



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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

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

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

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

STATE WATER CONTROL BOARD MEETING

FRIDAY, SEPTEMBER 6, 2019

DOUBLETREE BY HILTON RICHMOND AIRPORT
445 INTERNATIONAL CENTER DRIVE
SANDSTON, VIRGINIA 23150

Board Members Present:

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

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

Board Members Absent:

Paula H. Jasinski

Department of Environmental Quality:

David K. Paylor, Director
Debra A. Harris

Cindy M. Berndt

Attorney General's Office:

David C. Grandis, Assistant Attorney General

- 1) The attached minutes summarize activities that took place at this Board Meeting.
- 2) The meeting was convened at 10:04 a.m., recessed at 11:35 a.m., reconvened at 11:48 a.m., voted to go into closed session at 12:07 p.m., returned to open session and certified closed session discussions at 1:01 p.m., and was adjourned at 2:42 p.m.

*Ms. Wood left the meeting after certification of the closed meeting (Minute No. 7).

Approved Minute No. 1
December 13, 2019



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 6, 2019

MINUTE NO. 1 - Minutes

The Board approved the minutes of the meeting on June 27, 2019. Ms. Wallace abstained.

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

Cindy M. Berndt
Cindy M. Berndt



VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Regional Director

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**Minute No. 2 – Virginia Water Protection Individual Permit No. 19-0170, Potomac Yard
Metrorail Station; City of Alexandria**

DEQ staff made a presentation for the issuance of the Virginia Water Protection (VWP) Individual Permit for the Potomac Yard Metrorail Station project (VWP Permit No. 19-0170). The project consists of constructing the Potomac Yard Metrorail Station with an associated entrance pavilion, entrance points, stormwater management facilities, construction staging areas, and 3,750 linear feet of new or re-aligned track. The permit authorizes the total impact of 3.57 acres of surface waters, consisting of 1.56 acres of permanent impacts and 2.01 acres of temporary impacts.

Staff briefed the Board on the proposed permitting action and provided a summary of the most pertinent areas of concern received during the public hearing and public comment period and staff responses to comments.

After staff's presentation, the Board heard from;

- Mark Jinks (representing the permittee),
- Canek Aguirre,
- Tom Kaiden,
- Bob Broyden,
- Steven Crime,
- Mary-Jane Roth,
- Stewart Schwartz,
- Mila Yochum,
- Nathan Macek,
- Caroline Herre,
- Stephanie Landrum, and
- Bob Brant.

Following comments of the individuals noted above, staff responded to several questions from the Board and then made the following recommendation:

Based on the (i) Board book material, (ii) public comments made available to the Board and any explanation of comments previously received during the public comment period made at the Board meeting, (iii) public comments made at the Board meeting, (iv) staff presentation, (v) Board discussions, and (vi) agency files on the draft permit:

1. Find that:
 - a. The permit has been prepared in conformance with all applicable statutes, regulations, and agency practices;
 - b. The proposed activity is consistent with the provisions of the Clean Water Act and State Water Control Law and will protect instream beneficial uses;
 - c. The proposed permit addresses avoidance and minimization of surface water impacts to the maximum extent practicable;
 - d. The effect of the impact, together with other existing or proposed impacts to surface waters, will not cause or contribute to significant impairment of state waters or fish and wildlife resources;
 - e. The proposed permit conditions are sufficient to achieve no net loss of wetland acreage and function through compensatory mitigation;
 - f. This permit is designed to prevent unpermitted impacts.
2. Approve the permit and conditions as presented in the Board Memo.
3. Authorize the Director to issue the permit as approved by the Board.

After hearing the staff recommendation, a motion was made and seconded to approve staff recommendations and direct staff to provide a report on the project six months after start of construction.

Board Decision

The Board, based on the Board book material and presentation at the meeting, voted 6 – 0 in favor of staff's recommendation.



