



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Robert G. Burnley
Director

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MINUTES STATE WATER CONTROL BOARD May 6, 2002 - House Room C General Assembly Building Richmond, Virginia

Board Members Present:

Gary H. Baise, Vice-Chairman

Thomas V. Van Auken

Leroy O. Pfeiffer, Jr.

H. Preston Futrell, Jr.

Karl F. Wenger

Board Members Absent:

Hunter E. Craig, Chairman

vacant

Staff Present:

Robert G. Burnley, Director
Department of Environmental Quality

Cindy M. Berndt
Department of Environmental Quality

Attorney General's Office:

Rick Linker, Assistant Attorney General

- 1) The attached minutes summarize activities that took place at this Board Meeting.
- 2) The meeting was convened at 9:31 a.m. on Monday, May 6, 2002, went into closed session at 9:32 a.m., reconvened in open session at 10:03 a.m., recessed at 12:13 p.m., reconvened at 1:24 p.m. and adjourned at 3:01 p.m.

Approved Minutes # 1
10/3/02



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 1 - Closed Session

Pursuant to the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia, the Board met in Closed Session to consider the following matters:

Newdunn & Associates, L.L.P., et al.

Pursuant to Section 2.2-3712 (D) of the Code of Virginia, the Board, by roll call vote, unanimously certified that only those matters identified above, which are lawfully exempted from the requirements of the Freedom of Information Act, were considered during Closed Session.

A handwritten signature in cursive script that reads "Cindy M. Berndt".

Cindy M. Berndt



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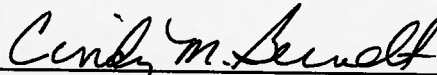
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 2 - Minutes

The Board approved the Minutes from the March 28, 2002 meeting. Approval of the minutes from February 8, 2002 was deferred to a future meeting.



Cindy M. Berndt



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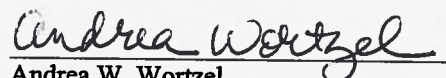
EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 3 – Cancellation of Consent Special Orders

Andrea Wortzel, Water Enforcement Coordination Manager, presented to the Board one consent special order for cancellation. The order to be cancelled was issued to:

1. Surry County School Board

The Board unanimously approved cancellation of the referenced order.



Andrea W. Wortzel
Water Enforcement Coordination Manager



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EXCERPTS FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 4 - Permit Terminations

Martin Ferguson, Director of the Water Permit Support Programs, presented one permit for the Board to consider terminating. The Board was asked to terminate the VPDES permit for the Town of Jonesville, Permit No. VA0024015.

The Board unanimously approved the termination of the VPDES permit for the Town of Jonesville Permit No. VA0024015.

A handwritten signature in blue ink, reading "Larry G. Lawson", written over a horizontal line.

Larry G. Lawson, P.E., Director

Division of Water Program Coordination



COMMONWEALTH of VIRGINIA

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Michael D. Overstreet
Regional Director
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 5 - Consent Special Orders With Civil Charges

Dallas Sizemore of the Department of Environmental Quality, Southwest Regional Office introduced the staff recommendations concerning the proposed Consent Special Orders for Sugar Creek Trucking Company, Inc. and Coleman Oil Company – Tazewell Happy Mart.

Sugar Creek Trucking Company had failed to register their Above Ground Storage Tanks (ASTS), prepare an Oil Discharge Contingency Plan (ODCP) for the facility, and report and abate a petroleum release from the site. To remedy this situation the Board was presented with a Consent Special Order that required Sugar Creek Trucking Company to 1) Submit an AST registration form and fees for review and approval, 2) Submit closure documentation for the AST system, 3) Submit a report detailing the extent and nature of the petroleum release and to properly handle the release. The order also required Sugar Creek Trucking to pay a \$5,000 civil charge.

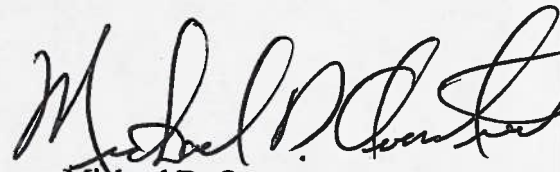
Coleman Oil Company improperly operated its leak detection equipment that led to a petroleum release that continued over a 16-month period. The release was detected when more than 1 foot of free product was found in a monitoring well that was drilled to investigate and remediate a previous release. To remedy this situation the Board was presented with a Consent Special Order that required Coleman Oil Company to pay a \$5,600 civil charge.

