afternoon on February 20, 2004. The upset caused by the discharge resulted in a fish kill in Gravely Run on February 20, 2004. Hercules has entered into a Consent Order agreement with HRWTF that requires the following; 1.) develop a slug control plan to address future discharges; 2.) a study to evaluate process control options in dealing with similar discharges; 3) a schedule for re-training process operators on the effect of abnormal discharges on the HRWTF; 4) reimbursement for costs associated with the upset; and, 5) a City of Hopewell SEP of \$15,000. This Order requires Hercules to pay a civil charge and reimburse the State for fish replacement and response costs. The cost of injunctive relief was \$26,638.65 to reimburse HRWTF for penalties and expenses incurred. Civil Charge: \$13,200. In addition, Hercules is required to reimburse the State for costs incurred for the fishkill investigation and for the fish replacement costs.

The Town of Kilmarnock, Consent Special Order with Civil Charges: The Town of Kilmarnock (the Town) was issued VPDES Permit No. VA0020788 (Permit) in June 1999 and it expired in June 2004. The Town failed to submit a complete permit application within 180 days of the expiration date of the Permit. The Permit contained a four year schedule to comply with the effluent limits for copper (Cu) and zinc (Zn). The Town took a number of steps to comply with the metals limits for Cu and Zn, but was unsuccessful. In addition to the metals limits, the Town did not consistently comply with the effluent limit for TKN. The Town was issued a Notice of Violation (NOV) in February and March of 2004 for the above violations. To comply with the violations cited in the NOV, the Order requires the Town to submit for approval, a plan and schedule to comply with the TKN, Cu and Zn effluent limits. The Order also allows a 24 month schedule from the effective date of the re-issued Permit to comply with the effluent limits for TKN, Cu and Zn. The Order includes interim limits for TKN, Cu and Zn, and requires quarterly progress reports and a \$5,320 civil charge. Civil Charge: \$5,320.

National Starch and Chemical Company, Consent Special Order with Civil Charges: On June 22, 2004, the Department investigated a pollution complaint of a discharge of milky white substance from the National Starch and Chemical facility into the storm sewer system. The Facility discharges wash water from its production area into the sanitary sewer system, but does not currently have a pretreatment permit. This wash water contains residue from adhesive tanks. Representatives from the Facility confirmed the buildup of adhesives in the sanitary sewer connection, causing the wash water to overflow into a nearby storm drain. The discharge was reported to the County by a neighboring business. The County subsequently notified DEQ. The Facility immediately hired a contractor to contain and clean up the discharge. Before the discharge could be contained, it was able to migrate to an unnamed tributary of Cornelius Creek. A Notice of Violation was issued to the Facility as a result of these violations. A meeting with the facility was held on September 1, 2004. The facility has taken the following actions to prevent this event from reoccurring:

- retraining of employees;
- revisions of emergency and spill response plans;
- purchase of additional spill kits (including mats to block off storm drains);
- increasing the frequency of clean out of the line leading from the adhesive tanks to the sanitary sewer.

Civil Charge: \$10,000, There is an additional \$150 charge for reimbursement of the State's investigative costs.

Mr. Orlandus Branch, Consent Special Order with Civil Charges: Mr. Branch owns property in Dinwiddie County located off Route 640, near the Nottoway County line (the property). The property contains wetlands and unnamed tributaries to Namozine Creek. In April 2003, DEQ staff and the U.S. Army Corps of Engineers (Corps) performed a site inspection of the property. Staff observed unauthorized clearing, grubbing, excavating, filling and impounding activities on the property that had impacted approximately 1.76 acres of wetlands and state waters. Two road crossings were observed on the property. One was unauthorized and the other had an undersized culvert. The undersized culvert created unauthorized impounding of state waters upstream, which contributed to part of the road crossing washing out with excessive sediment washing downstream into a forested wetland area. The Department issued a Notice of Violation in June 2003. To comply with the alleged violations cited in the NOV, the owner submitted a corrective action plan and schedule to restore the impacted wetlands and state waters. Upon DEQ and Corps approval of the restoration of the site, the owner may submit a permit application for the reconstruction of the

second road crossing project. The cost of injunctive relief is approximately \$8,000. Civil Charge: \$4,200.

Eastside Properties, Inc. and Mr. Herman Harrison, Consent Special Order with Civil Charges: Mr. Harrison owns property located behind Ferndale Road and River Road in Dinwiddie County. The property contains wetlands and an unnamed tributary to Rocky Branch. In October 2003, DEQ staff received and investigated a report of possible unauthorized clearing and grubbing of wetlands on the property. Staff observed that several acres of wetlands had been cleared and partially grubbed along the eastern boundary of the property. Correspondence with the U.S. Army Corps of Engineers and the owner's consultant, confirmed that approximately 7.41 acres of forested wetlands had been impacted. In December 2003, DEQ issued a Notice Of Violation (NOV) to the owner for the unauthorized clearing and partial grubbing of the approximately 7.4 acres of wetlands. To comply with the alleged violations cited in the NOV, the owner submitted an approved Restoration Plan in March 2004. The plan has been implemented and the owner is currently in compliance with the Plan. The cost of injunctive relief for the restoration is approximately \$12,000. Civil Charge: \$10,000.

