

TO DEQ State Water Control Board
Richmond
cindy.berndt@deq.virginia.gov
FOR Public Record Dec 9, 2010

Re: Virginia Clean Water Revolving Loan Fund
FY2011 Financial Assistance

Eligibility Issue for request from Northampton County, # 16 on DEQ loan list.

There are two issues of which the SWCB needs to be aware.

1. The requestor, Hurt & Proffitt on behalf of Northampton County has omitted critical information from the DEQ requirement for economic analysis in the DEQ Manual Chapt II C.2. By doing so they have severely biased their request in favor of the grant.

Accomack-Northampton Planning Commission (ANPDC) is currently preparing for loans to renovate 75% of the low income homes shown in one community of the planned area. The project will ensure that all homes are fully compliant with VDH well and septic system requirements. The VDH compliance will be accomplished with less than 1/50th of the proposed funding you are considering today. That is a more cost effective use of taxpayer's money. In addition, ANPDC works through a financial plan with every homeowner to assure that the loans can be repaid without bankrupting the families. The DEQ reviewing authority could have verified this information if they had conscientiously evaluated the applicant's information.

In another area, Hurt & Proffitt together with Mr. Robert Panek seem to be preparing to use the Cape Charles sewage system to subsidize the wealthier residents of Cape Charles by charges made to the low income families outside the town. From Mr. Panek's report to the Cape Charles Town Council as shown in their Minutes, October 28th: " Even at \$150K/year it would be a benefit to Cape Charles since it would be a revenue source outside of the rate payers and the Town could possibly reduce the rate paid by Cape Charles users." This is referencing the processing charges to be made to the elderly and low income residents outside Cape Charles boundaries.

A letter by Senator Northam to Director Paylor was composed from information provided to his aide by Mr Panek. According to Northam's aide in a phone conversation with me, the Senator's comments were based solely on information and opinion provided to him by PSA Member Robert Panek. In addition to being the Town's appointed PSA member, Mr. Panek is a paid consultant for the Town of Cape Charles. He presumably has both a professional and an employment/financial interest in this project.

The Senator's aide prepared the letter using incomplete and inaccurate information, and the same outdated data given to him by Mr. Panek, which the consultants had submitted in the grant request. He also indicated the Senator would not have given support if he had been made aware of the permanent burden the ever growing sewage costs would place on the backs of those who could least afford it.

2. The environmental review also required in the DEQ Manual Chapt II C.1. has been biased toward receiving the grant by omitting current information.

At the Oct 13th funding agency meeting here, the primary reason that Walter Gills from DEQ- Construction Assistance Program and Carrie Schmidt from USDA stated for Northampton's ability to qualify for funding was to protect the sole source aquifer from septic system contamination. Although there have been several requests locally to provide evidence of this contamination from those who generated the request and an attempt by a DCR directed team to identify specific warm-blooded sources of contamination, no evidence has been forthcoming.

At the Northampton Board of Supervisors public meeting on 10 November, a Supervisor stated,

:"On July 13th of this year, I challenged the engineering firm, (Eldon James from Hurt and Proffitt was here representing them at the podium) to do its homework and create a cost/benefit analysis that would utilize concrete data that could document the extent of environmental degradation in the area as well as the specific whereabouts of known failing systems.

Four months later, no progress has been made on this. The application is riddled with wording such as 'A number of these units have been identified as failing', or, 'many septic tanks are', or, 'Some houses are still served by pit privies', or this, 'The overall goal of the project is to improve water quality in the Chesapeake Bay watershed and King's Creek by replacing up to 495 failing or questionably functioning on-site septic systems.' Four months ago I challenged the engineers to find just 25 failing systems. They have not."

