



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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James S. Gilmore, III
Governor

John Paul Woodley, Jr.
Secretary of Natural Resources

Dennis H. Treacy
Director

(804) 698-4000
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MINUTES

STATE WATER CONTROL BOARD

October 4, 2001 - House Room C

General Assembly Building

Richmond, Virginia

Board Members Present:

Lance W. High

H. Preston Futrell, Jr.

Gary H. Baise

Karl F. Wenger (left after lunch)

Thomas V. Van Auken

Board Members Absent:

Hunter E. Craig, Chairman

vacant

Staff Present:

Dennis H. Treacy, Director

Department of Environmental Quality

Cindy M. Berndt

Department of Environmental Quality

Attorney General's Office:

Richard P. Zorn, Senior Assistant Attorney General

Rick Linker, Assistant Attorney General

- 1) The attached minutes summarize activities that took place at this Board Meeting.
- 2) The meeting was convened at 9:20 a.m. on Thursday, October 4, 2001, recessed at 12:38 p.m., reconvened at 1:30 p.m., voted to go into closed session at 4:18 p.m., returned to open session at 6:13 p.m. and adjourned at 6:17 p.m.

An Agency of the Natural Resources Secretariat Approved Min. #1
March 28, 2002



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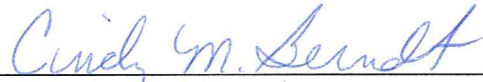
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER
CONTROL BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE NO. 1 - Minutes

The Board unanimously approved the minutes from the Board's meeting on June 12, 2001.



Cindy M. Berndt



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON OCTOBER 24, 2001

MINUTE 2 - Significant Noncompliance

Kathleen O'Connell, Water Enforcement Program Manager, reported to the Board that seven major facilities were reported to EPA on the Quarterly Noncompliance Report (QNCR) as being in significant non-compliance (SNC) for the quarter ending June, 2001. The facilities, their instances of non-compliance and a summary of actions taken to address non-compliance were reported as follows:

1. Permittee: **City of Galax, Galax STP**
Type of Non-Compliance: **Overflows**
Dates of Non-Compliance: Continuing overflows from July, 2000 through June, 2001
Requirements Contained In: SWCB Consent Special Order and VPDES Permit

The Galax STP was also reported to EPA as an Exceptions List facility, having been reported as being SNC for two or more successive quarters. The OAG and the Department of Justice are negotiating the terms of a consent decree with Galax to address the subject instances of non-compliance.

2. Permittee: **City of Alexandria, Alexandria STP**
Type of Non-Compliance: **Failure to Meet Effluent Limits (Biochemical Oxygen Demand and Total Suspended Solids)**
Dates of Non-Compliance: December, 2000 and January, February and March, 2001
Requirements Contained In: (Virginia) Court Order

The City is upgrading its sewage treatment plant as required by federal court order. Certain interim effluent limits (including total suspended solids and biochemical oxygen demand limits) apply to the plant as the result of a prior Virginia court order. During the period of upgrade the City's ability to perform certain maintenance tasks at the plant has been impaired due to space constraints resulting from construction. The staff of the Department's Northern Regional Office has requested that the OAG modify the effluent limits of the Virginia court order, for the period of construction, to address the possibility that the plant may periodically, until completion of construction, be unable to consistently meet the referenced limits. The facility was reported to

EPA as an Exceptions List facility, having been reported as being SNC for two or more successive quarters.

3. Permittee: **Stafford County, Aquia STP**
Type of Non-Compliance: **Failure to Meet Effluent Limit (Ammonia)**
Dates of Non-Compliance: **December 2000, January and April 2001**
Requirements Contained in: **VPDES Permit**

The Aquia STP was also reported to EPA as an Exceptions List facility, having been reported as being SNC for two or more successive quarters. The staff of the Department's Northern Regional Office originally believed that the facility's ammonia violations were anomalous and that corrective action would not be required. However, it has since been determined that certain units at the facility may be under-designed and that upgrade of these units may be necessary in order to ensure consistent compliance with permit effluent limits. That being the case staff is currently negotiating a consent special order, with Stafford County, which will require upgrade of the STP and plan to bring that order to the Board for its approval at the next quarterly meeting.

4. Permittee: **City of South Boston, South Boston STP**
Type of Non-Compliance: **Failure to Meet Schedule Deadline (Sanitary Sewer Repair)**
Dates of Non-Compliance: **February 2001 to present**
Requirements Contained In: **Consent Order**

The staff of the Department's South Central Regional Office is evaluating enforcement action in this case.

5. Permittee: **Rivanna Water and Sewer Authority**
Type of Non-Compliance: **Failure to Meet Effluent Limit (Nitrogen)**
Dates of Non-Compliance: **January and March, 2001**
Requirements Contained In: **VPDES Permit**

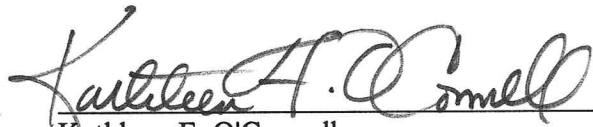
The staff of the Department's Valley Regional Office believes that the referenced instances of non-compliance were an anomaly, which does not require formal enforcement action. Should violations re-occur, the staff will re-evaluate the need for formal action.

6. Permittee: **Town of Clifton Forge, Clifton Forge STP**
Type of Non-Compliance: **Failure to Meet Effluent Limit (BOD)**
Dates of Non-Compliance: **January, February and March 2001**
Requirements Contained In: **VPDES Permit**

The staff of the Department's West Central Regional Office is negotiating a Consent Special Order that will address the referenced instances of non-compliance.

