



A-NPDC

ACCOMACK-NORTHAMPTON PLANNING DISTRICT COMMISSION
 P.O. BOX 417 • 23372 FRONT STREET • ACCOMAC, VIRGINIA 23301
 (757) 787-2936 • TOLL FREE (866) 787-3001 • FAX: (757) 787-4221
 WEBSITE: www.a-npdc.org

Minutes of the September 21st, 2021 Meeting Eastern Shore of Virginia Ground Water Committee

The meeting of the Eastern Shore of Virginia Ground Water Committee was held at 10:00 AM on Tuesday, September 21st, 2021 at the Accomack County Board Room, Accomac, VA.

Members Present	Members Absent	Others Present
Paul Muhly, Chairman	Charles Kolakowski	Jessica Steelman, A-NPDC
Jackie Phillips	Taylor Dukes	Anne Doyle, A-NPDC
Daniel Hershey	Michael Mason	Joe Grist, VDEQ*
Roberta Kellam*	John Coker, Vice Chairman	Britt McMillan, ARCADIS
Grayson Chesser*	Elaine Meil, Secretary	Bill Savage, ESSWCD
Paul Grossman*		Janet Sturgis, NoCo Planning Commission*
		Matt Kearns, USGS*
		Jason Pope, USGS*
		Bob Bilicki, Wachapreague Town Council
		Ben Young, NRCS
		Michelle White, AcCo Citizen, Onancock
		Rob Shendock, Chincoteague Planning Commission*

**signifies virtual participant*



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NOTE: NO QUORUM

Call to Order

Chairman Muhly called the meeting to order at 10:04 AM.

Public Participation

Janet Sturgis, Northampton County Planning Commission –

Expressed to the Committee concern over the Wagner Borrow Pit, any regulations that could be enforced, and requested additional insight from DEQ.

Committee members asked that Britt McMillan, GWC Consultant compile brief summary to send to Joe Grist, DEQ for review and feedback.

Bob Bilicki, Wachapreague Town Council –

Presented to the Committee on the current feasibility study being conducted in Wachapreague regarding a pump station at the commercial waterfront that would eventually connect to the HRSD pump station. Requested information on identifying groundwater table to show areas of concern to Wachapreague residents.

Committee members recommended that Mr. Bilicki speak with Tom Brockenbrough of Accomack County; A-NPDC Staff, Jessica Steelman, to follow up.

Review of the July 20, 2021 Minutes

The draft minutes of the July 20th, 2021 meeting were presented.

FY 2021 Financial Status Report

The FY 2021 Financial Status Report as of August 2021 was presented. Total Bills Payable equaled \$7,100; total revenues received equaled \$13,156.75.

Staff Update

Committee Attendance Record

The FY2022 Committee Attendance Record is attached.

Environmental Reviews and Permits

VA Pollutant Discharge Elimination System Program –

Wastewater Treatment, Town of Chincoteague

Permit Number: VA0054003

Notice Purpose: To seek public comment on a draft permit that will allow the release of treated municipal wastewater into a water body in Chincoteague, Virginia.

Public Comment Period: September 1, 2021 to October 1, 2021

Applicant: Sunset Bay Utilities, LLC, 9919 Stephen Decatur Highway, Ocean City, MD 21842

Facility: Sunset Bay Utilities South Wastewater Treatment Plant, 3855 South Main Street, Chincoteague, VA 23336

DEQ Contact:

Robert E. Smithson, Tidewater Regional Office

Phone: (757) 518-2106; Fax: (804) 698-4178

Email: Robert.SmithsonJr@DEQ.Virginia.gov



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VA Pollution Abatement Program –
None.

Consent Orders –
None.

Groundwater Withdrawal Permits –
Public Notice: *General Permit for Use of Surficial Aquifer on the Eastern Shore [9 VAC 25 – 910]* Public Comment opened on 8/30/2021 and will remain open through 10/29/2021. Contact: Joe Grist, DEQ j

Environmental Impact Reviews –
None.

Other Items

Major SUP 2021-05 Eastern Shore Materials, LLC Borrow Pit – documents from Northampton Planning Commission August 3, 2021 meeting can be viewed [here](#); fall under the Bureau of Mines. GWC original 2018 letter attached.

ESVA Groundwater Litigation – documents attached.

Research & News

Sea Level Rise and Failing Septic Systems, by Molly Mitchell, PhD, and Julie Herman, PhD, Virginia Institute of Marine Science (attached); full research article can be viewed at <https://www.frontiersin.org/articles/10.3389/fmars.2021.631757/full>

Upcoming Events/Meetings

REGULAR MEETINGS OF STATEWIDE AUTHORITIES, BOARDS, COMMISSIONS, AND COMMITTEES –

Public Hearing – Proposed Amendments to the Water Quality Management Planning Regulation – Nutrient Allocations

A public hearing to receive comments on proposed amendments to the Water Quality Management Planning Regulation. The proposal appears in the Virginia Register on August 30, 2021. The public comment period begins on August 30, 2021, and ends on October 29, 2021.