Board Decision

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

1. approve the Consent Special Orders for:

Sugar Creek Trucking Company and Coleman Oil Company
2. authorize the Director or his designee to sign the Orders on its behalf; and authorize the Director or his designee to refer any violations of the Orders to the Attorney General's Office for appropriate legal action.

A handwritten signature in black ink, appearing to read "Michael D. Overstreet", is written in a cursive style.

Michael D. Overstreet
Regional Director



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**Douglas W. Domenech
Secretary of Natural Resources**

**David K. Paylor
Director**

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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 6

Minute not available



COMMONWEALTH of VIRGINIA

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Secretary of Natural Resources

Robert G. Burnley
Director

Richard F. Weeks, Jr.
Regional Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 7 - West Central Regional Office Consent Special Order

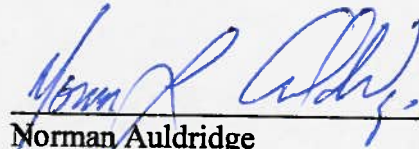
Norman Auldridge of the Department of Environmental Quality, West Central Regional Office introduced the staff recommendations concerning the proposed Consent Special Order for Henry County PSA, Receiver for Sanville Utilities (Fairway Acres STP and Westwood Lagoon).

Board Decision

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

1. Approve the Consent Special Order for:

Henry County PSA, Receiver for Sanville Utilities (Fairway Acres STP and Westwood Lagoon)
2. Authorize the Director or his designee to sign the Order on its behalf; and
3. Authorize the Director or his designee to refer any violations of the Order to the Attorney General's Office for appropriate legal action.



Norman Auldridge
Deputy Regional Director
West Central Regional Office



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Gregory L. Clayton
Regional Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 8 - Consent Special Order

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

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

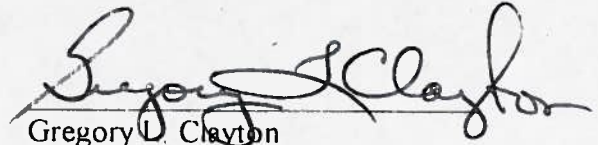
The proposed Order regarding the Pilot Corporation's Pilot Oil #291 facility requires that Pilot Corporation submit a revised operation and maintenance manual and ensure that discharge monitoring reports are filled out properly and are received by the tenth of the month after monitoring takes place. The Order also requires that Pilot Corporation pay a civil charge of \$2,100.

Decision

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

1. Approve the proposed Consent Special Order regarding the Arlington water pollution control plant,
2. Authorize the Director or his designee to sign the Order on the Board's behalf; and

3. Authorize the Director or his designee to 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 "Gregory D. Clayton", written over a horizontal line.

Gregory D. Clayton
Regional Director
Northern Virginia Region



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DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Gerard Seeley, Jr.
Piedmont Regional Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT IT'S MEETING ON MAY 6, 2002

MINUTE NO. 9 - Consent Special Orders with Penalty Settlements

Mr. James Golden, DEQ Piedmont Regional Office, introduced the staff recommendations concerning the proposed Consent Special Order Settlements for Q-Markets, Incorporated and Red Hill Mobile Home Park.

A Letter of Agreement (LOA) was signed by Q-Markets, Inc. on January 8, 2001, to bring the underground storage tanks (USTs) associated with the seven Q-Markets located in the Richmond area into compliance with the UST Regulations. Q-Markets failed to comply with the LOA. On August 13, 2001, a Notice of Violation (NOV) was issued for the facility located at 3109 Williamsburg Road. A subsequent meeting with the Owner discussed upgrading all seven stations that are in the Richmond area. The Order requires that all seven Q-Market stations in the Richmond area complete the necessary upgrades by June 20, 2002 and submit the appropriate documentation verifying completion of the upgrades by July 20, 2002. A civil charge of \$2,600 is assessed for the Q-Markets facility located at the 3109 Williamsburg Road site.