The Grove L.P., Consent Special Order with Civil Charges: The Grove L.P. is in the process of constructing The Grove Subdivision, which is a 270-acre residential subdivision in Chesterfield County. In November 2002, Department staff made a site visit and observed problems with flagging requirements, erosion & sediment (E&S) control measures, and the construction of fences in four residential lots within the portion of the wetlands set aside as a wetland preservation area. A second inspection and file review was conducted in August 2003 and found that the fences were still in places in the four residential lots of the preserved area; part of a stream mitigation area was failing; the 0.48 acre wetland creation site had not been planted; the final wetland report had not been submitted; and the permit renewal application had not been submitted. The Department issued a Notice Of Violation (NOV) in March 2004. To comply with the violations cited in the NOV, The Grove has planted the 0.48 acres required by the on-site compensatory wetland mitigation; has taken corrective action at the failing wetland creation area; has created more wetland acreage on-site than required by the permit to compensate for the construction of the fences in four of the homeowner's lots; and has submitted all required documents and reports. All injunctive relief has been completed. Civil Charge: \$5,600.

Miles and Wells Partnership, Consent Special Order with Civil Charges: Miles and Wells Partnership (the permittee) is in the process of constructing a 243-acre residential subdivision known as Wellington Farms in Chesterfield County. In July 2003, Department staff made a site visit to the subdivision and observed that the construction of roads and houses in portions of the subdivision had been completed. The inspection revealed that 0.36 acres of wetlands had been impacted by the construction. Staff observed during a follow-up inspection in August 2003, that the proposed compensatory mitigation sites had not been constructed prior to or concurrent with wetland impacts as required by the permit. As a result of the site inspections and subsequent file review, staff determined the following alleged violations of the permit: the permittee had not submitted final plans and specifications prior to impacting the wetlands; the permittee had not submitted a final mitigation plan for review and approval prior to commencing construction activities in the proposed wetland impact areas; the permittee had not submitted a copy of the protective instrument due in July 1999; the permittee had not initiated any construction of the mitigation areas prior to or concurrent with impacting wetlands; the permittee had not submitted the required construction monitoring reports; the permittee had not provided the 10-day letter notice prior to starting work authorized by the permit; and the permittee had not applied for permit

reissuance 180 days prior to the expiration date. The Department issued a Notice Of Violation (NOV) to the permittee in September 2003. In response to the NOV, the consultants met with the Department in October 2003 to discuss resolution of the alleged violations. In January 2004, the Department received a permit application for reissuance for the project. The new application requested mitigation through the purchase of wetland credits from a wetland mitigation bank. Due to changes that have occurred at the site since the permit was first issued, on-site creation was no longer considered feasible. In addition, the application showed a reduction in impacts to wetlands by 0.19 acres. To comply with the alleged violations cited in the NOV, Miles and Wells has agreed to provided documentation to the Department verifying the purchase of the required mitigation credits from the wetland mitigation bank. It cost Miles and Wells approximately \$10,000 to come into compliance. Civil Charge: \$9,500.

Yates Construction Co., Inc., Consent Special Order with Civil Charge: Yates began construction in March 2003, on approximately 23 acres in Lynchburg. As part of the construction activities Yates built a storm water management basin in an unnamed, intermittent tributary without the applicable permit. On October 30, 2003, the DEQ and Yates entered into a Letter of Agreement (LOA). In accordance with the LOA Yates was to delineate the construction site for streams and wetlands, and to propose mitigation for any unpermitted impacts. Yates failed to perform the delineation. The Order requires Yates to perform a delineation of the construction site and to propose mitigation for any unpermitted stream and wetland impacts. Civil Charge: \$4,200.

Patrick County Ararat River Watershed Project, Consent Order: The Board issued Virginia Water Protection Permit No. 93-1011 to the County on August 11, 1994 for Ararat River Watershed Project. Although this project involved plans for up to 52 flood control dams, only five dams were constructed. At two of these sites, the County did not comply with the requirements of the Permit for riparian plantings for stream impact mitigation, recordation of conservation easements, and annual reporting. After DEQ issued Warning Letters and Notices of Violation to the County, the County committed in a Letter of Agreement (LOA) dated August 11, 2003 to perform the work necessary to complete the mitigation and easement recordation requirements. After the County failed to comply with the deadlines in the LOA, DEQ negotiated the Order currently before the Board with the County. The Order includes a civil charge and a schedule of compliance for completion of the mitigation and easement recordation requirements. Civil Charge: \$4,000.

