



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

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MINUTES STATE WATER CONTROL BOARD

June 21-22, 2010
House Room C
General Assembly Building
9th & Broad Streets
Richmond, Virginia

Board Members Present:

W. Shelton Miles, III, Chair
Lou Ann Jessee Wallace
Roberta A. Kellam
Robert H. Wayland, III

Komal K. Jain, Vice-Chair
John B. Thompson (absent 6/21)
William B. Bott

Staff Present:

David K. Paylor, Director
Department of Environmental Quality

Cindy M. Berndt
Department of Environmental Quality

Attorney General's Office:

John Butcher, Special Assistant Attorney General

- 1) The attached minutes summarize activities that took place at this Board Meeting.
- 2) The meeting was convened on June 21, 2010, at 9:30 a.m., recessed at 1:10 p.m., reconvened at 2:00 p.m., recessed at 3:45 p.m., reconvened at 4:05 p.m., adjourned for the day at 4:55 p.m., reconvened on June 22, 2010, at 9:30 a.m., recessed at 12:10 p.m., reconvened at 1:00 p.m., recessed at 2:23, reconvened and went into closed session at 2:33 p.m., reconvened in open session at 2:43 p.m., and adjourned at 2:45 p.m.

Approved Minute No. 2
September 27-28, 2010
Board Meeting



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21-22, 2010

MINUTE NO. 1 – Minutes

The Board approved the Minutes from the March 18, 2010, meeting.


Cindy M. Berndt



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING OF JUNE 21-22, 2010

MINUTE NO. 2 – Biosolids Program Presentation

Neil Zahradka, DEQ Office of Land Application Programs Manager, delivered a presentation to the Board outlining 1) the status of proposed regulatory changes to the biosolids program; 2) the status of biosolids permits (including upcoming public hearings before the board); 3) recent compliance/enforcement action; and 4) a summary of some of the most prevalent public comments submitted and the agency response regarding the proposed permit issuances before the Board at the June 21 meeting.

A handwritten signature in cursive script that reads 'Ellen Gilinsky'.

Ellen Gilinsky, Ph.D.

Director, Division of Water Quality Programs



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21 - 22, 2010

MINUTE NO. 3 - Issuance of Virginia Pollution Abatement (VPA) Permit Number VPA03002, Nutri-blend, Inc. – Campbell County

Mr. Kip Foster of the Blue Ridge Regional Office presented a proposed Virginia Pollution Abatement Permit for the land application of biosolids in Campbell County by Nutri-blend, Inc. The presentation included a discussion of the project, a summary of the comments and discussion of a proposed change to the draft permit. The proposed change to the draft permit concerned Condition I.E.1, Permit Reopener. The text of the proposed change follows:

The Board ~~may~~ will modify or revoke and reissue this permit as appropriate and necessary to incorporate changes to any applicable standard or requirement for the use or disposal of biosolids, industrial wastewater sludge, or septage promulgated under Section 405(d) of the Clean Water Act, State Water Control Law, or the VPA Permit Regulation (9VAC25-32).

After the staff presentation and questions by the Board, the Board received comment from the public. Appearing before the Board were: James Joyner and Mary Powell with Nutri-blend, Inc., Daniel W. Cheatham, Jr., Jim Henderson, Lorraine Potter, Mary Graf, Charles Graf, Ed Foster, Jo Overbey and Henry Staudinger.

The Board then approved the staff recommendation that based on the agency permit files, the comments received during the public comment period and any explanation of comments previously received during the public comment period made at the Board meeting, the Board:

- 1. Find that:
 - a. the permit has been prepared in conformance with all applicable statutes, regulations and agency practices;
 - b. the limits and conditions in the permit have been established to ensure that pollutant management and land application is performed in a manner that will protect public health and the environment and that the escape, flow or discharge of pollutants into state waters is prevented.; and
 - c. all public comments relevant to the permit have been considered;

MINUTE NO. 3 - Issuance of Virginia Pollution Abatement (VPA) Permit Number 03002, Nutri-Blend, Inc. – Campbell County
Page 2 of 2

- 2. Approve the permit and conditions as presented today, amending the reopener language as follows:

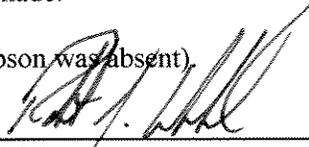
Condition I.E.1, Permit Reopener

The Board ~~may~~ will modify or revoke and reissue this permit as appropriate and necessary to incorporate changes to any applicable standard or requirement for the use or disposal of biosolids, industrial wastewater sludge, or septage promulgated under Section 405(d) of the Clean Water Act, State Water Control Law, or the VPA Permit Regulation (9VAC25-32).; and

- 3. Authorize the Director to issue the permit as approved by the Board.