The grant application references outdated government agency studies using old testing methods for which scientists from VIMS and other laboratories will no longer give credence. Dr. Margolius from VDH, on the Eastern Shore provided a "To Whom It May Concern" letter, submitted with the grant request that made allegations of failing septic systems and pit privies threatening the drinking water sources. None of his statements on this matter have been substantiated. His representative James Davis from VDH has been asked several times to substantiate Dr. Margolius' assertions, and he either cannot, or chooses not to, provide any data. **In fact, his agency, VDH, today approves wells and septic systems constructed to their standards to be within 100 feet of each other.**

A letter submitted by Mr. Laurence Trala references a 1992 study as supporting justification for the funding. Later studies published about 2004 were ignored. Even the data in those later studies is indicative of very poor science with extremely improbable results. The pollution sources for three different creeks in three different watersheds have exactly the same percentage of the same pollutants to the tenth of a percent. The odds of that happening might be fairly compared to winning the Virginia lottery.

Your own internal DEQ reviewing authority , the Construction Assistance Program, has ignored the latest NOAA geological field work in Northampton County which clearly contradicts the biased documents chosen by the applicant. DEQ has experts who are very knowledgeable in this field and who are abreast of the current information. Tammy Stephenson, Supervising Program Coordinator, DEQ Office of Surface and Ground

Water Supply Planning, participates frequently in seminars on this subject with the Eastern Shore Ground Water Committee.

In summary, the documentation selected to support providing this project is indicative of using outdated government information to provide a clear bias in favor of granting a large sum of taxpayer's money. You should also be aware that Mr. John Warwick, who entered a guilty plea on February 10th, was participating in the development of this application, according to meeting minutes, until he became a guest of the DOJ on June 25th.

Ref: <http://www.justice.gov/opa/pr/2010/June/10-crm-750.html>

The DEQ system for reviewing this request has made it apparent that it is severely lacking in expertise to properly evaluate the wide range of information it is given. It has also demonstrated that the effort to properly verify the data it receives using available internal DEQ sources is insufficient or nonexistent.

DEQ is not meeting its own Manual Requirements for providing funding. With this shortcoming, DEQ falls easy prey to those seeking government funds using questionable data for financial gain.

I urge you to deny this funding.

Please enter this letter into the PUBLIC RECORD

Thank you,
RH Meyers,
Resident, Northampton County
757-442-3814/ 757-710-0154

Member, DCR TMDL team for Kings Creek
Member Accomack-Northampton Ground Water Committee
Member Northampton County Wetlands Board
Member Northampton County Planning Commission
Chmn., Eastern Shore of Virginia Public Service Authority

December 6, 2010

MEMORANDUM for the Northhampton County Board of Supervisors

FROM: William A. Hughes

SUBJECT: Wastewater Treatment System

As a resident of Fairview, Virginia, I am writing to express my personal opinion and concerns regarding the issues surrounding the proposal of a mandated wastewater treatment system for Fairview residents.

For several years Fairview has received and utilized grant monies to rehabilitate and or construct 34 homes, to install 12 new septic systems and 14 wells in Fairview proper. Presently there is a push to get a countywide system with Fairview as a targeted community.

The citizens of Fairview do not want nor can they afford to have this treatment system constructed. We are an elderly community predominantly living on social security, welfare and otherwise fixed incomes. Any additional monthly expenses could very well require securing a second mortgage (which based on the economic conditions of Fairview residents would be problematic) and the very real eventuality of the loss of property. Additionally, many of these properties are headed by single females. Further indication that proceeding in the proposed manner has not been sufficiently researched is identified in the October 28, 2010 Cape Charles Town Hall meeting minutes where the fact that the monthly costs to be imposed on our residents cannot yet be determined.

The idea of groundwater contamination by septic systems in Fairview, while promulgated as a basis for this proposal, has not been proven and in the unlikely event that it would be, less costly environmentally friendly corrective methods such as installation of new septic systems is a more viable solution than that currently proposed. An engineering report, currently on file in Eastville, Virginia, concluded that salt water intrusion is a greater danger than septics.

There is a critical need for Fairview and other communities to have relief from storm water drainage. That relief however, should not put residents at risk in other social economic areas as this current proposal would do.

I request that this memorandum be read into the minutes.

Sincerely,

signed
WILLIAM A. HUGHES

cc: Katherine H. Nunez, County Administrator
Willie Randall, District 1 Supervisor

RE: Northampton County Wastewater Revolving Fund Application---December 9, 2010

Director Paylor and the Members of the State Water Control Board

As residents and taxpayers of Northampton County, we write to object to the Northampton County Wastewater Revolving Fund Application and ask that the State Water Control Board deny this application.