Louie Cash Custom Builder, LLC, Consent Special Order w/ Civil Charge: As part of development of a residential construction site ("the Site"), the U.S. Army Corps of Engineers ("ACOE") issued Louie Cash Custom Builder, LLC ("LCCB") an "after-the-fact" permit authorizing the rehabilitation of an old farm pond by upgrading or removal of the dam of the pond. The ACOE permit did not authorize any work in the intermittent channel below the dam nor did it authorize impacts to the emergent wetlands located below the dam. On September 16, 2004, staff of DEQ and the ACOE met with Mr. Lewis C. Cash, Jr., at the Site and observed: (1) that approximately 380 linear feet of intermittent stream channel located below the old farm pond dam had been altered by grading the channel; (2) that approximately 0.145 acre of emergent wetlands located below the pond had been permanently altered by site grading activities; and, (3) that the construction site, which is greater than 1 acre in size, was configured to discharge stormwater from the Site into an unnamed tributary of Middle River. Based on DEQ's observations, DEQ issued a Notice of Violation to LCCB. Pursuant to the VPDES Regulation, LCCB has submitted a Registration Statement for Construction activity Stormwater Discharges. During the September 16, 2004 inspection of the Site, the ACOE indicated that the 380 linear feet of unauthorized impact to the unnamed intermittent stream channel would be covered under an after-the-fact ACOE permit. During the inspection of the Site, Mr.

Lewis Cash of LCCB indicated that his preferred option for addressing the wetlands impacts was through the purchase of wetland credits; accordingly, Appendix A of the Order is structured to reflect Mr. Cash's decision in this matter. The Order requires LCCB to purchase 0.145 acre credit from a wetlands bank at a cost of \$6,960. Civil Charge: \$2,000.

DirecTV Operations, LLC, Consent Special Order w/ Civil Charges: DirecTV Operations, LLC, the owner and operator of the two ASTs at this satellite uplink site, failed to register the ASTs with DEQ and/or the Board. Both Va. Code § 62.1-44.34:19.1 and 9 VAC 25-91-100 provide that operators of AST facilities with an aggregate storage capacity of more than 660 gallons of oil must register such facility or AST with DEQ or the Board. The DirecTV qualifies as such a facility and is governed by these regulations. On January 14, 2004, DirecTV disclosed to DEQ that an unpermitted discharge of fuel oil occurred on September 17, 2003. When a DirecTV's new manager of environmental affairs completed a file review after replacing the former manager, DirecTV discovered that a discharge had taken place, and that DirecTV had failed to notify DEQ. DirecTV self-disclosed this information revelation to DEQ upon discovery. A Notice of Violation (NOV) was issued to DirecTV on February 12, 2004 for failure to register the AST facility, for an unpermitted discharge of fuel oil, and for failure to report the unpermitted discharge to DEQ or the Board. Subsequent inquiry by DEQ has determined that on September 17, 2003, an accidental fuel oil discharge of approximately 40 gallons occurred at the facility's smaller of two ASTs (the "day tank") located at the site. The discharge was the result of an accidental leak that occurred during intensive construction at the site by DirecTV's general contractor, Dietze Construction Group of Chantilly, Virginia. This discharge occurred in an apparent violation of State Water Control Law Section 62.1-44.34:18. Further, the operator failed to notify DEQ or the Board immediately upon learning of the spill, in violation of Code § 62.1-44.34:19. On or about September 18, both Dietze Construction and Dietze's subcontractor, H & W Construction properly excavated and removed approximately 4 cubic yards of contaminated soil and gravel in the vicinity of the spill. Engineering Consulting Services, Ltd. (ECS), retained by Dietze Construction to conduct soil sampling and analysis at the facility on October 2, 2003, collected samples in accordance with EPA guidelines and submitted to EnviroCompliance Laboratories, Inc. for diesel range organic petroleum hydrocarbons analysis per EPA Method 8015B. Testing indicated that the contaminated soil did not meet the requirements for "clean fill" in accordance with Virginia Solid Waste Management Regulations (VSWMR), 9 VAC 20-80-10 et seq. However, the contaminated soil was removed off-site and Dietze Construction failed to follow proper documentation of the off-site removal and disposal of the soil. Consequently, the disposal requirements outlined in 9 VAC 20-80-700D were not properly followed. ECS has certified that appropriate cleanup levels at the site of the discharge have been met and recommended that no further corrective actions or abatement measures were necessary. DEQ is satisfied that remedial and cleanup measures were sufficiently followed as set out in 9 VAC 20-80-230, with the exception of the failure to follow proper VSWMR disposal procedures in the removal and off-site disposal of contaminated soil. The proposed Order addresses DirecTV's failure to register the AST facility, the accidental and unpermitted discharge of approximately 40 gallons of fuel oil upon state lands, failure to notify DEQ immediately upon learning of the discharge, failure to properly document the removal and transportation of soil contaminated by the oil discharge, and assesses a civil charge. The proposed Order also directs DirecTV to properly register the AST facility with DEQ within 30 days of execution of the proposed Order. DirecTV completed this requirement on April 1, 2004. Civil Charge: \$2,000.