Further, the Board directed that a new condition be added to the permit that requires the permittee to notify new owners of land where biosolids has been applied within the past 38 months that biosolids has been applied to the land and the associated restrictions on use of the land and to notify the Department that the appropriate notification to a new owner has been made.

The vote was 5 to 1 (Ms. Kellam voted no and Mr. Thompson was absent).



Robert J. Weld
Regional Director, Blue Ridge Regional Office

**[NOTE: SEE MINUTE NUMBERS 2, 6 AND 10 FOR ADDITIONAL BOARD ACTION
RELATIVE TO THIS PERMIT]**



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21 and 22, 2010

MINUTE NO. 4 - Issuance of Virginia Pollution Abatement (VPA) Permit Number 03004, Synagro Central, LLC - Amherst

Mr. Kip Foster of the Blue Ridge Regional Office presented a proposed Virginia Pollution Abatement Permit for the land application of biosolids in Amherst County by Synagro Central, LLC. The presentation included a discussion of the project, a summary of the comments and discussion of a proposed change to the draft permit. The proposed change to the draft permit concerned Condition I.E.1, Permit Reopener. The text of the proposed change follows:

The Board ~~may~~ will modify or revoke and reissue this permit as appropriate and necessary to incorporate changes to any applicable standard or requirement for the use or disposal of biosolids, industrial wastewater sludge, or septage promulgated under Section 405(d) of the Clean Water Act, State Water Control Law, or the VPA Permit Regulation (9VAC25-32).

After the staff presentation and questions by the Board, the Board received comment from the public. Appearing before the Board were: Hunter Richardson with Synagro, Popie Martin, Stephen Martin, Nancy Bockstael and Joanna Harris.

The applicant requested to amend the site booklet (application) to not apply at the Wesley Wright property during the month of April to avoid conflicts with the annual festival on the Virginia Blue Ridge Rail Trail. This is to address the expected increase in activity at the trail during this time.

The Board then approved the staff recommendation that based on the agency permit files, the comments received during the public comment period and any explanation of comments previously received during the public comment period made at the Board meeting, the Board:

- 1. Find that:
 - a. the permit has been prepared in conformance with all applicable statutes, regulations and agency practices;
 - b. the limits and conditions in the permit have been established to ensure that pollutant management and land application is performed in a manner that will protect public health and the environment and that the escape, flow or discharge of pollutants into state waters is prevented.; and
 - c. all public comments relevant to the permit have been considered;

MINUTE NO. 4 - Issuance of Virginia Pollution Abatement (VPA) Permit Number 03004, Synagro Central, LLC - Amherst located in Amherst County, Virginia
Page 2 of 2

- 2. Approve the permit and conditions as presented today, amending the reopener language as follows:

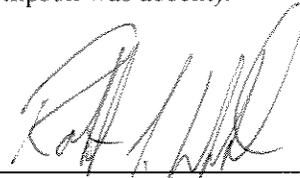
Condition I.E.1, Permit Reopener

The Board ~~may~~ will modify or revoke and reissue this permit as appropriate and necessary to incorporate changes to any applicable standard or requirement for the use or disposal of biosolids, industrial wastewater sludge, or septage promulgated under Section 405(d) of the Clean Water Act, State Water Control Law, or the VPA Permit Regulation (9VAC25-32).; and

- 3. Authorize the Director to issue the permit as approved by the Board.

Further, the Board directed that a new condition be added to the permit that requires the permittee to notify new owners of land where biosolids has been applied within the past 38 months that biosolids has been applied to the land and the associated restrictions on use of the land and to notify the Department that the appropriate notification to a new owner has been made.

The vote was 5 to 1 (Ms. Kellam voted no and Mr. Thompson was absent).



Robert J. Weld
Regional Director, Blue Ridge Regional Office

[NOTE: SEE MINUTE NUMBERS 2, 6 AND 10 FOR ADDITIONAL BOARD ACTION RELATIVE TO THIS PERMIT]



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Thomas A. Faha
Regional Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21 - 22, 2010

MINUTE NO. 5 - Issuance of Virginia Pollution Abatement (VPA) Permit Number VPA00054, Recyc Systems, Inc.– Fauquier County

DEQ Staff made a presentation for the issuance of the proposed Virginia Pollution Abatement Permit for the land application of biosolids in Fauquier County by Recyc Systems, Inc. The presentation included a discussion of the project, a summary of the comments and discussion of a proposed change to the draft permit. The proposed change to the draft permit concerned Condition I.E.1, Permit Reopener. The text of the proposed change follows:

The Board ~~may~~ will modify or revoke and reissue this permit as appropriate and necessary to incorporate changes to any applicable standard or requirement for the use or disposal of biosolids, industrial wastewater sludge, or septage promulgated under Section 405(d) of the Clean Water Act, State Water Control Law, or the VPA Permit Regulation (9VAC25-32).