7. Permittee: **Magnox Pulaski, Incorporated**
 Type of Non-Compliance: **Failure to Meet Effluent Limit (Zinc)**
 Dates of Non-Compliance: **May and June 2001**
 Requirements Contained In: **VPDES Permit**

The staff of the Department's West Central Regional Office is evaluating enforcement action in this case.



Kathleen F. O'Connell
Water Enforcement Program Manager



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John Paul Woodley, Jr.
Secretary of Natural Resources

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE NO. 3 - Permit Terminations

Martin G. Ferguson, Jr., Director of the Water Permits Program of the Department of Environmental Quality's Central Office introduced the staff recommendation concerning the termination of six permits.

Board Decision

Based on the briefing materials and the staff presentation and recommendations, the Board voted unanimously to approve the terminations of permits for:

- | | |
|-------------------------------|----------------------|
| Hammocks Trailer Park | Permit No. VA0086614 |
| Mount Zion Elementary School | Permit No. VA0021709 |
| Branscome Inc., - Toano Plant | Permit No. VA0087131 |
| Kyanite Mining Corporation | Permit No. VA0080489 |
| West Lake Wash | Permit No. VPA02059 |
| ConAgra Frozen Foods | Permit No. VPA01570 |
| Isle of Wight County | Permit No. GW0041100 |

Martin G. Ferguson, Jr.

for Martin G. Ferguson, Jr.
Director, Water Permits Program



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON OCTOBER 24, 2001

MINUTE NO. 4 – Cancellation of Consent Special Orders

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board eighteen consent special orders for cancellation. The orders were issued to:

1. Town of Colonial Beach
2. S. B. Cox, Inc.
3. Lake Packing Co., Inc.
4. Mechanicsville Concrete, Inc.
5. Pine Street Village
6. Richfood, Inc.
7. Sean Stanley d/b/a Lakewood Trailer Park
8. Tides Inn, Inc.
9. James P. Townsend
10. Isle of Wight Investors, Twin Ponds Mobile Home Park
11. Isle of Wight County Public Schools, Windsor Elementary School
12. Windsor Associates LP, t/a Windsor Court Apartments
13. Rocco Quality Foods
14. Wampler Foods, Inc.
15. Coca-Cola Enterprises, Inc.
16. Amoco Oil Co.
17. Exxon Co., U.S.A.
18. Town of Independence

The Board unanimously approved cancellation of the referenced orders.


Kathleen O'Connell
Water Enforcement Program Manager



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OCT 17 2001

DEPARTMENT OF ENVIRONMENTAL QUALITY

James S. Gilmore, III
Governor

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DEQ - CD

Dennis H. Treacy
Director

John Paul Woodley, Jr.
Secretary of Natural Resources

Michael D. Overstreet
Regional Director
(540) 676-4800

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL
BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE NO. 5 - Consent Special Order With Civil Charges

Dallas Sizemore of the Department of Environmental Quality, Southwest Regional Office introduced the staff recommendations concerning the proposed Consent Special Order for the Town of Saltville Sewage Treatment Plant.

The Town of Saltville had been experiencing raw sewage overflows from its sewage collection system because of excessive infiltration/inflow into the system through faulty lines and manholes. To remedy this situation the Board was presented with a Consent Special Order that required the Town of Saltville to 1) locate and inspect all system manholes and complete a sewer system map, 2) monitor wet and dry weather flows, 3) further locate I/I sources by smoke and dye testing, 4) complete line replacement as required and 5) comply with VPDES permit by reducing flow within the sewerage collection system and eliminating overflows. The order also required the Town to pay an \$1800 civil charge.

Board Decision

Based on the staff recommendations, the Board unanimously voted to:

1. approve the Consent Special Order for:

Town of Saltville Sewage Treatment Plant

2. authorize the Director or his designee to sign the Order on its behalf; and authorize the Director or his designee to refer any violations of the Order to the Attorney General's Office for appropriate legal action.

Michael D. Overstreet
Regional Director



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OCT 17 2001

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

DEQ - OD

James S. Gilmore, III
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West Central Regional Office

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Dennis H. Treacy
Director

John Paul Woodley, Jr.
Secretary of Natural Resources

Richard F. Weeks, Jr.
Regional Director

MINUTE NO. 6 - West Central Regional Office Consent Special Orders

Richard F. Weeks of the Department of Environmental Quality, West Central Regional Office introduced the staff recommendations concerning the proposed Consent Special Orders for the City of Bedford and Ginger U. Webb and a Consent Special Order Amendment for Beechwood Water Corporation, Inc.

Board Decision

Based on the staff recommendations, the Board voted unanimously to:

1. Approve the Consent Special Orders for:

The City of Bedford
Ginger U. Webb (Doyle Mobile Home Park)
2. Approve the Consent Special Order Amendment for:

Beechwood Water Corporation, Inc.
3. Authorize the Director or his designee to sign the Orders or Amendment on its behalf;
and
4. Authorize the Director or his designee to refer any violations of the Orders or Amendment to the Attorney General's Office for appropriate legal action.