Red Hill Mobile Home Park is authorized by VPDES permit No. VA0028258 to discharge into Harrison Creek a tributary of the Appomattox River. On August 8, 2001 an NOV was issued for effluent violations, failure to submit plans and specifications for a treatment plant upgrade to meet ammonia limits, and failure to conduct stream sampling for three months. During a meeting with the treatment plant's operator and the Department, it was discovered that the operator did not have written authorization from the owner of Red Hill Mobile Home Park to sign discharge monitoring reports (DMRs) as the principal executive officer. The Order requires Red Hill Mobile Home Park to submit an updated operation and maintenance manual and written authorization for the DMR signature. The Order also provides for the payment of a \$2,800 civil charge.

Board Decision

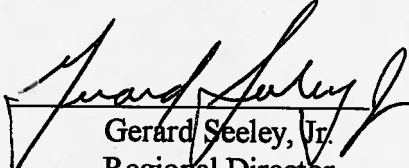
Based on the staff presentation and recommendations, the Board voted unanimously to:

1. approve the Consent Special Orders for :

Q-Markets, Incorporated
Red Hill Mobile Home Park

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



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Robert G. Burnley
Director

Gerard Seeley, Jr.
Piedmont Regional Director

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT IT'S MEETING ON MAY 6, 2002

MINUTE NO. 10 - Richmond Combined Sewer Overflows

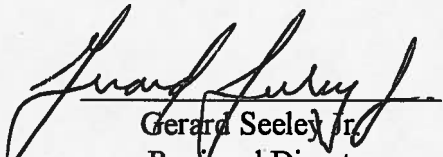
Mr. Gerard Seeley Jr., DEQ Piedmont Regional Office, reviewed the history of State Water Control Board involvement with the Richmond combined sewer overflow (CSO) issue. He explained that the current Consent Order required the City to conduct a comprehensive reevaluation of the progress made to date, identify issues remaining to be addressed, and to recommend a future course of action. The City was also required to conduct public meetings and gather input before submitting a report to the Board. The purpose of today's presentation was to brief the Board on the City's completed report on this complicated issue so that Board members could become more knowledgeable before being asked to take further official action.

Mr. Seeley introduced Mr. Frederico Maisch of the Greeley and Hansen engineering firm, who made a presentation of the Richmond CSO reevaluation report on behalf of the City. Mr. Maisch explained the nature of the CSO system and described the "Phase I & II" projects undertaken in accordance with the 1992 Consent Order (and amendments) approved by the Board. He said that the projects implemented so far have reduced the total volume of CSO's by 40%, and the pollutant load by 80% at a cost of about \$220 million. Of that cost the City has received state and federal grant assistance of \$19.3 million. The Phase I & II projects, which consist of STP upgrades, construction of large interceptor pipes and new flow regulators in the park areas, and some in line storage, have nearly eliminated sewer overflows in the park areas which has enhanced the City's ability to use and develop waterfront property.

Mr. Maisch described the Phase III projects that the City is recommending as a future course of action. These consist of a combination of more interceptor pipes, further improvements at the STP and Shockoe retention basin, some sewer separation, flow equalization, and more solids and floatable control regulators. The primary emphasis on Phase III would be to address periodic bacterial water quality standards violations in the river. It was explained that the Board may need to address the issue of special water quality standards for wet weather conditions in order for the river to eventually come into full compliance with all standards.

Mr. Maisch said that the estimated cost of the recommended Phase III projects is about \$213 million. The City is willing to cover the \$5 million cost of planning, design and administration, however, the remaining costs are beyond the City's funding capabilities. It was explained that Richmond's sewer rates are already among the highest in the state, and that a significant percentage of the City's population is considered poor, and cannot reasonably be expected to bear additional rate increases that would be necessary to fund the remaining projects.

After a substantial period of questions and answers, Mr. Seeley explained that the staff would return to the Board later in the year with a recommendation for further Board action with respect to the CSO issue.



Gerard Seeley Jr.
Regional Director



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 11 – Starlite, LLC

R. Bradley Chewning, Regional Director of the VRO, introduced Brandon Kiracofe, VRO Water Permit Writer, who made a presentation regarding the proposed issuance of VPDES Permit No. VA0090867 to Starlite, LLC. This permit was prepared for a proposed bowling alley and restaurant in Fluvanna County. A hearing regarding this proposed permit reissuance was held on April 16, 2002.