After the staff presentation and questions by the Board, the Board received comment from the public. Appearing before the Board were: Susan Trumbo with Recyc Systems, Inc., Ed Kondis, and Henry Staudinger.

The Board then approved the staff recommendation that based on the agency permit files, the comments received during the public comment period and any explanation of comments previously received during the public comment period made at the Board meeting, the Board:

1. Find that:
 - a. the permit has been prepared in conformance with all applicable statutes, regulations and agency practices;
 - b. the limits and conditions in the permit have been established to ensure that pollutant management and land application is performed in a manner that will protect public health and the environment and that the escape, flow or discharge of pollutants into state waters is prevented.; and
 - c. all public comments relevant to the permit have been considered;
2. Approve the permit and conditions as presented today, amending the reopener language as follows:

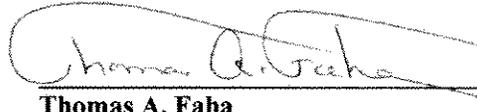
Condition I.E.1, Permit Reopener

The Board ~~may~~ will modify or revoke and reissue this permit as appropriate and necessary to incorporate changes to any applicable standard or requirement for the use or disposal of biosolids, industrial wastewater sludge, or septage promulgated under Section 405(d) of the Clean Water Act, State Water Control Law, or the VPA Permit Regulation (9VAC25-32).; and

3. Authorize the Director to issue the permit as approved by the Board.

Further, the Board directed that a new condition be added to the permit that requires the permittee to notify new owners of land where biosolids has been applied within the past 38 months that biosolids has been applied to the land and the associated restrictions on use of the land and to notify the Department that the appropriate notification to a new owner has been made.

The vote was 5 to 1 (Ms. Kellam voted no and Mr. Thompson was absent).



Thomas A. Faha
Regional Director, Northern Regional Office

[NOTE: SEE MINUTE NUMBERS 2, 6 AND 10 FOR ADDITIONAL BOARD ACTION RELATIVE TO THIS PERMIT]



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING OF JUNE 21-22, 2010

MINUTE NO. 6 – Biosolids Permits: New Permit Condition

Following the staff presentations and recommendations regarding issuance of three (3) biosolids land application permits (Nutri-Blend, Inc.: VPA03002, Synagro: VPA03004, and Recyc Systems: VPA00054), the Board discussed the addition of a permit condition that would require the permit holder to notify the new owner of land which had received biosolids, if the land was sold within the time period following land application when land use restrictions would still be in place.

A motion was offered and seconded to direct staff to draft such a condition and present to the Board on June 22. The Board voted unanimously to approve the motion.

A handwritten signature in cursive script, reading 'Ellen Gilinsky'.

Ellen Gilinsky, Ph.D.

Director, Division of Water Quality Programs



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21 – 22, 2010.

MINUTE NO. 7: Kurt A. Lorenz Consent Special Order

Lee M. Crowell, Wetlands Enforcement Program Manager, presented to the Board the Consent Special Order for Kurt A. Lorenz. Mr. Lorenz spoke on his own behalf requesting that the civil charge be reduced or eliminated. After some discussion of the contents of the Order and the procedure for determining the ability to pay a civil charge, the Board unanimously approved the Order and further authorized the Department's Director to execute the Order on the Board's behalf and to refer violations of the Order to the Office of the Attorney General for appropriate legal action.

A handwritten signature in cursive script that reads 'Lee M. Crowell'. The signature is written in black ink and is positioned above a horizontal line.

Lee M. Crowell
Wetlands 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 21-22, 2010

MINUTE NO. 8 – Eastern Virginia Groundwater Management Area Expansion (9VAC25-600)

Scott Kudlas, Director of Surface and Ground Water Supply Planning, presented a proposed regulation to expand the Eastern Virginia Ground Water Management Area to the entire coastal plain, adding the middle peninsula, northern neck and portions of northern Virginia. He reviewed the regulatory development process beginning with the Notice of Intended Regulatory Action issued in July 2009 through the completion of Regulatory Advisory Panel Process. This regulation identifies the localities in which groundwater withdrawals of 300,000 gallons per month or more will be regulated. Mr. Kudlas explained the statutory criteria for designating a groundwater management area and stated that staff believed these criteria will be met. He also identified the localities impacted and discussed the process for existing users. Staff recommended the Board adopt the regulation as proposed and proceed to public comment. He informed the Board that the letter from the Attorney General's Office had been received.