Richard F. Weeks
Regional Director
West Central Regional Office



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COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Richard F. Weeks, Jr.
Regional Director

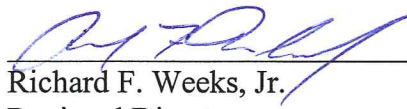
EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON OCTOBER 4, 2001

Minute No. 7- West Central Regional Office: VPDES Permit Issuance for Tanglewood Manor Home for Adults Inc.

Richard F. Weeks, Jr., Regional Director for Department of Environmental Quality's West Central Regional Office presented the staff recommendation to issue the revised VPDES Permit for Tanglewood Manor Home for Adults Inc. (VA0090646). Following the public comment period, this permit was revised to address public health concerns and new receiving stream flow information. Representatives of Tanglewood Manor Home for Adults Inc. testified in favor of issuing the permit and proposed Chemical Oxygen Demand (COD) effluent monitoring as an additional permit requirement to monitor the adequacy of treatment. Several residents of Alleghany County testified opposing the proposed issuance.

Board Decision

Based on the briefing materials, staff presentation, public testimony, and recommendations, the Board voted 4-1 to approve the issuance of the revised VPDES permit for Tanglewood Manor Home for Adults Inc. (VA0090646) with the condition that Chemical Oxygen Demand (COD) effluent monitoring be conducted as agreed to by the permittee. This requirement shall be incorporated into the VPDES permit as part of the Operations and Maintenance Manual Special Condition. As requested by the State Water Control Board, DEQ agreed to conduct upstream and downstream monitoring of the receiving stream, Ogle Creek, to characterize water quality.


Richard F. Weeks, Jr.
Regional Director



COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

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Dennis H. Treacy
Director

Gregory L. Clayton
Regional Director

**EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT
ITS MEETING ON OCTOBER 4, 2001**

MINUTE NO. 8 – NVRO - Consent Special Orders

The Department of Environmental Quality's ("DEQ") Northern Virginia Regional Office ("NVRO") presented two proposed Consent Special Orders for the Board's consideration.

Ms. Elizabeth Anne Crosier of the DEQ NVRO made the staff presentation concerning the proposed Orders. Following the presentation, Ms. Crosier made the staff recommendations regarding the proposed Orders.

The first proposed regarding the Four Winds Campground sewage treatment plant ("STP") includes a schedule for upgrading the STP in order to achieve compliance with final Permit limits and provides interim limits for ammonia until the upgrade is completed. The Order also requires that Four Winds Campground, Inc. a civil charge of \$1,120.00.

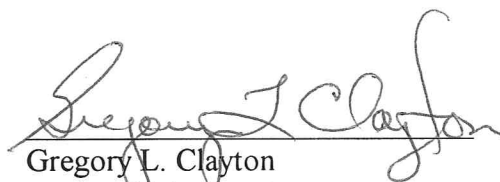
The second proposed Order requires Shockey Brothers, Inc., the Permittee, to construct a containment area for process wastewater runoff from the facility's acid etching operation and install groundwater monitoring wells around the containment area. The Order also requires that Shockey Brothers, Inc. pay a civil charge of \$3,850.00.

Decision

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

1. Approve the proposed Consent Special Orders;
2. Authorize the Director or his designee to sign the Orders on the Board's behalf; and

3. Authorize the Director or his designee to refer violations of the Orders to the Attorney General's Office for appropriate legal action.

A handwritten signature in black ink, appearing to read "Gregory L. Clayton", written over a horizontal line.

Gregory L. Clayton
Regional Director
Northern Virginia Region



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DEPARTMENT OF ENVIRONMENTAL QUALITY

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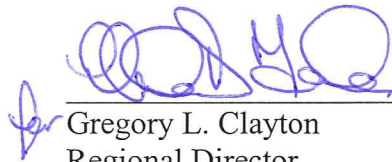
EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL
BOARD AT ITS MEETING ON OCTOBER 4, 2001

**Minute No. 9—Reissuance of the FMC, Fredericksburg, and Massaponax
Wastewater Treatment Facilities Permits (VPDES Permits
VA0068110, VA0025127, VA0025658)**

This agenda item involves the reissuance of three permits for publicly operated treatment works owned and operated by Spotsylvania County, and the City of Fredericksburg. Staff from the Northern Virginia Regional Office summarized the comments received from the permittees, provided responses to these comments, and answered questions from the Board. The Board asked staff several questions to clarify the nature of the modifications made to the permits after the July 31, 2001 public hearing. Subsequently, Mr. Doug Fawcett, Director of Public Works for the City of Fredericksburg, presented his comments regarding these permits. Mr. Fawcett spoke on behalf of himself and Mr. Thomas E. Slaydon, Director of Utilities for Spotsylvania County. Staff recommended that the Board issue the permit as drafted with modifications to the metals limits. These modifications include the removal of copper limits and the relaxation of zinc limits for the FMC and Fredericksburg wastewater treatment facilities.

Board Decision

The Board unanimously voted in favor of the staff's recommendation.



Gregory L. Clayton
Regional Director
Northern Virginia Regional Office



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Dennis H. Treacy
Director

Gerard Seeley, Jr.
Piedmont Regional Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD
AT ITS MEETING ON OCTOBER 4, 2001

MINUTE NO. 10 - Consent Special Orders

Mr. James Golden, Piedmont Regional Office, introduced the staff recommendation concerning the proposed Consent Special Order Settlements for Lighthouse Motel, Town of Kilmarnock, Rehrig International Incorporated, Town of Victoria, and WestPoint Stevens Incorporated.