Any projects financed by the Virginia Wastewater Revolving Fund must "clearly demonstrate that they will remediate existing pollution problems or prevent future problems." (* DEQ Guidance, Program Design Manual, Section 1.E.) The proposed Northampton County project (Southern Node) purports to remediate a threat to groundwater from septic systems in the region. However, the application provides no data to support that assertion - no data on failing septic systems, no data on the existence, use or condition of pit privies, no data on the number of homes utilizing potentially contaminated groundwater. This application lacks supporting data because Northampton County willfully disregarded recent existing data that does not support the application's assertion that there is a need for this project to remediate existing pollution problems. In fact, the application identifies no failing septic systems in the region that would be served by the proposed sewer system. Furthermore, the major drinking water aquifer is at least 100 feet below the surface, recharge from the surface takes place over 100 or more years, and natural filtration mitigates surface contamination over that time. The major threat to the sole source drinking water aquifer is, in fact, groundwater withdrawal which leads to saltwater intrusion, according to the county's groundwater consultants (Malcolm Pirnie for the A-NPDC), based on data from the NOAA geological study of the crater, the basis of the region's sole source aquifer. While we are strong supporters of efforts to spur economic development in Northampton County, the true purpose of this project appears to be to enable economic development in an area where there is currently little growth pressure; a purpose stated in the Minutes of the Project Management Team, and confirmed by proposed sewer service mapping along State Route 13, Lankford Highway, in areas not designated for increased use or density on the county's adopted Future Land Use Map. Should this project be approved, the intended population increase would cause a significant deterioration of groundwater resources through excessive groundwater withdrawals, according to Malcolm Pirnie. Based on the lack of environmental benefit from this project, the State Water Control Board should deny this application.

Moreover, the State Water Control Board must find that this project is both *environmentally sound* and *cost effective* in order to approve Northampton County's application (see * Program Design Manual, Section II.C).

1. An *Environmental Review* is required to "ensure that projects funded through the VRLF are environmentally sound." The Environmental Review submitted by Northampton County in support of this project deliberately omitted current information that would demonstrate that this project is not "environmentally sound" as required for funding. Neither the 2010 Eastern Shore Groundwater Study nor the 2010 Kings Creek TMDL Study was included in the Environmental Review submitted by Northampton County. The Groundwater Study is an analysis required and reviewed by DEQ to assist the community in protecting its sole source drinking water aquifer. The MAJOR THREAT to our drinking water is salt water intrusion from excessive withdrawals. This project will, in fact, greatly increase the threat to our groundwater by enabling the growth which will

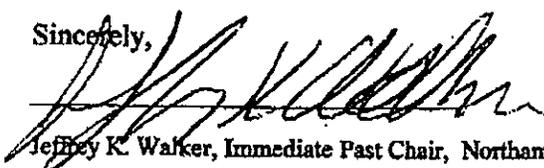
demand increased groundwater withdrawal. In addition, the 2010 Kings Creek TMDL Study provides significant information about bacterial contamination of the watershed. The majority of bacterial contamination does not originate in failing septic systems; rather, the bacterial contamination sources include wildlife, pets and livestock.

2. The State Water Control Board must also find that Northampton County's project proposal is the most *cost-effective alternative*. The Kings Creek TMDL strategy identifies many more cost-effective alternatives to identify, and then address possible failing septic systems in this watershed, with a total cost of approximately \$1 million for that project. Again, Northampton County's application omits this study and does not address the more cost-effective alternatives that have been identified by DCR. Cost is a very important factor in this project because the affected community has little ability to pay. Currently, grants are available to low and moderate income residents for septic pump out, and overall, the cost of pump out is approximately \$50.00 per year (\$250.00 every 5 years.) The proposed sewer project would increase the initial cost per household to approximately \$500.00 per year. This is a tenfold increase in cost in an area where 20 percent of the population lives below poverty level. Furthermore, the application does not take into account the cost of groundwater desalinization that would be required by the project as time goes on. Desalinization will be the only viable option for the county in the event of salt water intrusion, again, according to county consultants. The growth-inducing aspects of the project are not considered as required in an environmental review; i.e., the project would likely lead to an increase in population density which will increase pressure on the sole source aquifer and ultimately result in expensive measures for procuring potable water for the area.