Board Decision:

The Board adopted the regulation as proposed and directed staff to proceed with public comment.

A handwritten signature in cursive script, appearing to read 'Ellen Gilinsky', written over a horizontal line.

Ellen Gilinsky



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21-22, 2010

MINUTE NO. 9 – Groundwater Withdrawal Regulation Amendments (9VAC25-610)

Scott Kudlas, Director of Surface and Ground Water Supply Planning, presented proposed regulatory amendments to the Ground Water Management Area Regulations. He indicated that a comprehensive review was warranted as this regulation had not been reviewed since 1992. He reviewed the regulatory development process beginning with the Notice of Intended Regulatory Action issued in July 2009 through the completion of Regulatory Advisory Panel Process. This regulation identifies the criteria that groundwater withdrawals must meet, including the establishment of withdrawal limits, the content of conservation and management plans, demonstration of need, and the contents of a complete application. Mr. Kudlas explained that a large number of organizational changes were made to eliminate confusion regarding the type of withdrawal, update the regulations to current agency administrative practices, and provide streamlining. Additional clarity is provided by placing all permit application requirements in one section. Staff recommended the Board adopt the regulation as proposed and proceed to public comment. He informed the Board that the letter from the Attorney General's Office had been received.

Board Decision:

The Board adopted the regulation as proposed and directed staff to proceed with public comment.

A handwritten signature in cursive script, appearing to read "Ellen Gilinsky", written over a horizontal line.

Ellen Gilinsky



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING OF JUNE 21-22, 2010

MINUTE NO. 10 – Biosolids Permits: New Permit Condition Recommendation

Neil Zahradka, DEQ Office of Land Application Programs Manager, presented the staff recommendation in response to the Board's directive of June 21 to develop a new permit condition addressing new landowner notification in three biosolids permits being considered by the Board (Nutri-Blend, Inc.: VPA03002, Synagro: VPA03004, and Recyc Systems: VPA00054).

The staff recommended that the following special condition and rationale be included in the three permits and fact sheets, respectively:

Permit Condition: Ownership Change

In the event that land upon which biosolids has been applied changes ownership within 38 months of the date of land application, the permit holder shall notify the new landowner of the public access and crop management restrictions and the dates and amounts of biosolids land application. This notification, including notice to DEQ, shall occur within 90 days of the change in land ownership and no later than 2 weeks following the permit holder becoming aware of the change in ownership.

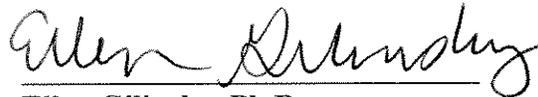
Fact Sheet Rationale: VPA Biosolids Permit Special Conditions

VPA Permit Regulation 9VAC25-32-620.B., with which all biosolids operations must comply, requires permit holders to control public access and crop management on sites that have received biosolids land applications, regardless of land ownership. This permit condition ensures that a new landowner is made aware of the management restrictions.

Further, § 62.1-44.19:3.B. of the Code of Virginia directs the Board, with the assistance of the Department of Conservation and Recreation and the Department of Health, to adopt regulations to ensure that land application, marketing, and distribution of sewage sludge is performed in a manner that will protect public health and the environment.

Board Decision

Upon consideration of the briefing materials and the staff presentation and consultation with legal counsel, the Board voted unanimously to accept the staff recommendation to include the new permit condition and fact sheet rationale in Virginia Pollution Abatement Permits VPA03002, VPA03004, and VPA00054.



Ellen Gilinsky, Ph.D.

Director, Division of Water Quality Programs



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 22, 2010

MINUTE NO. 11 – Chesapeake Bay Fast-Track

Alan Pollock, Manager of the Office of Water Quality Programs, summarized proposed amendments to the Water Quality Standards regulation to include the October 2007, September 2008 and May 2010 Chesapeake Bay Criteria Assessment Protocols Addenda.

Mr. Pollock briefly reviewed that the State Water Control Board adopted standards specifically for the Chesapeake Bay and its tidal rivers in 2005. Due to the complex nature of the circulation patterns and varying salinity of the Bay waters the standards regulation also includes reference to criteria assessment procedures published by EPA. Since that initial action, the Board has approved an amendment to the standards regulation to include reference to updated assessment procedures published by EPA in 2007.