The proposed Order for Lighthouse Motel addresses violation of a Consent Special Order that was issued on November 24, 1997. The Order required Lighthouse Motel to connect to the regional wastewater treatment facility and pay a \$5,000 civil charge. Lighthouse Motel failed to secure a contract with the Town for connection and also failed to pay half of the civil charge assessed in the Order. A NOV was issued for failing to meet the requirements of the previous Order. Lighthouse entered into a contract with the Town of Clarksville for connection and paid the outstanding balance of the civil charge. The proposed Order requires connection to the Town's sewage collection system on or before September 1, 2001. The Order also requires closure of the motel's existing WWTP on or before October 15, 2001, and termination of their permit. Lighthouse Motel connected to the Town's Wastewater treatment system on July 27, 2001. Since Lighthouse paid the balance of the civil charge, and the Town delayed the project past the September 1, 2000 connection date due to problems in securing easements, this Order does not contain a civil charge.

The proposed Order for the Town of Kilmarnock addresses failure to submit a proposed plan to meet copper and zinc limits, several quarterly progress reports, the pretreatment condition report to develop local limits, the pretreatment condition report to submit legal authority, and the first water quality standards monitoring report. In addition, the Town had TKN violations in October 1999, February 2000, and March 2000. The Order requires the Town to submit an updated operation and maintenance manual and to develop and implement a formal written reporting corrective action plan that prevents future reporting and submittal violations. The Order requires the payment of a \$3,750 civil charge.

The proposed Order for Rehrig International Incorporated addresses an unpermitted discharge and operating without a stormwater permit. Rehrig asked for and received additional time to conduct sediment sampling to determine if remediation was required to mitigate impact from the discharge. Sample results indicate that remediation was required. The proposed Order requires Rehrig to complete remediation by May 15, 2001; which has been completed. The Order also requires Rehrig to apply for an Individual VPDES stormwater permit within sixty days of execution of the Order and to pay a \$6,000 civil charge.

The proposed Order for Town of Victoria addresses failure to develop and submit an O&M manual, discharging without a CTO from December 15, 1999 to May 19, 2000, and for failing to meet the TKN permit limits at the Town's East Sewage Treatment Plant (STP). In addition, the Order addressed improper operation and maintenance, improper and untimely reporting, failure to submit groundwater reports, failure to comply with the sludge management plan, and an unpermitted, unreported discharge of alum sludge at the Town's Water Treatment Plant. In regards to the Town's East STP, the proposed Order requires submittal of a corrective action plan detailing operation and maintenance procedures that will be implemented to prevent TKN violations. The plan will include a diagnostic evaluation (DE) of the STP. The DE will be used to determine if the STP, as built, can meet the VPDES TKN permit limits at design flow. If the DE indicates that construction of an upgrade is required to meet TKN limits, then within ninety (90) days the Town must submit a conceptual engineering report (CER) with a schedule of implementation. In regards to the Town's Water Treatment Plant, the proposed Order requires submittal of a revised Sludge Management Plan to DEQ for approval, submit a revised operation and maintenance manual for the facility upgrade, remove sludge from the old lagoon in accordance with the approved plan, and provide a Certificate of Completion on the construction of the facility upgrade. The Order also provides for the payment of a \$8,000 civil charge.

The proposed Order for WestPoint Stevens Incorporated addresses failure to perform toxicity monitoring for the 10/99-12/99 and 1/00-3/00 monitoring periods, failure to include toxicity testing results on the DMR for the 4/00-6/00 monitoring period, and failure to submit yearly water quality monitoring for 1998 and 1999. The Order requires WestPoint Stevens to develop and implement a formal written reporting corrective action plan that outlines personnel training, double cross-checking of data and development of key dates on a calendar to prevent late submittals. The Order also requires payment of a \$1,800 civil charge.

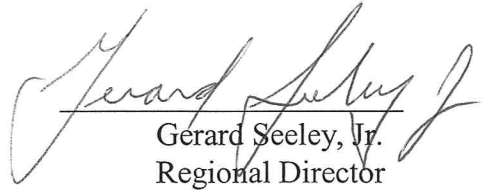
Board Decision

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

1. approve the Consent Special Orders for :

Lighthouse Motel Incorporated
Town of Kilmarnock
Rehrig International
Town of Victoria
WestPoint Stevens, Incorporated

2. authorize the Director or his designee to sign the Orders on its behalf; and
3. authorize the Director or his designee to refer any violation of these Orders to the Attorney General's Office for appropriate legal action.



Gerard Seeley, Jr.
Regional Director



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Dennis H. Treacy
Director

Francis L. Daniel
Tidewater Regional Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON JUNE 12, 2001

MINUTE NO. 11 – BALLARD BROTHERS FISH COMPANY dba CHERRYSTONE CAMPGROUND, CONCRETE PLACEMENT SYSTEMS, INC., AND CITY OF NORFOLK

David S. Gussman, Senior Enforcement Specialist in the Department of Environmental Quality's Tidewater Regional Office introduced the staff recommendations concerning Consent Special Orders for the Ballard Brothers Fish Company dba Cherrystone Campground, Concrete Placement Systems and City of Norfolk.

Ballard Brothers Fish Company, Inc. dba Cherrystone Campground

The Company is subject to a Virginia Pollution Abatement permit that expired on March 15, 2001. The no-discharge permit regulated a sewage treatment system consisting of three lagoons and a spray irrigation system. Part II.L of the permit required the owner to reapply for a permit at least 180 days prior to the expiration date of the permit. On December 15, 2000, DEQ issued a warning letter to the facility for failing to submit the permit application. On January 17, 2001, DEQ received an incomplete permit application; a complete application was not received until February 6, 2001. On January 19, 2001 a NOV was issued for failing to submit a timely and complete permit reapplication. The permit was reissued on June 19, 2001.