Anderson Oil Company/Scottsville Chevron, Consent Special Order w/ civil charges: Anderson Oil Company (Anderson), owns and operates an underground storage tank (UST) facility located at 315 Main Street, Scottsville, Virginia. Anderson stores petroleum in these USTs under the requirements

of 9 VAC 25-580-10 et seq. Underground Storage Tanks: Technical Standards and Corrective Action Requirements (UST Regulations). The UST regulations require that owners of UST facilities protect USTs from corrosion, properly upgrade or close non-compliant USTs by December 22, 1998, properly register USTs, perform release detection and maintain compliance records for DEQ review. A February 8, 2001, formal UST inspection performed at the facility revealed that Anderson was not protecting the USTs from corrosion, had not properly upgraded or closed non-compliant USTs, provided incorrect UST registration information, failed to perform release detection and failed to maintain compliance records for DEQ review. DEQ issued a Warning Letter (WL) to Anderson, dated December 7, 2001, for these alleged violations. Anderson responded to the Warning letter by contacting DEQ staff numerous times during 2002 & 2003, and then by entering into a Letter of Agreement with DEQ to resolve all of the violations by December 24, 2003. Anderson failed to resolve the violation by the deadline and DEQ issued a NOV to Anderson on March 23, 2004. During the closure of two of the USTs in April 2004, a confirmed petroleum release was discovered, prompting the opening of pollution complaint (PC) case #2004-6151 by DEQ staff. The PC investigation was closed on October 5, 2004. On April 8, 2004, Anderson meet with DEQ staff to discuss resolution of the NOV and to inform DEQ of Anderson's intention to close two of the USTs and to bring the other five USTs into compliance. Anderson has closed the non-compliant USTs and has continued to comply with the conditions of Appendix A in the Order. Additional monthly release detection reports are due in November and December 2004, and January 2005. Civil Charge: \$6,500.

Anderson Oil Company/University Mart, Consent Special Order w/ civil charges: Anderson Oil Company (Anderson), operates an underground storage tank (UST) facility located at 201 Emmet Street, Charlottesville, Virginia. Anderson stores petroleum in these USTs under the requirements of 9 VAC 25-580-10 et seq. Underground Storage Tanks: Technical Standards and Corrective Action Requirements (UST Regulations). The UST regulations require that owners and operators of UST facilities protect USTs from corrosion, perform release detection on the USTs, properly register USTs, and maintain compliance records for DEQ review. A February 8, 2001, formal UST inspection performed at the facility revealed that Anderson was not protecting the USTs from corrosion, failed to perform release detection on the USTs, provided incorrect UST registration information and failed to maintain compliance records for DEQ review. DEQ issued a Warning Letter (WL) to Anderson, dated December 7, 2001, for these alleged violations. Anderson responded to the Warning letter by contacting DEQ staff numerous times during 2002 & 2003, and then by entering into a Letter of Agreement with DEQ to resolve all of the violations by December 24, 2003. Anderson failed to resolve the violation by the deadline and DEQ issued a NOV to Anderson on March 15, 2004. On April 8, 2004, Anderson meet with DEQ staff to discuss resolution of the NOV and to inform DEQ of Anderson's intention to upgrade the USTs with corrosion protection and to perform release detection. Anderson has upgraded the USTs with corrosion protection and has begun performing release detection to comply with the conditions of Appendix A in the Order. One additional monthly release detection report is due in November 2004. Civil Charge: \$3,700.

P. Lee McCauley / Hunt Country Corner, Consent Special Order w/ civil charges: P. Lee McCauley (Mr. McCauley), owns and operates an underground storage tank (UST) facility located at 2042 Garth Road, Charlottesville, Albemarle County, Virginia. Mr. McCauley stores petroleum in these USTs under the requirements of 9 VAC 25-580-10 et seq. Underground Storage Tanks: Technical Standards and Corrective Action Requirements (UST Regulations). The UST regulations require that owners and operators of UST facilities protect USTs and associated piping from corrosion, install overfill prevention equipment, perform release detection on the USTs, properly register