Mr. Kiracofe referred to the agenda item materials in the Board books, which were submitted prior to the public hearing. Mr. Kiracofe also discussed the additional comments received during and following the hearing, and the staff's responses to each. No new legal or technical information was received prior to or as a result of the public hearing to cause any changes to the draft permit.

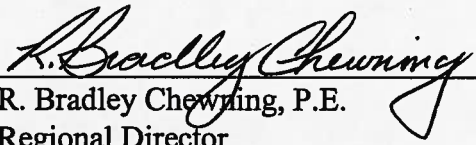
Upon request from the Board, Mr. Kiracofe provided the staff recommendation that the Board authorize the issuance of VPDES Permit No. VA0052451, as drafted.

Following the staff recommendation, Mr. Mike Clark, representing the applicant, made a presentation. Comments in opposition to permit issuance were then presented by Barry Parrish. He reiterated comments he had previously provided, which were discussed in the Board book materials. No new issues were raised by Mr. Parrish. The staff, the applicant, and Mr. Parrish responded to several questions raised by Board members.

MINUTE NO. 11
Starlite, LLC
Page 2

Board Decision

By a vote of five to zero, the Board voted to authorize the issuance of VPDES Permit No. VA0090867, as drafted.



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



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 12 – Tenaska Virginia Partners, L.P.

R. Bradley Chewing, Regional Director of the VRO, introduced Janardan R. Pandey (Environmental Engineer Senior, DEQ-VRO), who made a staff presentation regarding the proposed issuance of VPDES Permit No. VA0090905 to Tenaska Virginia Partners, L.P. This permit was prepared for a proposed power plant in Fluvanna County. A public hearing was held on March 5, 2002, regarding the proposed permit issuance.

Mr. Pandey referenced the Board book materials for detailed discussions of the comments that were received concerning the proposed permit issuance. He then discussed the additional information received subsequent to preparation of the Board book material. This additional information was regarding concerns that magnitude of the discharge would cause streambed erosion.

Following his presentation, Mr. Greg Kunkel, representing the permittee, assisted in answering questions from the Board and requested that the Board authorize the issuance of this permit.

Upon request from the Board, Mr. Pandey provided the staff recommendation that the Board authorize the issuance of VPDES Permit No. VA0090905 for Tenaska Virginia Partners, L.P.

Board Decision

By a vote of five to zero, the Board voted to authorize the issuance of VPDES Permit No. VA0090905.

A handwritten signature in cursive script that reads "R. Bradley Chewing".

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 MAY 6, 2002

MINUTE NO. 13 - 9 VAC 25-195-10 et seq., General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Concentrated Aquatic Animal Production Facilities

The staff presented a draft regulation amendment to reissue the Concentrated Aquatic Animal Production Facility General Permit and recommended that the Board authorize public hearings for the proposed draft.

Board Decision

The Board voted to authorize public hearings for the amendment of the General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Concentrated Aquatic Animal Production Facilities, 9 VAC 25-195-10 *et seq.*

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

Larry G. Lawson, P.E.
Director, Water Division



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EXCERPT FROM THE PROCEEDINGS OF THE BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 14 – 9 VAC 25-740-10 et seq. REGULATION FOR WASTEWATER RECLAMATION AND REUSE

Lily Choi recommended that the Board authorize the staff to public notice and hold public hearings for the proposed regulation that was presented at the meeting.

Board Decision

The Board voted unanimously to authorize the staff to public notice and hold public hearings for the proposed Regulation for Wastewater Reclamation and Reuse.

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 MAY 6, 2002

MINUTE NO. 15 - Sewerage Regulations

The staff presented a report on the "Sewerage Regulations" which were jointly adopted in 1977, by the Board and the Virginia Department of Health, in accordance with the State Water Control Law (Law). In 1991, the Law was amended and it revised the basis for the procedures, which had been included in the Sewerage Regulations. However, the Law recognized that there might be some time before new regulations would be adopted. Thus, the Law stated that the Sewerage Regulations would remain in effect until new regulations were adopted. In February 2002, the Virginia Department of Health adopted the "Sewage Collection and Treatment Regulations (SCAT)" which were consistent with the procedures in the amended Law. Thus, in accordance with the Law, and the promulgation of the SCAT Regulations, the Sewerage Regulations has been superceded and the Board is in a position to repeal the Sewerage Regulations.