Mr. Pollock told the Board that EPA has continued to refine the assessment procedures as scientific research and management applications reveal new insights and knowledge about the Chesapeake Bay. Each of EPA's updated procedure documents replace or otherwise supersede similar criteria assessment procedures published in earlier documents though not all of them. He informed them that Total Maximum Daily Loads (TMDLs) must be developed in accordance with approved water quality standards. Therefore, these new assessment procedures must be incorporated in the Virginia Water Quality Standards regulation in a timely way so that the Chesapeake Bay TMDLs can be approved by EPA by December 31, 2010 consistent with the new assessment procedures.

Mr. Pollock informed the Board that a rulemaking to incorporate the updated assessment documents by reference in the Water Quality Standards is suitable for a Fast-Track rulemaking process because it is expected to be non-controversial since these protocols have been developed by U.S. EPA through a collaborative process within the Chesapeake Bay Program.

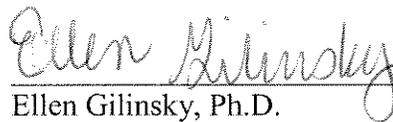
Decision:

Based on the briefing material and the staff presentation, the Board unanimously approved the following staff recommendations:

1. That the Board authorize the Department to promulgate amendments to **9 VAC 25-260-185** as shown in Attachment 1 of the Board memo for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial.

The Board's authorization should also be understood to constitute its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.

2. That the Board authorize the Department to set an effective date 15 days after close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the Department does not find it necessary to make any changes to the proposal.



Ellen Gilinsky, Ph.D.
Director, Water Division



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21-22, 2010

MINUTE NO.12 - Actions on the proposed amendments to the regulation for Permit Fees and Certificates (9VAC20-25-142).

Gary Graham with the Office of Regulatory Affairs presented the proposed amendments to Permit Fees and Certificates (9VAC20-25-142) resulting from budget cuts and a legislative requirement to raise Virginia Pollutant Discharge Elimination System (VPDES) and Virginia Pollution Abatement (VPA) permit fees to cover up to 50% of program direct costs by July 1, 2010. The Board was asked to adopt the proposed amendments and authorize the amendments for publication.

Following the presentation, the board asked Cindy Berndt, the Director of the Office of Regulatory Affairs whether or not the Department's publication of the proposed amendments allowed the board to accept comments from speakers on the amendments. Cindy responded that the board's rules allow for such comments.

No members of the public volunteered to speak concerning the amendments.

Board Action: Based upon the information provided by staff, the Board voted unanimously to accept the staff recommendation that the board adopt, as final regulation amendments, regulation revision A10wt to the State Water Control Board Regulations 9VAC25-20-142 as presented, and authorize its publication.



Gary Graham
Regulatory Analyst



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21-22, 2010

MINUTE NO. 13 - General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Seafood Processing Facilities, 9 VAC 25-115

The staff recommended that the board authorize a notice of public comment period and public hearings on the draft general VPDES permit for the seafood processing facilities that were presented in the board meeting package. The staff also recommended that the board authorize the staff to serve as hearing officer at the public hearings.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously to authorize a notice of public comment period and to hold public hearings for the draft General VPDES Permit Regulation for seafood processing facilities. The Board also voted unanimously to authorize the staff to serve as hearing officer at the public hearings.

A handwritten signature in cursive script, appearing to read 'Ellen Gilinsky', written over a horizontal line.

Ellen Gilinsky, Ph.D.
Director, Water Division



COMMONWEALTH of VIRGINIA

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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21-22, 2010

MINUTE NO. 14 - General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Domestic Sewage Discharges for Less Than or Equal to 1,000 Gallons per Day, 9 VAC 25-110

The staff recommended that the board authorize a notice of public comment period and public hearings on the draft general VPDES permit for the domestic sewage discharges for less than or equal to 1,000 gallons per day that were presented in the board meeting package. The staff also recommended that the board authorize the staff to serve as hearing officer at the public hearings.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously to authorize a notice of public comment period and to hold public hearings for the draft General VPDES Permit Regulation for domestic sewage discharges for less than or equal to 1,000 gallons per day. The Board also voted unanimously to authorize the staff to serve as hearing officer at the public hearings.

A handwritten signature in cursive script, appearing to read 'Ellen Gilinsky', written over a horizontal line.

Ellen Gilinsky, Ph.D.
Director, Water Division



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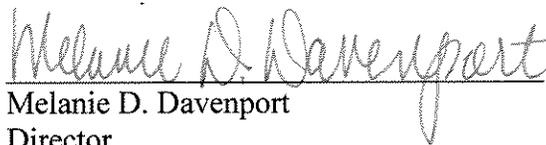
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21 AND 22, 2010

MINUTE NO. 15 - Agriculture Petition/Plasticulture

Melanie D. Davenport, Director of the Division of Enforcement, introduced Chief Deputy Rick Weeks to update the Board on the June 15, 2010, meeting among the petitioners, the Secretary of Agriculture and Forestry Todd Haymore, and Rick Weeks. This meeting was the result of a request made by the petitioner's counsel to the Secretary of Agriculture and Forestry to enter discussions anew with interested parties to determine if resolution could be reached utilizing the existing regulatory tools of various state agencies.