The order requires the Company to complete an upgrade of their lagoons by December 14, 2001 and to pay a \$1,050 civil charge. The Order completed public notice and no comments were received.

Concrete Placement Systems, Inc.

The Company is subject to a VPDES permit that regulates the discharge of process water and contaminated storm water. According to the December, 2000 discharge monitoring report, the average and maximum TSS limit was exceeded. In addition, the following permit violations were documented during the listed inspection dates:

- freeboard not maintained: 12/7/00, 12/18/00 (overflowing); 1/8/01; 1/26/01; 2/20/01
- improper solids handling as required by the operations and maintenance manual: 12/7/00, 12/18/00
- no weekly inspections: 5/16/01

The Order requires the Company to develop and implement a corrective action plan and to pay a \$1,500 civil charge. The Order has completed public notice and no comments were received.

City of Norfolk

Norfolk is subject to a Virginia Water Protection Permit that was issued on December 6, 1999 for the dredging of five navigation channels in Pretty Lake. Dredging was to take place in five phases. On October 24, 2000 Norfolk submitted to DEQ a post-dredge bathymetric survey which indicated overdredging had occurred in portions of Phases II and III. Warning Letter No 00-11-TRO-001 was issued by DEQ to the City of Norfolk on November 3, 2000 for the overdredging.

On December 18 and 19, 2000, Norfolk removed dredged material along the access path from the City's Phase III channel to the 6th Bay Access Site. This operation was not included in the Permit or approved by DEQ.

The Order requires the Company to comply with their permit and to restore impacted wetlands at an offloading site. The Order also includes a civil charge of \$4,000. The Order has completed public notice and no comments were received.

Board Decision

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

1. approve the Consent Special Orders for the Ballard Brothers Fish Company dba Cherrystone Campground, Concrete Placement Systems and City of Norfolk;
2. authorize the Director or his designee to sign the Orders on its behalf; and
3. authorize the Director or his designee to refer any violations of the Orders to the Attorney General's Office for appropriate legal action.



Francis L. Daniel
Director, Tidewater Regional Office



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE NO. 12 - VRO - Consent Orders with Civil Charges

R. Bradley Chewning, Regional Director of the VRO, introduced Edward Liggett, VRO enforcement staff. Mr. Liggett made a staff presentation and introduced the staff recommendations concerning proposed VRO Consent Special Orders with civil charges for Highland Oil Company, Inc., and Rutherford Construction, Inc.

The Highland Oil Company owns an underground storage tank (UST) system located at Cascades Market in Hot Springs, Bath County, Virginia. Highland Oil failed to meet the December 22, 1998, deadline for upgrading its USTs to meet regulations governing spill and overfill protection, release detection, and corrosion protection. When a non-compliant kerosene tank was removed in November 2000, Highland Oil found that a release of petroleum products had occurred from the USTs.

Highland Oil has removed the non-compliant USTs and is replacing them with 2 compliant tanks. Highland Oil is also addressing the Pollution Complaint caused by the release of petroleum to groundwater on site. The CSO provides a schedule to provide closure documentation on the removed tanks, registration information on the newly installed tanks, and release detection records for the new tanks. The Order further requires Highland Oil to submit a Site Characterization Report Addendum and, if necessary, to take action to clean up the petroleum release on site. The Order includes a civil charge of \$9,000 for the violations.

Your Board Book contains an estimate of \$16,000 to comply with this Consent Order's requirements. This figure does not include an additional \$50,000, which is the approximate cost to install the new compliant tanks on site.

The public notice period for the proposed Consent Order was completed on September 26, 2001, and no adverse public comment was received.

On February 21, 2001, staff of the VRO accompanied staff of the U.S. Army Corps of Engineers on an inspection of Forest Springs Estates subdivision, located in Augusta County, Virginia and owned by Rutherford Construction, Incorporated. During the inspection, staff observed that

Minute No. 12

Highland Oil Company, Inc., and Rutherford Construction, Inc.

Page 2

approximately 1,000 linear feet of Johns Run had been filled in and/or modified into a straight trapezoidal channel in violation of State Water Control Law.

On March 19, 2001, staff of DEQ-VRO conducted a benthic survey of that part of Johns Run affected by the stream channel filling and modification activity. This survey indicated that the filling and channelization of Johns Run has caused severe impacts to the biota in Johns Run in the reach of the stream located downstream of the channelized area in violation of State Water Control Law.

VRO staff also documented that the Forest Springs Estates subdivision construction site was subject to regulation under the VPDES stormwater regulations, and that Rutherford had not submitted a registration statement in accordance with the VPDES regulation and had not received authorization under a General Permit to discharge stormwater from the Forest Springs Estates subdivision construction site into waters of the Commonwealth.

The Order requires Rutherford Construction to reconstruct Johns Run in a manner which most closely re-establishes the hydrologic characteristics of the stream which existed prior to the filling and channelization. The proposed Order requires Rutherford to file a registration statement for coverage under a General VPDES Permit authorizing discharge of stormwater from the Forest Springs Estates subdivision to waters of the State.