Board Decision

The Board voted to repeal the Sewerage Regulations.


Larry G. Lawson, P.E.
Director, Water Division



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT IT'S MEETING ON May 6, 2002

MINUTE NO. 16 - General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Car Wash Facilities, 9 VAC 25-194-10 et seq.

The staff recommended that the board adopt the proposed 9 VAC 25-194-10 et seq., General VPDES Permit Regulation for Car Wash Facilities. The staff also recommended that the board receives, consider or respond to petitions by any interested person at any time with respect to reconsideration or revision of this regulation.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously to adopt the proposed 9 VAC 25-194-10 et seq., General VPDES Permit Regulation for Car Wash Facilities. The Board also voted to receive, consider and respond to petitions by any time with respect to reconsideration or revision of this regulation.

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

Larry G. Lawson, P.E.

Director, Water Program Coordination



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 17 – Water Quality Standards – Bacteria and Ammonia

A presentation given by Elleanore Daub of the Board's Office of Water Quality Programs informed the Board that more discussion was needed on the ammonia amendments and the impacts of those criteria on the Chesapeake Bay. Therefore, staff intended to recommend deferral of those amendments in 9 VAC 25-260-140 and 155. A suggested page substitution for pages 29 and 30 of the amendments was distributed. On page 30 at 9 VAC 25-260-310 special standard "y", the citation for 9 VAC 25-260-155 was removed and replaced with the site-specific equation to calculate the criterion. This would be a necessary change if section 9 VAC 25-260-155 were deferred.

The Board was also informed of the changes made to the regulation in response to public comment. Most importantly, only one new indicator was recommended for freshwater (*E. coli*) rather than the two indicators as originally proposed (*E. coli* and enterococci).

Decision:

Based upon the information provided to the Board and the staff recommendation, the Board by an unanimous vote:

1. Adopted the amendments in sections 9 VAC 25-260-5, 160, 170, 310 and 390 contingent upon review and approval from the Attorney General's Office;
2. Deferred adoption of sections 9 VAC 25-260-140 and 155 for the July Board meeting.

A handwritten signature in cursive script, appearing to read "Larry G. Lawson".

Larry G. Lawson, P.E.

Director, Division of
Water Program Coordination



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 18

Minute not available



COMMONWEALTH of VIRGINIA

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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO.19 - 9 VAC 25-20-10 et seq., Fees for Permits and Certificates.

The staff presented amendments to the subject regulation and recommended that the Board adopt the amendments, effective July 1, 2002. The proposed amendments are being promulgated as an emergency regulation to comply with the 280 day promulgation requirement in the Acts of Assembly enacting Senate Bill 592.

Board Decision

The Board voted to adopt the proposed amendments to 9 VAC 25-20-10 et seq., Fees for Permits and Certificates, to be effective July 1, 2002. The Board also affirmed that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided by the Administrative Process Act.

A handwritten signature in blue ink, reading "Larry G. Lawson".

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



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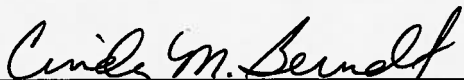
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 20 - Public Forum

There were no speakers during the public forum.



Cindy M. Berndt



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 21 - Washington D. C. Aqueduct

The staff reported on the Washington D. C. Aqueduct water treatment plant to address concerns the Board had expressed regarding the discharges of sludge back into the Potomac River. The staff advised the Board that the permit had been issued by the Environmental Protection Agency (EPA), Region III, and the discharge was into the Potomac River, which is D. C. waters. Thus, the Board did not have any real authority to object to the permit discharge. The staff also reported on the status of the Washington D. C. Aqueduct NPDES permit which is in the process of being reissued by EPA. The NPDES permit, as drafted, would be a significant improvement over the existing permit and it would address some of the concerns of the Board. The draft permit would establish limitations on the time when the discharge could occur and it would require the permittee to look at ways in which the quantity of solids being discharged would be reduced.

Board Decision

The Board received the report and thanked the staff for the presentation.


Larry G. Lawson, P.E.
Director, Water Division



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MAY 6, 2002

MINUTE NO. 22 - Future Meetings

The Board confirmed July 8-9, 2002 as the date of their next meeting.


Cindy M. Berndt