The following speakers spoke in support of the need to proceed with the development of a regulation regarding large scale agriculture on the Eastern Shore: John Daniel, Tom Walker, George Amon, Jeff Walker, and Heather Lusk. Travis Hill spoke in support of the Memorandum of Agreement drafted between the tomato growers and the Eastern Shore Soil and Water Conservation District. By a vote of 4 to 3, the Board directed staff not to proceed with the development of the proposed regulation and for the parties to continue to work until the September Board meeting to develop a non-regulatory resolution. Mr. Bott, Mr. Thompson, and Ms. Kellam voted no.


Melanie D. Davenport
Director
Division of Enforcement



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 22, 2010

MINUTE NO. 16 – Dan River WQS Amendment

Alan Pollock, Manager of the Office of Water Quality Programs, gave the Board presentation regarding a rulemaking to amend the Water Quality Standards to designate a 1.34 mile segment of the Dan River as a public water supply (PWS) in response to a petition from the City of Roxboro, NC.

He summarized for the Board the comment received during the December 21, 2009 – February 15, 2010 Notice Of Intended Regulatory Action (NOIRA) comment period. Mr. Pollock stated that opposing comment was received from the Danville Division of Water and Wastewater and from one citizen, Mr. Larry Lawson. Comment from Danville was directed towards the necessity of the proposed intake, additional restrictions for their upstream wastewater treatment facility (WWTF) discharges, the proposed amount of water to be withdrawn, and/or the location of the waters return. Mr. Lawson's comment voiced concern regarding the potential negative financial impacts a withdrawal on the Dan River may have to area localities and the Commonwealth.

Mr. Pollock also reminded the Board of similar concerns expressed by Halifax County, the Town of Halifax, and the Town of South Boston in a joint resolution sent to DEQ during the petition comment period.

He then presented the findings of staff investigations of the potential impact of the public water supply designation on the 2 Virginia VPDES permitted facilities that discharge to the Dan River in the vicinity of the proposed PWS segment. DEQ staff from the regional office permit program indicated they were not aware of any impacts the designation would have on these facilities nor would an intake downriver have an impact regarding more stringent effluent limits for the Danville wastewater treatment facility. Mr. Pollock informed the Board that the withdrawal may be more likely to affect downstream dischargers because critical flows could be reduced for the Dan River below the intake which may be deducted from historical low flow conditions. However, the location of the return water is not part of this rulemaking, which only deals with designating a river segment downriver from the City of Danville.

Mr. Pollock then presented the staff recommendation that the Board approve publication for public comment amendments to the Water Quality Standards regulation to designate a 1.34 mile segment of the Dan River as a Public Water Supply. The Board chair, Shelton Miles stated that he will be very interested in seeing how staff addresses comments from the downstream VA parties regarding their concerns

Board Decision

Based on the briefing materials and the staff presentation, the Board, by unanimous vote, accepted staff recommendation to publish a Notice Of Public Comment.



Ellen Gilinsky, Ph.D.
Director, Water Division



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21-22, 2010

MINUTE NO. 17 – Report on Facilities in Significant Noncompliance

Kathleen O'Connell, Water Enforcement Program Manager, reported to the Board that there were no regulated parties to be reported as being in significant noncompliance for the quarter ending December 31, 2009.

The Board accepted the report.


Kathleen F. O'Connell
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 21-22, 2010

MINUTE NO. 18 – VPDES Consent Special Orders

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Orders for:

1. Town of Brookneal
2. Western Virginia Water Authority, Falling Creek Water Filtration Plant
3. Ferrum Water and Sewer Authority
4. U.S. Army and Alliant Techsystems, Inc.
5. Aquia Wastewater Treatment Plant
6. Evergreen Country Club Sewage Treatment Plant
7. Fairfax County School Board, Gunston Elementary School Sewage Treatment Plant
8. Prince William County Service Authority
9. Manakin Water and Sewerage Corporation
10. Town of Surry
11. U.S. Navy, Naval Air Station Oceana
12. Town of Stanley
13. City of Waynesboro Sewage Treatment Plant

The Board unanimously approved the Orders and further authorized the Department's Director to execute the Orders on the Board's behalf and to refer violations of the Orders to the Office of the Attorney General for appropriate legal action.