As residents of Northampton County, we ask that the State Water Control Board deny this application for grant funding and direct staff to work with Northampton County to develop more cost-effective alternatives for identifying and addressing any potential bacterial contamination sources in the project area.

Since Federal funds would be involved in this project, a copy of these remarks is being forwarded to the EPA, District 3. We are submitting this letter to the public record.

Sincerely,


Jeffrey K. Walker, Immediate Past Chair, Northampton County Board of Supervisors


Immediate Past Chair, Eastern Shore of Virginia Groundwater Committee

Andrew Barbour, Former Member, Northampton County Board of Supervisors

Ref: *<http://www.deq.state.va.us/cap/woman.html>

My perspective on the State Water Control Board Meeting

To my knowledge and based upon the received date stamp of the FY11 VRLF Application, Hurtt and Proffitt submitted the application to Mr. Gill's office, July 16, 2010. Mr. Gill, USDA, DHCD and others were present at a Project Managers Meeting, October 13, 2010, discussing financing of the project. At the State Water Control Board meeting on Thursday, Dec. 9, 2010, Mr. Gill defended the "request for approval of the loan" by stating he nor his staff had reviewed the application. After Mr. Gill's comments I really wanted to ask many of the questions of Board members but the comment period was over. Mr. Gill's request for funding of a \$11 M project without reviewing the application reminds me of Congress voting on Bills they never read or comprehended the effect of legislation.

In my view, by his action of requesting PUBLIC LOANS/FUNDING, Mr. Gill has or should have VERIFIED/certified justification for such appropriations. If, by his own admission, he nor others within his department have FAILED TO review this application; then Mr. Gill is GROSSLY NEGLIGENT in his position. His actions call into question HIS ETHICS, the ETHICS OF THE DEPARTMENT and border, if not cross the line of FRAUD. This lack of accountability is disturbing and brings into question the request for the other \$164 M in loans.

I am further amazed at the support he received from the Board after his acknowledgement of a lack of performance of his duty.

One might make the case the application should have been in order prior to its delivery. This is true. Questions previously asked on **where were the failing septic systems and privies located** have not been answered. The application indicates King's Creek is contaminated by fecal coliform bacteria. Northampton County has been presented information that **the stormwater discharge from Northampton County's Bayview Trash Collection Station is a major contributor to the Fecal Coliform issue in King's Creek** as well as other establishments that attract wildlife. It was stated at the SWCB meeting, **"We know we have a problem with "POOP", the question is who's and where is it coming from?"** We have requested funding to identify the source, but have not received anything. Pollution from the upper aquifer in the project service area drains directly to this creek and **COULD LIKELY BE A SOURCE OF THIS POLLUTION.** There has been no verification of this statement. The application indicates "... sewer services aim to help solve as many problems and as possible..." There has been an inquiry, What and where are the problems? In the continued Section E, Para. 1, 2nd sentence, "The purpose of this action was to protect the groundwater from localized groundwater contamination and **prevent the limited aquifer sources from being overdrawn.**" Northampton County has been made aware of locations where developers have installed drainage pipes in the upper groundwater aquifer where groundwater continuously flows into bayside creeks which has a negative affect on the salinity level that is needed to propagate clams and other mollusks. **To date there has been no action taken to resolve that issue.** There is discussion that public sewer as of 1990 serves less than 15% and that others are served by cess pools and privies. What has Exmore been doing? What has ANPDC spent millions of taxpayer dollars on? **What have we been doing for the last 20 years?** Should Northampton County be submitting an application using 1990 data? While there are different methods of projecting population growth Va. Employment Comm. by the Cohort Method predicts a population decline. These are some of the inconsistencies in the application that have been noted.

In defense of Hurtt and Proffitt, there have been several occasions when the response has been made, **"WE WERE NOT TASKED WITH MAKING THAT DETERMINATION OR GATHERING OF THAT DATA"**. Although the PSA has requested Northampton County to define what the consultant was tasked to perform. As a member of PSA, I do not recall receiving any information on the tasks or the contract between Northampton County and Hurtt and Proffitt.