USTs, and maintain compliance records for DEQ review. An October 23, 2001, formal UST inspection performed at the facility revealed that Mr. McCauley was not protecting the UST piping from corrosion, had failed to install overfill prevention equipment on the UST, failed to perform release detection on the UST, provided incorrect UST registration information and failed to maintain compliance records for DEQ review. DEQ issued a Warning Letter (WL) to Mr. McCauley, dated January 16, 2002, for these alleged violations. Mr. McCauley responded to the Warning letter by contacting DEQ staff numerous times during 2002, and then by entering into a Letter of Agreement with DEQ to resolve all of the violations by June 17, 2004. Mr. McCauley failed to resolve the violation by the deadline and DEQ issued a NOV to him on July 9, 2004. On August 5, 2004, Mr. McCauley meet with DEQ staff to discuss resolution of the NOV and to inform DEQ of his intention to bring the UST into compliance with the regulation and to perform release detection. Mr. McCauley has installed overfill prevention equipment on the UST and corrosion protection on the UST piping and has begun performing release detection to comply with the conditions of Appendix A in the Order. One additional monthly release detection report is due in November 2004. Civil Charge: \$2,000.

Three B's, Inc., Consent Special Order with a civil charge and corrective action plan: Three B's is the owner and operator of the four USTs at the Gainesville Market facility within the meaning of Virginia Code § 62.1-44.34:8. An inspection of the facility on May 5, 2003 revealed several compliance deficiencies, resulting in a Warning Letter being issued on May 16, 2003. Subsequently, a Letter of Agreement (LOA) was executed on October 30, 2003, between Three B's and DEQ, requiring Three B's to submit all outstanding documentation and forms indicating full compliance, as set out in the LOA, by February 2, 2004. Most, but not all, terms in the LOA were completed. Thereafter, a Notice of Violation (NOV) was issued to Three B's by DEQ on April 27, 2004, noting the following outstanding deficiencies at the facility: a) failure to submit amended notification Form 7530-2 to correct erroneous information; b) failure to perform proper testing on cathodic protection systems; c) failure to demonstrate that metallic piping was protected from corrosion; d) failure to submit acceptable documentation of financial responsibility; and e) failure to provide complete documentation to DEQ demonstrating compliance with regulations. On May 6, 2004, Three B's submitted a contractor's report detailing the completion of cathodic testing and the installation of an impressed current cathodic protection system at the facility on April 25, 2004. Three B's executive representative, Coy Bowling, met with DEQ staff on May 25, 2004, to discuss the NOV and the alleged outstanding violations. Mr. Bowling presented DEQ with documentation that the appropriate financial responsibility forms had been timely provided to DEQ. Mr. Bowling was informed at the enforcement meeting that a Special Consent Order (Order) would issue with regard to outstanding violations not completed by February 2, 2004, in accordance with the terms of the earlier LOA, and would include a civil penalty in addition to the completion of corrective actions detailed in Appendix A of the proposed Order, with such corrective actions to be completed by August 26, 2004. The proposed Order addresses each deficiency noted in the NOV and Appendix A, thereof, sets out corrective action to address each deficiency. Three B's has complied with all items set out in Appendix A of the proposed Order ahead of the August 26, 2004 deadline and has signed and notarized the proposed Order on July 29, 2004. The payment of the agreed-upon civil charge is the only remaining term in the proposed Order. Civil Charge: \$1,300.

Addition of Sites to VPA Permit No. VPA01555 for Land Application of Sludge, George's Chicken, LLC, Shenandoah County: The permittee, George's Chicken, has proposed to add sites to VPA Permit No. VPA01555 for the land application of sludge in Shenandoah County.

VPA Permit No. VPA01555 was last reissued to George's Chicken on March 22, 2004. The permit authorizes the land application of Industrial sludge in accordance with Class B PC sewage sludge requirements to the maximum extent possible. Class B PC is a quality that limits pathogens and chemical pollutants in the sludge. Upon permit reissuance, a special condition was added that allows for the addition of new land application sites in accordance with procedures specified in the approved Operations & Maintenance Manual.

On July 6, 2004, the permittee submitted the request for the proposed addition of land application sites. The request was considered complete on September 30, 2004, and proposed the addition of 12 land application sites, divided into 41 individual fields, with a total acreage of 1,067.72 acres. Notice to landowners adjoining the proposed land application sites was provided on July 1, 2004, and the public notice for this proposed action was published in the Northern Virginia Daily on July 13, 2004. Because of the number of public comments that were received, on August 30, 2004, Bob Wolfe of George's Chicken, LLC, requested that a public hearing be held. The summary of comments and agency response will be presented at the meeting.