A handwritten signature in cursive script, reading 'Kathleen F. O'Connell'.

Kathleen F. O'Connell
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 21-22, 2010

MINUTE NO. 19 - VWP Consent Special Orders

Kathleen O'Connell, Water Enforcement Program Manager and Lee Crowell, Wetlands Enforcement Program Manager, presented to the Board the Consent Special Orders for:

1. Kurt A. Lorenz
2. Belvedere Station Land Trust
3. Evergreen Land Company, Mountain Valley Farm Subdivision

The Board unanimously approved the Orders and further authorized the Department's Director to execute the Orders on the Board's behalf and to refer violations of the Orders to the Office of the Attorney General for appropriate legal action.

A handwritten signature in cursive script, reading "Kathleen F. O'Connell".

Kathleen F. O'Connell
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 21-22, 2010

MINUTE NO. 20 – Other Consent Special Orders

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Orders for:

1. Shine Transportation, Inc.
2. Imperial Transport of Tenn., Inc.
3. Salt Ponds Marina Resort, LLC

The Board unanimously approved the Orders and further authorized the Department's Director to execute the Orders on the Board's behalf and to refer violations of the Orders to the Office of the Attorney General for appropriate legal action.

A handwritten signature in cursive script, reading 'Kathleen F. O'Connell'.

Kathleen F. O'Connell
Water Enforcement Program Manager
Division of Enforcement



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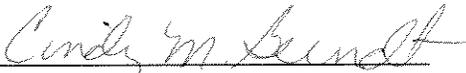
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21-22, 2010

MINUTE NO. 21 – Public Forum

No one appeared during the public forum.


Cindy M. Berndt



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING JUNE 21/22, 2010

MINUTE 22 – FY 2010 VCWRLF Green Project Reserve Loan Authorizations

Mr. Walter Gills, Program Manager of the Department's Construction Assistance Program, made a presentation to the Board based on a memorandum dated May 21, 2010. The memorandum identified the staff's recommended loan amounts, terms, and interest rates for 18 projects for FY 2010 Virginia Clean Water Revolving Loan Fund assistance under the green project reserve.

Mr. Gills began his presentation by summarizing the actions taken by the Board at its March 2010 meeting, of targeting 17 projects at \$10,076,484 for FY 2010 green project reserve assistance and directing the staff to present the Board's tentative list for public comment. He relayed that a public meeting was held on May 11, 2010 and that all comments received were in support of the funding list. Mr. Gills explained that he had met with the potential FY 2010 loan recipients to verify the financial data used to evaluate the local impact and that the staff had completed its user charge impact analyses for the targeted recipients.

Based on the initial meetings with the applicants and the public comment period, the staff recommended one modification to the previously-approved funding list. The Meadowview Biological Research Station had requested that their previous loan authorization (for \$290,000) be moved from regular funding to the green project reserve since it now qualified as such and would then be eligible for some principal forgiveness. This change resulted in a revised total loan amount of \$10,366,484 for 18 projects.

When Congress finalized the federal SRF appropriation for FY 2010, it included a requirement for this green project reserve as well as a new requirement that a portion of the federal funds must be provided in the form of principal forgiveness loans (similar to grants). Mr. Gills reminded the Board that they had previously authorized some principal forgiveness loans to conventional hardship projects but retained enough funds such that up to 50% of the required green reserve project funding could be in the form of principal forgiveness. He stated the staff was now recommending that 50% of the funding for 16 of the projects and 40% of the funding for the 2 largest projects be in the form of principal forgiveness. He indicated that this funding mix would satisfy both of the new requirements for the green project reserve and principal forgiveness.

Mr. Gills noted that program policy calls for the program’s ceiling rate to be set at 1% below the municipal revenue bond market. The program successfully sold leverage bonds this year to fund projects and received an all in true interest cost on those bonds of 3.93%. Therefore, the ceiling rate for FY 2010 has been established at 2.93%, the lowest in the history of the program.

Board Decision: After brief discussion, the Board voted unanimously to authorize the execution of the 18 loans at the amounts, rates, and terms listed below. Loan closings are subject to the receipt of favorable financial capability analysis reports and supporting recommendations from VRA.