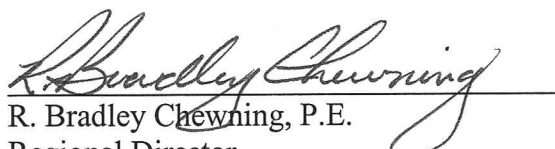
The Order also requires Rutherford Construction to pay a civil charge of \$31,000.

The public notice period for the proposed Consent Order was completed on July 5, 2001, and no adverse public comment was received.

Board Decision

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

1. approve the Consent Special Orders with Civil Charges for Highland Oil Company, Inc., and Rutherford Construction, Inc;
2. authorize the Director or his designee to sign the Orders on its behalf; and
3. authorize the Director or his designee to refer any violation of these Orders to the Attorney General's Office for appropriate legal action.


R. Bradley Chewing, P.E.
Regional Director
Valley Regional Office



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE NO. 13 – Water Quality Standards - Tier III Waters

Jean Gregory of the Office of Water Quality Programs referred the Board to the staff briefing memo under Tab 13 of the agenda book for a summary and response to the comment received from potentially impacted localities and riparian landowners for six petitions. The petitions were to designate Ragged Island Creek, Passage Creek, the Upper Rapidan River, Little Stony Creek, Whitetop Laurel Creek and Bottom Creek as Tier III, Exceptional Waters. She advised the Board that this information had been placed on the agency web site on September 28, 2001 and briefed them on additional comment received in support of the Ragged Island Creek petition after the memo for the agenda book had been mailed to the Board.

The Board had directed staff at their March 26, 2001 meeting to provide an update on the status of triennial review amendments in connection to the antidegradation policy so that they could at the time of the staff briefing on the impacted parties comments decide what action to take on the six petitions. Mrs. Gregory informed the Board that the proposed triennial review amendments would be ready for staff presentation at their December 12-13, 2001 meeting for authorization to proceed to public hearing and comment.

She advised the Board that DEQ staff sent a letter to EPA III requesting assistance in responding to four of the 17 questions identified from the impacted parties comment. Staff had received an unsigned draft letter faxed October 2nd from EPA. Mrs. Gregory informed the Board that staff believed this draft letter did not fully respond to those areas of uncertainty about the impact to exceptional waters of the EPA required amendments to the antidegradation policy.

Mrs. Gregory also brought before the Board a new exceptional water petition for their receipt and authorization, as required by State Code, to notify potentially impacted localities and riparian landowners for comment. The petition from Sally Mello requested the Board reactivate her petition from June 7, 1993 for consideration as a new petition for designation of the Hazel River as it flows through Rappahannock County and Culpeper County to its mouth at the

Rapahannock River as an exceptional water. Mrs. Gregory advised the Board that staff review had deemed this Tier III petition to be complete.

Five individuals addressed the Board with comments about the petitions. Susan Littell, Rapidan Camps, Inc, spoke as a riparian landowner in opposition to the Upper Rapidan River petition. Patricia A. Jackson, James River Association, spoke on behalf of the petitioner - Isle of Wight Citizen's Association - in support of the Ragged Island Creek petition. Dick Sedgley, Attorney, representing riparian landowner GrayCo spoke in opposition to the Ragged Island Creek petition. Frances Zahn, representing the Virginia Farm Bureau, urged the Board to first complete the EPA required amendments to the antidegradation policy and understand the impact of the changes before designating any additional exceptional waters. Kay Slaughter, Senior Attorney, Southern Environmental Law Center, encouraged the Board to move forward with a rulemaking on the petitions and pointed out that the program was almost ten years old but Virginia only had to date one exceptional waters designation.

Board Decision

Based on the briefing material and the staff presentation and recommendation and a subsequent discussion among the Board members on the pros and cons of initiating rulemakings on some of the petitions, the Board by vote of four to one (Mr. High voted nay) approved the following recommendations:

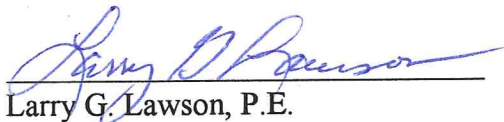
Regarding the six Exceptional Waters petitions received by the Board at their March 26, 2001 meeting, the staff recommends that the Board:

1. Not initiate a rulemaking at this time to adopt these waters as Exceptional Waters due to the following reasons:
 - a. Expected amendments to the Anti-degradation Policy of the Virginia Water Quality Standards that are being required by EPA add uncertainty to the implementation procedures for Exceptional Waters;
 - b. EPA has not fully articulated to DEQ's satisfaction the regulatory implication of an Exceptional Waters designation; and,
 - c. DEQ will be in a better position to explain to the public the impacts of an Exceptional Waters designation once the state rulemaking to amend the Anti-degradation Policy is adopted and approved by EPA and once EPA fully articulates the regulatory implications of an Exceptional Waters designation.

2. Direct the staff to notify in writing each of the petitioners for the six Exceptional Waters nominations advising them of the Board's decision.

Regarding the Exceptional Waters petition for Hazel River received by the Board at today's meeting, the staff recommends that the Board direct staff:

1. To proceed as required by State law with notification to the localities and riparian landowners in Rappahannock and Culpeper Counties that potentially would be impacted by an Exceptional Waters designation of the Hazel River and to provide these potentially impacted parties a 60 day opportunity for comment;
2. To include in the notification to the localities and riparian landowners an explanation that DEQ is uncertain of the impact resulting from an Exceptional Waters designation due to the ongoing triennial review rulemaking which we expect will revise the antidegradation provisions of the Virginia Water Quality Standards and that the Board does not intend to take any regulatory action on Exceptional Waters petitions until such time as the EPA required antidegradation policy amendments are adopted by the Board and approved by EPA and once EPA fully articulates the regulatory implications of an Exceptional Waters designation, and;
3. To provide the Board within the 180 day time period a summary of comments from potentially impacted localities and riparian landowners within the area of the Hazel River petition.