Thomas A. Faha
Director, Northern Regional Office



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MINUTE NO. 3 – TOTAL MAXIMUM DAILY LOADS (TMDLS)

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

The proposed actions pertain to water bodies in the James River Basin. The TMDL report included the following:

1. Bacteria TMDL Development for the Bullpasture River in Highland County, Virginia

Board Decision:

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

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

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

Jutta Schneider
Director, Water Planning Division



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MINUTE NO. 4 – Significant Noncompliance Report

Kristen Sadtler, Water Enforcement Program Manager, informed the Board that one permittee was reported to EPA on the Quarterly Noncompliance Report as being in significant noncompliance for the quarter ending March 31, 2019. The permittee reported was:

1. Alexandria Renew Enterprises for the Alexandria Renew Enterprises WWTP

The Board accepted the report. Mr. Lofton requested an update at the December 2019 meeting.

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

Kristen Sadtler

Water Enforcement Program Manager
Division of Enforcement



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MINUTE NO. 5 – Consent Special Order, Pilot Travel Centers LLC: Article 11 and VPDES

Tiffany R. Severs, Enforcement Team Leader, Valley Regional Office, presented to the Board the Consent Order for Pilot Travel Centers LLC and its Facility, Pilot 4649, located in Raphine, Virginia. The Board unanimously approved the Order and further authorized the Department's Director to execute the Order and further authorized the Department's Director to execute the Order on the Board's behalf and refer violations of the Order to the Office of the Attorney General for appropriate legal action.

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

Tiffany R. Severs
Enforcement Team Leader
Valley Regional Office, DEQ



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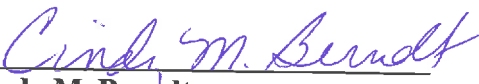
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MINUTE NO. 6 - Future Meetings

The Board confirmed December 13, 2019, as the date of the next Board meeting.



Cindy M. Berndt



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MINUTE NO. 7 - Closed Session

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

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

The vote was unanimous.

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

Ms. Berndt called the roll and each member (Ms. Wood, Ms. Wallace, Mr. Wayland, Mr. Hayes, Ms. Dean and Mr. Lofton) voted aye.

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

Cindy M. Berndt



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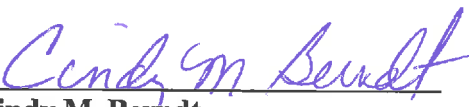
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MINUTE NO. 8 - Water Permitting Division Director's Report

Ms. Melanie D. Davenport reported to the Board on a regulatory action for the certification of nonpoint source nutrient credits and provided an updated on the Mountain Valley Pipeline project.

Regarding the regulatory action, Ms. Davenport reviewed the legislative history, reviewed the regulatory development background and detailed the procedures addressed in the regulation; and, informed the Board that consideration of the final regulation is an agenda item for the December 2019 meeting.

Regarding the Mountain Valley Pipeline project, Ms. Davenport reviewed the results of the Four Corners Farm inspection, the Bradshaw Road investigation and the Green Hollow Road investigation. Ms. Davenport also reported on significant events during the reporting period; e.g., issuance of a stop work instruction and the recording of elevated turbidity readings in the Roanoke River in July. In addition, Ms. Davenport reported on compliance monitoring, common areas of concern observed by the inspectors, complaint statistics and where to find information on complaint investigation findings.


Cindy M. Berndt



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MINUTE NO. 9 - Public Forum

The following persons appeared during the public forum to express support for the Mountain Valley Pipeline project: David Butterworth; David Layton; David Clarke, Tim Lester and Shannon Jones. The following persons appeared during the public forum to present concerns, complaints, and requests for stop work orders, suspension of erosion and sediment control approvals, and reconsideration of erosion and sediment control plans regarding the Mountain Valley Pipeline project: Mary Beth Coffee; Nan Gray; Maury Johnson; Roberta Bondurant; Tina Smusz; Jessica Sims; William Davies; Lee Williams; Megan Bolton; and Freeda Cathcart. Ms. Lara Mack, in addition to presenting concerns with the pipeline, requested a full upland 401 certification for MVP Southgate.

Board members Hayes and Lofton advised the public that the Board does not have the authority to revoke approval of erosion and sediment control plans, to issue stop work orders or to revoke the Section 401 water quality certification.


Cindy M. Berndt