Date/Time: 10/7/2021 at 1:00PM

Location: Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060

Contact: Gary Graham, gary.graham@deq.virginia.gov, 804-689-4103

MEETINGS ABOUT TOTAL MAXIMUM DAILY LOADS (or TMDLs) for IMPAIRED WATERS –
For more information about TMDLs in Virginia, click here for the [Virginia Department of Environmental Quality TMDL Web site](#). TMDL reports are available at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/ApprovedTMDLReports.aspx>.

VIRGINIA GENERAL ASSEMBLY WATER-RELATED MEETINGS –



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For meetings of legislative committees and commissions, see <http://lis.virginia.gov/cgi-bin/legp604.exe?191+oth+MTG>. Links to information about General Assembly commissions, councils, and special interim committees coordinated by the Division of Legislative Services are available online at <http://dls.virginia.gov/commissions.html>. The Virginia General Assembly Web site is <https://viriniageneralassembly.gov/>.

USGS EM-Logging 2020 Presentation

Sam Caldwell with USGS presented findings from EM-Logging 2020. Presentation can be found [here](#).

Ground Water Consultant Report

Technical/Regulatory/Educational Items:

1. Public Comment (**ends October 29, 2021**): General Permit for Use of Surficial Aquifer on the Eastern Shore [9 VAC 25 - 910].
 - a. See draft Regulations (**attached**)
 - b. See Background Documents (**attached**)
 - c. The purpose of the general permit is *“to authorize the development of a general permit and create a new general permit regulation to promote use of the surficial aquifer on the Eastern Shore for non-potable purposes”*
 - d. Regulatory Advisory Panel (RAP) formed 1Q2020 and completed draft regulations by October 2020.
 - e. SWCB authorized Public Comment at their December 2020 meeting.
 - f. Public Comment period ends October 29, 2021.
 - g. Summary of 9VAC25-910:
 - i. Permit duration: Fixed 15-year (i.e. 2020 to 2035) regardless of application date
 - ii. Applicable withdrawals:
 1. Groundwater withdrawals > 300,000 gal/month from the surficial aquifer
 2. For the purpose of the general permit, wells with a maximum depth less than 80-feet is considered to be screened in the surficial aquifer
 3. Wells screened deeper but are believed to be surficial aquifer must demonstrate with geophysical logs. Additionally, drilling must be coordinated at least four months in advance with DEQ.
 - iii. Application Requirements:
 1. Permit fee (**\$600**). Agricultural withdrawals no fee.
 2. Groundwater Withdrawal Permit Application Form (**see attached**), provided by DEQ). The intent is a simplified form similar to other general permit applications.
 3. GW-2 (**see attached**): well construction reports (Water Well Completion Report)
 4. Well name; depth; screen intervals; pumping rate; and location (longitude and latitude)
 5. Map showing locations of wells
 6. Surface water and groundwater conjunctive use systems, if applicable. (Irrigation ponds and similar)
 7. Amount (monthly) of groundwater requested.
 8. If a well is > 80 ft depth, geophysical logs and optional DEQ inspection (at the discretion of DEQ).
 9. Area of impact (for use in the Mitigation Plan).
 - iv. Reporting Requirements:



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1. Routine monthly total use reported to DEQ annually (**see attached reporting form**).
 2. Withdrawals in excess of the permit amount must be reported by the 5th day of the month following the excess withdrawal. Failure to report may result in compliance or enforcement activities.
 3. Annual Water Audit Form (**see attached**) documenting:
 4. Water use compared to expected need
 5. New water saving equipment, procedures, or improvements
 6. Leak detection and repair including quarterly visual monitoring.
 - v. Mitigation Requirements:
 1. Requires an Area of Impact analysis:
 - a. <https://swet.apps.aquaveo.com>
 2. Instructional video:
 - a. <https://www.youtube.com/watch?v=NzZWjTmL-oA&feature=youtu.be>
 3. Follows the existing mitigation requirements:
 4. Response to a claim will be within 5-business days
 5. If accepted, mitigation within 30-business days
 6. If denied:
 7. Provide justification for denial
 8. Require additional documentation
 9. May request arbitration
2. Wagner Pit proposed expansion.
- a. Proposed approx. 51 acre expansion to a new parcel east (and across railroad tracks) from the existing borrow pit.
 - b. Proposed operations are reportedly the same as the existing pit. In April 2018 (**attached**), the Groundwater Committee reviewed a Special Use Permit that would expand the existing pit by 8-acres.
 - c. Based on review of the documents related to the proposed 51 acre expansion, the principal findings from the April 2018 review apply:
 - i. Any impacts to the confined Yorktown-Eastover aquifer is expected to be negligible.
 - ii. Potential impacts to the surficial (Columbia) aquifer are:
 1. Lowered groundwater levels during operation which may reduce yield for the adjacent nursery well or other shallow wells nearby;
 2. Local change in the groundwater flow conditions:
 - a. Groundwater converging toward the pit at higher rates during operation, which has the potential to result in movement of groundwater impacted by nearby septic or agricultural systems (after operations cease, groundwater flow would most likely return to approximate pre-pit conditions); and
 - b. After excavation is complete, the pit would be expected to behave similarly to other irrigation ponds: a net source for groundwater recharge in the winter months and a net sink (removal) for groundwater in the summer months.
 - iii. A condition in the April 2018 review was "*no disposal of any material into the pit and the use of the pit as an irrigation pond following excavation conclusion.*"
 - iv. The exception is that the proposed expansion appears to leave open the possibility that fill may be placed in the pit. From an August 31, 2021 response:



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1. *“As projects that come up, where overburden is brought to the pit, it will be utilized in berms or to slope pit walls.”*
 2. There is also reference to monitoring (including “water monitoring”) in accordance with DMME requirements. There does not appear to be any monitoring requirements in the existing DMME permit.
 3. Certain fill material, either placed adjacent to the pit or in the pit, can have the potential to adversely impact groundwater quality.
3. Thomas Farms Poultry Groundwater Withdrawal Permit lawsuit:
- a. Between Jessica L. Thomas, LLC, et al (Petitioners) v. Virginia State Water Control Board, et al. (Defendants)
 - b. Involves three farms: Chicken Bacon Ranch; Wishart’s Point Farm; and Thomas Farm.
 - c. Relevant text from the introduction:
 - i. *“appeal contesting the last minute addition of a Special condition to three groundwater withdrawal permits”*
 - ii. *“The Special condition requiring a costly alternative source investigation (“ASI”) was added despite the fact that (1) DEQ’s own rigorous Technical Evaluation demonstrated no need for the condition to be imposed; (2) no comments received by the Board offered any contrary evidence or support for imposition of the condition; and (3) DEQ, the agency with technical expertise in groundwater permitting, confirmed to the Board that there was no technical support for inclusion of the condition.”*
 - iii. *“Moreover the condition was added at the eleventh hour, without any notice or opportunity to object provided to Thomas Farms, without any written explanation or justification for the Boards deviation from the DEQ recommendation.”*
4. Draft Groundwater Committee Prioritization Matrix
- a. A detailed draft matrix was previously submitted. Based on an initial review of the Matrix, an annotated version has been developed to facilitate priority ranking for groundwater resource issues on the Shore.
 - b. The annotated matrix is intended to supplement the detailed matrix and not replace it. The annotated matrix is structured similar to the detailed matrix with four major categories:
 - i. Institutional Mechanisms
 - ii. Research Needs
 - iii. Monitoring
 - iv. Alternate Source Development
 - c. The four major categories are further subdivided as needed.
 - d. Descriptive columns have been added, some that include a subjective ranking (Implementability, Short Term Effectiveness, Long Term Effectiveness, Implementation Cost)
 - i. An initial rank has been populated for each category.
 - ii. Because these rankings are subjective, there should be additional consideration on the final ranking.
 - e. The intent is to use the annotated matrix to identify short term and long term focus for Groundwater Committee efforts with the detailed matrix providing necessary information to provide backup for the recommendations.

Other Items:

Additional FY2021 Groundwater Committee activities. Continue update of the Eastern Shore Groundwater Protection Plan.



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Ground Water Project Priorities

The GWC reviewed project priorities and action items.

Other Matters

The matter of reimbursement for travel to meetings for GWC members; requiring a bylaw amendment. **Staff requested members send starting location in order to calculate costs.**

GWC members requested information update on possibility of conducting business meetings virtually. **Staff to supply information as updates are given from the state.**

Schedule Next Meeting & Adjournment

The next Committee meeting was scheduled to be in Accomack County at the Enterprise Building: 23372 Front Street, Accomac for October 19th at 10:00 AM. **NOTE: NO DECEMBER 2021 MEETING.**

Chairman Muhly adjourned the meeting at 12:07 PM.

Copy test:

Paul Muhly, Chairman

Elaine K. N. Meil, Secretary