Larry G. Lawson, P.E.

Director, Division of Water Program Coordination



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE NO. 14 - Ground Water Petition

Mr. Terry Wagner, Director of the Office of Water Resources Management, presented a petition to the Board from Mr. Charles F. Bowdoin of Virginia Beach. Mr. Bowdoin's petition requests the Board to adopt additional requirements concerning the public notice of proposed ground water withdrawal permits issued subject to the Ground Water Withdrawal Regulation. Mr. Wagner committed to examine Mr. Bowdoin's petition and provide a report with recommendations to the Board within the mandated 180 day time frame. No action was requested of the Board at this meeting.


Larry G. Lawson



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE NO.15 - Permanent Regulation to Replace Emergency Regulation 9 VAC 25-650-10 et seq., Closure Plans and Demonstration of Financial Capability.

The staff presented the final regulation to replace existing emergency regulation 9 VAC 25-650-10 *et seq.* Changes made to the regulation as a result of review by the Department of Planning and Budget, public comment, and DEQ experience with three facilities that have complied with or are in the process of complying with the emergency regulation were summarized by staff.

Staff recommended that the Board adopt the final regulation.

Board Decision

The Board voted to adopt regulation 9 VAC 25-650-10 *et seq.*, Closure Plans and Demonstration of Financial Capability.

A handwritten signature in blue ink, appearing to read "Larry G. Lawson".

Larry G. Lawson, P.E.
Director, Division of Water Program Coordination



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE NO. 16 - Public Forum

Mr. Claude Royal appeared before the Board to express his concern that some owners of private sewage treatment plants would be unable to acquire a financial responsibility mechanism under the current regulation.

Ms. Patricia Jackson from the James River Association appeared during the public forum. Ms. Jackson expressed her disappointment that the Board had not authorized a regulatory process to proceed on any of the petitions requesting designation of an outstanding state resource water.

Mr. Robert Robinson from American Electric Power appeared to present the Board with a copy of the company's annual report.

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

Cindy M. Berndt



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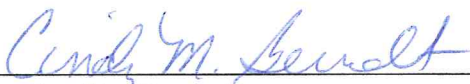
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER
CONTROL BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE NO. 17 - Division Director's Report

Mr. Larry Lawson presented a report on various water programs, as contained in a memorandum dated October 2, 2001.



Cindy M. Berndt



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE NO. 18 - Article 10 Delegation

Ms. Renee T. Hooper, Director of the Office of Financial Assurance, recommended that the Board delegate to the Director of the Department of Environmental Quality the authority to recover costs incurred by the Commonwealth for containment and cleanup of petroleum releases from certain underground storage tank, aboveground storage tank and non-tank sources. Ms. Hooper explained that State Water Control Law directs the Board to recover the costs incurred by the Commonwealth to remediate petroleum spills from tank and non-tank sources. Ms. Hooper explained that the Department currently has in place procedures to cost recover Virginia Petroleum Storage Tank Fund expenditures for state lead and emergency contract cases routinely and expeditiously. Ms. Hooper further explained that a new Office has been created in the Department to implement these procedures.

Board Decision

Based on the briefing material and staff presentation, the Board delegated to the Director of the Department of Environmental Quality the authority to recover costs under §§62.1-44:34:11(C), (D), (E) and (G) of Article 10 of the State Water Control Law.

Cindy M. Berndt



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EXCERPT FROM THE PROCEEDINGS OF THE BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE 19 - FY 2002 Combined Sewer Overflow Fund Allocation


Mr. Donald Wampler, Program Manager of the Board's Construction Assistance Program, made a presentation to the Board based on a memorandum dated September 5, 2001.

Mr. Wampler began his presentation by summarizing the appropriation activities of Virginia's Combined Sewer Overflow fund. He noted that as State appropriations became available, DEQ transferred the money to the Virginia Resources Authority for deposit in the CSO Disbursement Account. From that account, DEQ has been authorizing the disbursement of funds to the cities of Lynchburg and Richmond as they begin construction and incurred costs. He noted that since the CSO funds were not drawdown or disbursed immediately, the State's CSO disbursement account had accrued \$2.3 million in interest earnings, which are available for obligation.

He concluded his presentation noting that last year's failure by the General Assembly to adopt the FY 2002 budget amendment had left both cities without local funds needed to match the CSO FY 2002 federal appropriations. Therefore, Lynchburg and Richmond have requested that the Board authorize the disbursement of accrued interest to them.

Following discussion, the Board voted unanimously to:

Authorize the disbursement of \$2.3 million in accrued interest in the State's CSO Disbursement Account as grants to be split equally (\$1,150,000 each) between the City of Richmond and the City of Lynchburg for the purpose of implementing additional CSO control projects.


Larry G. Lawson, Director
Division of Water
Program Coordination



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EXCERPT FROM THE PROCEEDINGS OF THE BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE 20 - Development of Virginia's FY 2002 Wastewater Revolving Loan Funding List

Mr. Donald Wampler, Program Manager of the Board's Construction Assistance Program, made a presentation to the Board based on a staff memorandum dated September 5, 2001 in regards to the development of Virginia's Wastewater Revolving Loan project funding list and Intended Use Plan for FY 2002.