In defense of Mr. Gill, there is in Section K - ASSURANCES AND CERTIFICATIONS, "... the information contained herein and the attached statements and exhibits are true, correct and complete to the best of their knowledge and belief." Although implied, it didn't state that it had to be **"CURRENT OR UP TO DATE"**

The fact that Mr. Meyers, as a citizen of Northampton County, is involved in county planning, groundwater, King's Creek water quality study, and participant in the Wastewater Project Management Team meetings, he has the opportunity to better view how the pieces meld. Regardless of the capacity in which he acted, he would be negligent if he did not bring these facts to light, for further review.

I might also add after the meeting in a conversation with Dr. Gilinsky, her position is "everybody needs a sewage treatment plant". We agreed that we had a difference of opinion. On the salinity issue and the installation of the stormwater detention pond drainage pipe into the upper groundwater aquifer, her position is that's a DCR issue, we at (DEQ) are doing everything correctly, it's their problem. From a novice point of view, Dr. Gilinsky is not following her Guidance Memo No. 09-2006, "2010 Water Quality Assessment Guidance Manual", Pg 13 of 97, Part III Rules for the 2010 Water Quality Assessment, Rule 2. In the mean time the ship sinks!

Resolution to discharge of Groundwater into bayside creeks

In my view, there are three (3) competing natural resources under three different departments supervised by the Secretary of Natural Resources. VMRC, for maintaining and environment conducive to the propagation of shellfish, DEQ for the withdrawal of groundwater from a critical groundwater area and discharging groundwater as a waste product from development, and DCR due to the approval of installation of the discharge pipe at an elevation below the seasonal high groundwater table, discharging freshwater into a saltwater environment thereby diluting the salinity below the level needed to propagate clams and other mollusks, CBLAB for not performing the required review due to the discharge over shellfish beds.

The best way to resolve the issue is for the Secretary of Natural Resources to identify a priority of which resource has the highest to lowest environmental value. How can we get the right person to look at the "BIG PICTURE" and arrange the individual pieces in logical order?????

As it currently stands, every department meets their own criteria, but in the "BIG PICTURE" the combination of criteria leads to catastrophe, a ship named, "TITANIC".

Granville Hogg
Cheriton, Virginia 23316

10

WASTEWATER TREATMENT PROJECT PETITION

A petition of RESIDENTS OF FAIRVIEW, VIRGINIA

To

NORTHAMPTON COUNTY BOARD OF SUPERVISORS

Eastville, Virginia

December, 2010

WE THE UNDERSIGNED CITIZENS OF FAIRVIEW, VIRGINIA WOULD LIKE TO BRING TO YOUR ATTENTION, THAT AT THE TIME, WE THE RESIDENTS OF FAIRVIEW, VIRGINIA, DO NOT FIND IT IN OUR BEST INTEREST TO PARTICIPATE IN THE PROPOSED WASTEWATER TREATMENT PROJECT.

Sign your name	Print Name/DATE	Mailing address	Physical Address (911)
1. Annette Williams	Annette Williams ¹¹⁻¹⁷⁻¹⁰	PO Box 392 Cheriton VA 23316	23129 Fisher Ct.
2. Donetta Davis	DONETTA DAVIS	P.O. box 605 Cape Charles VA	4287 Sealie Ln DR
3. Robert's Roxanne Fish	Robert's Roxanne Fish	P.O. Box 45 Cape Charles Va.	23121 Banks Rd
4. Mr. Mrs. John B. Wyndes	John B. Wyndes	2249 Banks Rd	Cape Charles Va
5. Irene Ruffin	Irene Ruffin	2311 Fisher Ct	
6. Kathleen Bell	KATHLEEN BELL	23071 Fairview Rd Cape Charles VA 23316	
7. Mrs. Mrs. Sharon Dixon	Mrs. Mrs. Sharon Dixon	23077 Cape Charles VA 23310	
8. Shirley Belt Sunkins	P.O. Box 1049 Cheriton, VA	Shirley Belt Sunkins	4167 Mitchell Ln Cape Charles, VA
9. Glenda Jarvis	Glenda Jarvis	PO Box 681 Cheriton VA	4172 Knight Ln Cape Charles VA
10. Helen Gillis	Helen Gillis	23066 Banks Rd	Cape Charles
11. Margaret C Trower	Margaret C Trower	PO Box 45 Cape Charles VA 23310	
12. Mary Bracey	MARY BRACEY	23136 Fisher Ct	
13. Maria Spady	Maria Spady	P.O. Box 584	23034 Erwin Ct Cape Charles
14. Theodore Spady	Theodore Spady	P.O. Box 584	23034 Erwin Ct Cape Charles
Ella Gillis	Ella Gillis	23124 Fisher Ct	