Addition of Sites to VPA Permit No. VPA01566 for Land Application of Sludge, Houff's Feed & Fertilizer Company, Augusta County: The permittee, Houff's Feed & Fertilizer Company, has proposed to add sites to VPA Permit No. VPA01566 for the land application of sludge in Augusta County. VPA Permit No. VPA01566 was last reissued to Houff's on June 23, 1999. The permit authorizes the land application of Municipal biosolids and Industrial sludges in accordance with Class B PC sewage sludge requirements to the maximum extent possible. Class B PC is a quality that limits pathogens and chemical pollutants in the sludge. Last winter, the permittee requested authorization to add 498.5 acres of new agricultural fields to those approved by the permit. Hearings were held for this request, as well as for the 1999 permit reissuance, to address many of the same concerns for which a hearing is being held on November 10, 2004. On August 18, 2004, the permittee submitted the required information for the proposed addition of 8 land application sites, divided into 81 individual fields, with a total acreage of 723.4 acres. Notice to landowners adjoining the proposed land application sites was provided on August 18, 2004, and the public notice for this proposed action was published in the Daily News Leader on August 20, 2004. In response to the comments received, a public hearing was convened. The summary of comments and agency response will be presented at the meeting.

Virginia Electric and Power Company, Chesterfield Power Station: The Department of Environmental Quality (DEQ) Piedmont Regional Office (PRO) initially received a permit renewal application from Virginia Power for reissuance of the VPDES permit on August 31, 2001. Additional information, the majority of which was associated with the thermal modeling of Farrar Gut and the main channel of the James River, continued to be received throughout development of the permit. Two issues of particular importance associated with permit reissuance are the temperature at Outfall 003 and the addition of ammonia limitations at Outfall 004. The plant discharges non-contact cooling water, treated wastewater, and backwash water to the James River and Farrar Gut. The 30-day maximum flow of these discharges is approximately 1,089 million gallons per day. Of that total, 757 million gallons per day of non-contact cooling water discharge to Farrar Gut (Outfall 003). The draft permit implements a request made by Virginia Power in December 1995 to retire a spray module or sparger system on Outfall 003. The spargers provided a small cooling effect on the discharge, and turning them off results in an increase of the thermal loading limitation on Outfall 003 from 4.87×10^9 BTU/Hour to 5.55×10^9 BTU/Hour. In order to evaluate that request, Virginia Power performed a demonstration study (pursuant to §316(a) of the Clean Water Act) which looked at thermal effects on the biological community in and on the

receiving waters. The study report, submitted in February 2000, concluded that the discharge does not cause appreciable harm to the aquatic community and that the river in the vicinity of the power station supports a diverse community of shellfish, fish, and wildlife. DEQ staff agree with that conclusion. Virginia Power also performed a thermal modeling study to predict river temperatures at the higher thermal loading limitation. The modeling report was completed in December 2003 and accepted by the staff in January 2004. At Farrar Gut's confluence with the James River the model predicts an average temperature increase of 1.6 °C and a maximum increase of 4.1 °C. Aquatic biologists from Virginia Tech and Old Dominion University concluded that the increase in temperature would not alter the determination that the 316(a) demonstration was successful. A successful demonstration under 316(a) constitutes compliance with the State's water quality standards for temperature. Regarding the addition of ammonia limitations at the discharge from the Old Ash Pond (Outfall 004), Virginia Power has installed Selective Catalytic Reduction (SCR) technology to reduce the emission of nitrogen oxides (NOx) from Units 4, 5, and 6 to the air. This technology injects ammonia into the combustion exhaust airstream to react with the NOx. Some ammonia is entrained on the fly ash, which is transported to the Old Ash Pond. Most of the ammonia present on the flyash is water soluble and will therefore, enter the water column in the ash pond. Consequently, the draft permit includes concentration limitations on ammonia at Outfall 004 that are protective of water quality. An ammonia loading limitation has been established in a Consent Special Order (approved by the Board at its June 17, 2004 meeting). A loading limitation(s) will be included in the permit after sufficient data have been collected to accurately characterize the discharge. A public hearing was held on November 4, 2004. The summary of comments and agency response will be presented at the meeting.

Water Quality Standards Adoption of Ten Waters (Three Citizen Petitions and Seven DEQ Candidates) for Exceptional Waters Designation: Staff intends to ask the Board to adopt amendments to the Water Quality Standards regulation for ten proposed Tier III, Exceptional State Waters designations. The State Water Control Board approved public hearings on the proposals for nine of these waters (Bottom Creek, Little Stony Creek, NF Buffalo Creek, Whitetop Laurel Creek, Pedlar River, Brown Mountain Creek, Ramseys Creek, Laurel Creek and Lake Drummond) on October 28, 2003. The Board delayed approval of public hearings on a proposal for a tenth water (Ragged Island Creek) until their December 4, 2003 meeting so that the Department could form an ad hoc advisory committee to work through issues raised during the Notice of Intended Regulatory Action regarding the proposed boundary descriptions for the Ragged Island Creek and the restrictions such a designation would place on the issuance of storm water permits.