Mr. Wampler began by referencing the attachments included with the staff's memorandum which provided the Board with a description of the projects being considered and presented the FY 2002 applicants in priority funding order. He summarized the staff's activities in regards to the development of the FY 2002 funding list and briefed the Board on Virginia's anticipated revenue. He discussed the need to accelerate the loan approval process for the pending Peninsula Airport Commission loan.

Mr. Wampler concluded his presentation updating the Board on the Administration's current plan to transfer some of the Board's Wastewater Revolving Loan revenue to the Virginia Department of Health (VDH) for its Water Supply Revolving Fund program. He noted that the Health Department had reevaluated its current list of unfunded projects and, based on the projects' readiness-to-proceed status and other critical factors, had determined that its actual financial shortfall for 2002 was less than \$1 million. He noted that based on the Health Department's request and the Governor's anticipated transfer authorization, he did not foresee any problem with proceeding with the transfer based on VDH's revised need.


Following discussions, the Board voted unanimously to:

1. Target the following localities for loan assistance from available and anticipated funds, and authorize the staff to present the Board's proposed FY 2002 loan funding list for public comment.

1. City of Lynchburg	\$ 2,628,000
2. Fairfax County	\$50,000,000
3. Clarke County	\$ 424,599
4. Pepper's Ferry Regional WWTA	\$11,500,000
5. Hanover County	\$ 814,400
6. Alleghany County	\$ 6,000,000
7. Augusta County SA	\$ 91,000
8. Town of Shenandoah	\$ 150,000
9. Hanover County	\$ 1,354,380
10. Town of Fincastle	\$ 84,776
11. Town of Blackstone	\$ 1,221,376
12. Town of Culpeper	\$ 4,778,300
13. Town of Amherst	\$ 3,000,000
14. Russell Co. W&SA	\$ 148,500
15. Town of Luray	\$ 1,302,840
16. Amelia County	\$ 315,879
17. Hanover County	\$ 516,522
18. Hanover County	\$ 252,000
19. City of Newport News	\$ 3,200,000
20. Peninsula Airport Commission	<u>\$ 2,981,842</u>
Total Request	\$90,764,414

2. Authorize the loan of \$2,981,842 to be executed with the Peninsula Airport Commission, following and contingent upon receiving no adverse comments during public review process and contingent upon VRA's review and concurrence. The interest rate would be at the program's ceiling rate currently established at 4.0% for 20 years.

3. In accordance with the provision of Section 302 of the Safe Drinking Water Act, authorize the transfer of up to \$1 million of the Board's available FY 2002 Virginia Water Facilities (Wastewater) Revolving Loan Program revenue to the Virginia Department of Health for the purpose of providing additional Drinking Water SRF project loans.


Larry G. Lawson, Director
Division of Water
Program Coordination



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE NO. 21 - Future Meetings

The Board confirmed the date for the next meeting as
December 12-13, 2001.

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

Cindy M. Berndt



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON OCTOBER 4, 2001

MINUTE NO. 22 - Newdunn Associates, L.L.P. et al.

The Board convened a formal hearing on Newdunn Associates, L.L.P., et al. (Newdunn). A verbatim transcript of the proceeding was made and filed in the records of the Board.

The Board, after proper motion, unanimously voted to go into closed session pursuant to Section 2.2-3711(A)(7) of the Code of Virginia for consultation with legal counsel on Newdunn. Upon returning from closed session, the Board unanimously certified, by roll call vote, that only those matters properly announced and lawfully subject to discussion during closed session were discussed during the closed session.

Board Decision

The Board unanimously adopted the following motion to act before the Board upon the Commonwealth's July 31, 2001 Notice of Hearing pursuant to Virginia Code Section 62.1-4415(8b) and Section 62.1-44.26 and following the formal hearing pursuant to Virginia Code Section 2.2-4020 of the Code of Virginia and pursuant to an adjudicatory hearing conducted by the Board on October 4, 2001 where the Board accepted evidence and heard testimony from witnesses representing both parties:

The Board makes the following findings:

Subsection A Wetlands – there is no testimony or other evidence in the record that suggests this property is not properly delineated or defined as a wetland pursuant to Virginia Code Section 62.1-44.5. Newdunn's witness, Mr. Wolfe, stated that Newdunn knew that this was a wetland. In addition, Newdunn did not contest the Commonwealth's exhibit 3, September 3, 1999 letter from Douglas Davis to Bruce Williams.

Subsection B Excavation – Subparagraph 1 – On June 13th, 19th, 21, and 23 and 24, 2001, DEQ staff observed the mechanized removal of stumps, earth and soil on wetlands at the Newdunn site.

Subparagraph 2 – The Board finds that Newdunn’s mechanized removal of stumps, along with the associated earth and soil and wetlands constituted excavation and left holes in the ground.

Section C Permit – As of June 25th, 2001 Newdunn Associates had not obtained a Virginia Water Protection Permit for excavation of wetlands at the Newdunn site. Subsection 2, on June 25, 2001, State Water Control Board issued an emergency special order to Newdunn ordering Newdunn to immediately cease all excavation of wetlands at the facility.

Section D – Conclusion – Today the State Water Control Board hereby affirms its June 25th, 2001 emergency special order except as expressly modified and hereby directs the staff to prepare a modified order consistent with this motion.


Cindy M. Berndt
Cindy M. Berndt