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SIGN NAME	PRINT NAME/DATE	MAILING ADDRESS	911 ADDRESS
15. Cheryl Fenderson	Cheryl Fenderson/11-16-10	4295 Mildreds Lane	
16. Norman K. Bentley	Norman K. Bentley	P.O. Box 651 Cheriton VA 23316	4343 Seaside Dr
17. Samuel P. Burgess	SAMUEL P. BURGESS	23047 BANKS RD CAPE CHARLES VA.	23047 BANKS RD CAPE CHARLES VA.
18. Earnest Fenderson	EARNEST FENDERSON	4295 Mildreds Ln Cape Charles VA	
19. Phyllis Gillis	Phyllis Gillis	23047 BANKS RD Cape Charles Va.	4269 MILDRETT Ave
20. Kelsie Morris	Kelsie Morris	P.O. Box 921 Cheriton	23025 Fairview Rd
21. Annie M. Dixon	Annie M. Dixon	23121 Fisher Ct	
22. Andre Stodage	Andre Stodage	P.O. Box 281 22493	22495 Honey LN
23. Conine Wyder	Conine Wyder	P.O. Box 531 Cape Charles	22545
24. Barbara Brown	Barbara Brown	P.O. Box 302 Cheriton 23316	23069 Jackson Ln
25. Cora Lee Owens	CORA LEE OWENS	P.O. Box 833 Cheriton VA 23316	Fisher et 23042
26. Susie Stewart	Susie Stewart	Cheriton VA 23316	Maglia et 41376
27. Rev. H. Edward Whitake	22991 Bayview Cr	P.O. Box 377 Cheriton, VA 23316	22991 Bayview Cr
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WASTEWATER TREATMENT PROJECT PETITION

A petition of RESIDENTS OF FAIRVIEW, VIRGINIA

To

NORTHAMPTON COUNTY BOARD OF SUPERVISORS

Eastville, Virginia

December, 2010

WE THE UNDERSIGNED CITIZENS OF FAIRVIEW, VIRGINIA WOULD LIKE TO BRING TO YOUR ATTENTION, THAT AT THE TIME, WE THE RESIDENTS OF FAIRVIEW, VIRGINIA, DO NOT FIND IT IN OUR BEST INTEREST TO PARTICIPATE IN THE PROPOSED WASTEWATER TREATMENT PROJECT.

Sign your name	Print Name/DATE	Mailing address	Physical Address (911)
1. <i>Andie Savage</i>	ANDIE SAVAGE	P.O. Box 281 Eastville, VA 23347	23495 Honeycreek Ln 23495
2. <i>Thelma Savage</i>	Thelma SAVAGE	P.O. Box 281 Eastville, VA 23347	Monte Sacker, VA
3. <i>Shirley Spady</i>	Shirley Spady	P.O. Box 1194 Eastville, VA 23347	5380 FOXS CT
4. <i>Wanda Stith</i>	Wanda Stith	PO Box 251 Banks Cape Charles	
5. <i>Leah Robinson</i>	Jacob Robinson	23065 FISHER CT Cape Charles	23065 FISHER CT CAPE CHARLES VA 23711
6. <i>Mrs. Mrs Jacob Smith</i>	Mr. & Mrs Jacob Smith	4277 Seaview Dr Cape Charles	SAME
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UNITED COALITION
OF FAIRVIEW
John D. Green
12-13-10