Local and Regional Water Supply Planning, 9 VAC 25-780: This is a proposed regulation. The staff will ask the board to accept the draft regulation establishing the criteria for Local and Regional Water Supply Planning, 9 VAC 25-780, and authorize the initiation of a public hearing process. must use to plan for the provision of adequate water to their citizens in a manner that balances the need for environmental protection and future growth. The WP-TAC expended considerable time, effort, and dedication to this effort, and the discussions raised a number of important issues.

- The draft regulation requires that each local government submit a local water supply plan or participate in a regional water supply plan that is submitted to the State Water Control Board.
- A tiered schedule of submission is set out in the regulation depending on the size of the locality with the earliest plans being due three years from the effective date of the regulation and the latest six years from such date.
- The local plans are to be based on existing and readily available information so that additional detailed studies will not be required. The plans would contain the following elements:
 1. A description of how the locality currently supplies water and from what sources.

2. A description of how water is currently used within that locality.
 3. A description of what sensitive environmental resources exist within that locality.
 4. An assessment of local projected water demand 30 to 50 years into the future.
 5. A description of local actions to conserve water use.
 6. A statement of whether the local government will need additional sources of water within the 30 to 50 year period.
 7. A preliminary analysis what potential alternatives the locality would consider to meet these projected water supply needs.
- These local and regional plans would be approved by resolution by the local government which means they would be the subject of local public hearings.
 - The plans would be submitted to the State Water Control Board for a finding that the plans met the requirements of the planning regulation.
 - Upon receiving such a finding, the plan would be included in the State Water Resources Plan which is still being developed by DEQ. This big picture view will promote regional solutions to water supply problems, appraise businesses of the availability of water supplies around the Commonwealth, and identify conflicts relating to the use of the resource.

Facility and Aboveground Storage Tank Regulation Amendments: The 9 VAC 25-91-10 et seq., Facility and Aboveground Storage Tank (AST) Regulation: (1) establishes requirements for registration for facilities and individual ASTs with a storage capacity greater than 660 gallons; (2) develops standards and procedures to prevent pollution from ASTs; and, (3) provides requirements for the development of facility oil discharge contingency plans at facilities greater than 25,000 gallons capacity. On March 25, 2003 the board approved draft changes to the regulation to improve clarity and make the requirements more easily understandable by the regulated community. The amendments include: (1) the addition of definitions; (2) removal of registration fees; (3) removal of the term authorized representative throughout the regulation; (4) moving the requirement for temperature correction from daily inventory to the investigation section of the regulation; (5) replacing the National Fire Protection and the BOCA code with the Uniform Statewide Building Code; and, (6) the addition of more variances by regulation. At that time, the Board had some concerns as to why the DEQ was proposing to remove the registration fee rather than increasing the fee. The DEQ explained that the fee collected was minimal compared to the administrative burden. The Board in 2003 authorized the DEQ to go to public comment on the amendments to the AST regulation. The Department of Planning and Budget reviewed the proposed amendments and had the same concerns and recommended the DEQ to increase the fees rather than eliminate them. Therefore, we did not go to public comment with the proposed amendments. We are now requesting that the Board approve withdrawing the current proposed amendments to 9 VAC 25-91-10 et seq., Facility and Aboveground Storage Tank Regulation. The DEQ intends to submit a NOIRA and propose new amendments to the regulation that address the present concerns of the SWCB and the DPB.

General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Domestic Sewage Discharges of Less Than or Equal To 1,000 Gallons Per Day (9 VAC 25-110): This general permit regulation provides a general permit for discharges from single family residences and other small sources of domestic sewage when central sewage facilities are not available and the land is not suitable for conventional onsite treatment such as septic tank/drainfield systems. At the December meeting, the staff will be asking the Board to authorize public notice and public hearing on the draft regulation that will reissue this general permit for another five-year term. The staff is proposing some revisions to the general permit regulation based on recent regulatory

changes and our past fifteen-year experiences in administering this program. Many of them are minor wording changes designed to clarify the intent of the regulation.

Amendments to the Virginia Pollution Abatement (VPA) Permit Regulation (9 VAC 25-32-10 et seq.): The staff intends to bring to the Board, at the December 2, 2004 meeting, a request to approve amendments to the Virginia Pollution Abatement (VPA) Permit Regulation (9 VAC 25-32). These changes are being proposed as a result of the following:

- 1) recent changes to the Federal Code of Regulations regarding animal feeding operations, and
- 2) alignment of the requirements of this regulation with those found in the VPA General Permit for Poultry Waste Management (9 VAC 25-630).

A “fast track” regulatory adoption process is being implemented to effect the changes, as the proposed amendments are expected to be non-controversial. If the Board chooses to approve the amendments, the agency will submit the regulation for Executive Branch Review, followed by notice in the Town Hall, publication in the Virginia Register, and a 60-day public comment period. If no qualified objections are received during the comment period, the regulation will become effective 15 days following the close of the comment period.