FY 2010 Interest Rates and Loan Authorizations for the Green Reserve Projects

	Locality	Loan Amount	Rate/Loan Term/Principal Forgiveness
1	Albemarle County	\$800,000	2.93%/20 years/50%PF
2	Town of Appalachia	\$664,984	0%/20 years/50%PF
3	Town of Big Stone Gap	\$186,381	0%/20 years/50%PF
4	Town of Herndon	\$200,000	2.93%/20 years/50%PF
5	HRSD/Atlantic	\$3,000,000	2.93%/20 years/40%PF
6	Town of Leesburg	\$200,417	2.93%/20 years/50%PF
7	Loudoun Water	\$70,000	2.93%/20 years/50%PF
8	Loudoun Water	\$100,000	2.93%/20 years/50%PF
9	Loudoun Water	\$90,000	2.93%/20 years/50%PF
10	Town of Marion	\$500,000	0%/20 years/50%PF
11	Middle Peninsula PDC	\$250,000	0%/10 years/50% PF
12	City of Petersburg	\$600,000	2.93%/20 years/50%PF
13	City of Richmond	\$450,000	0%/20 years/50%PF
14	Town of Rocky Mount	\$223,452	2.93%/20 years/50%PF
15	Upper Occoquan Service	\$2,000,000	2.93%/20 years/40%PF
16	Town of Warrenton	\$201,250	2.93%/20 years/50%PF
17	Town of Wytheville	\$540,000	2.93%/20 years/50%PF
18	Meadowview Biological	\$290,000	2.93%/20 years/50%PF
	Total Request	\$10,366,484	PF= Principal Forgiveness



Ellen Gilinsky, Ph.D.
 Director
 Water Division



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21-22, 2010

MINUTE NO. 23 – Legislative Update

Ms. Angela Jenkins briefed the Board on legislation passed by the 2010 General Assembly.


Cindy M. Berndt



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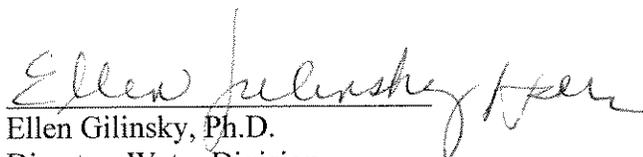
EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21-22, 2010

Minute 24 – Water Division Director Report

Ellen Gilinsky, Water Division Director, gave the Board a status report on the Confined Animal Feeding Operations (CAFO) VPDES permit program. EPA has provided their approval of our VPDES regulation governing CAFOs. Our previously issued NOIRA on reissuance of the CAFO general permit is on hold as based upon the revisions to the program at the federal level, and the requirements of state statute regarding public participation, no time is saved by issuance of a general permit for these operations. Staff will be developing a boilerplate for the individual CAFO permit for review by the RAP that was formed.

Staff are working on a VPDES General Permit for pesticide spray applications in compliance with a federal requirement from a lawsuit. A NOIRA was issued and a TAC has been formed to assist with development of the permit using the EPA General Permit as a framework. Our permit must be effective by April 2011.

It was reported that Virginia has met the requirements of the TMDL Consent Decree schedule. The federal court Consent Decree on TMDL pace, signed by EPA and plaintiffs in 1998, contained approximately 670 impaired segments needing TMDLs by May 1, 2010. On Wednesday, April 28, the last group of TMDL reports that are required to reach EPA by May were mailed. The Commonwealth has not only met the Consent Decree schedule during the past decade, but has been able to use a watershed approach to establish pollution reduction targets for 934 impaired waters throughout the Commonwealth.


Ellen Gilinsky, Ph.D.
Director, Water Division



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21-22, 2010

MINUTE NO. 25 – Future Meetings

The Board set August 23, September 27-28 and December 9-10 as the dates of their meetings for the remainder of the year.


Cindy M. Berndt

[Note: August 23 was later cancelled.]



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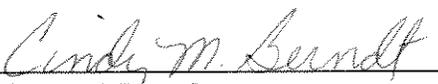
EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 21-22, 2010

MINUTE NO. 26 -- Closed Session/Unilateral Order Procedure

Mr. Justin Williams briefed the Board on the unilateral order provisions of the State Water Control Law. Mr. Williams advised the Board that pursuant to the Law, an owner had requested that the unilateral order proceeding be held before at least a quorum of the Board and explained certain logistical problems in that the Board, as an entity, can only act when sitting as a Board at a publicly announced meeting. The Board designated Roberta Kellam to act on the Board's behalf on the procedural matters.

The Board then voted, on a motion by Ms. Jain, unanimously to go into a closed meeting pursuant to § 2.2-3711(a)(7) of the Code of Virginia for consultation with legal counsel and briefings by staff members pertaining to actual or probably litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by counsel concerning the issuance of orders pursuant to § 62.1-44.15(8a) and (8b).

Upon completion of the closed meeting, the Board, on a motion, by Ms. Jain voted to end its closed meeting and certify that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board. The vote on the motion was conducted by roll call and was unanimous.


Cindy M. Berndt