Amendments to the VPDES Permit Regulation, 9 VAC 25-31: The purpose of this agenda item is to request that the Board adopt amendments to the VPDES Permit Regulation, 9 VAC 25-31. The 2004 General Assembly adopted legislation that will transfer the VPDES construction activity and municipal separate storm sewer system (MS4) storm water permitting responsibilities from DEQ to the Department of Conservation and Recreation (DCR) on January 1st, 2005, or as soon thereafter as EPA approves DCR's VPDES permitting program. The VPDES Permit Regulation has been amended to remove the construction activity and MS4 permitting requirements.

Approval of Publication of Final Revisions to Four Virginia Water Protection Permit Regulations (9 VAC 25-660, 670, 680 and 690): At the December 2, 2004 Board meeting, the staff will ask for Board authorization to publish the above referenced final changes to the four Virginia Water Protection Permit General Permit Regulations in the Virginia Register. These four general permits for wetland and stream impacts were enacted in October 2001 to simplify and streamline the permitting process for activities in state waters that have a minor individual and cumulative impact to the environment. The proposed changes will allow for a more efficient and understandable application submittal and review and authorization issuance process. In turn, this will allow for greater consistency and predictability for the public. The draft changes to the four general permit regulations were published in the Virginia Register on July 12, 2004 after being approved at the June 17, 2004 Board meeting. A public hearing was held at the DEQ Piedmont Regional Office in Glen Allen, Virginia on Thursday, August 26, 2004. One representative of VDOT, one representative of the aggregate mining industry and five DEQ staff attended. The VDOT representative gave oral comments, and indicated that these same comments would be reflected in their written submittal.

Petition: Nomination of Two Tributaries to the Pedlar River, Three Tributaries to the North Fork of the Buffalo River and a Portion of the North Fork of the Buffalo River As Exceptional State Waters: Staff will present a petition from Amherst County to the Board.

TMDL Reports: The Board will consider approving the following TMDL reports and necessary amendments to the Water Quality Management Planning Regulation:

Christians Creek (Augusta Co.)

Moffett Creek (Augusta Co.)
Middle River (Augusta Co.)
Mossy Creek (Rockingham Co.)
Smith Creek (Rockingham and Shenandoah Counties)
Flat Creek (Mecklenburg Co.)
Beaver Creek (Washington Co.)
Back Creek (Pulaski Co.)
Crab Creek (Montgomery Co.)
Peak Creek (2) (Pulaski Co.)
Unnamed Tributary to Chickahominy River (Hanover Co.)

TMDL Reports: The Board will consider approving the following TMDL reports:

Cedar Run (Fauquier and Prince William Counties)
Licking Run (Fauquier Co.)
Limestone Branch (Loudoun Co.)
Piney Run (Loudoun Co.)
Coan River (Northumberland Co.)
Little Wicomico River (Northumberland Co.)
Hawksbill Creek (Page Co.)
Muddy Run (Culpeper Co.)
Reed Creek (Bedford Co.)
Looney Mill Creek (Botetourt Co.)
Roses Creek (Brunswick and Alberta Counties)
Lynnhaven Bay (Virginia Beach)
Tinker Creek (Roanoke and Botetourt Counties)
Glade Creek (Roanoke and Botetourt Counties)
Carvin Creek (Roanoke Co.)
Laymantown Creek (Botetourt Co.)
Lick Run (City of Roanoke)
Falling River (Campbell Co.)
Flat Creek (Mecklenburg Co.)

FY 2005 Virginia Clean Water Revolving Loan Fund Authorizations: At its August 2004 meeting, the Board targeted 16 projects totaling \$70,333,820 in loan assistance from available and anticipated FY 2005 funding and authorized the staff to present the proposed funding list for public comment. A public meeting was convened on October 15. Notices of the meeting were mailed to all targeted loan recipients and advertised in six newspapers across the state. All comments received in response to the notice were in support of the projects targeted for assistance. During the meeting and comment period, statements were received from 42 people, including representatives of 7 different organizations, expressing support for the Crow's Nest Land Conservation Project. The staff has conducted initial meetings with the FY 2005 targeted recipients and has finalized the associated user charge impact analyses. In accordance with each project's residential user charge impact analysis (or the program's guidelines in the cases of Brownfield or land conservation loans), the loan terms listed below are submitted for Board consideration. No changes have been made to the proposed funding list since the staff's August 2, 2004 memorandum to the Board. Once approved, this information and the approved interest rates will be forwarded to VRA for concurrence and recommendation. VRA will prepare the credit summaries and financial capability analyses on the recipients targeted for FY 2005 funding, looking at their repayment capability and individual loan security requirements.