

**JAMES CITY COUNTY WETLANDS BOARD**  
**November 9, 2005 - 7:00PM**

<b>A. ROLL CALL</b>	<b>ABSENT</b>
Henry Lindsey	None
David Gussman	
John Hughes	
Larry Waltrip	
William Apperson	

**OTHERS PRESENT**

Randy Owen, VMRC  
Tony Watkinson, VMRC  
County Staff

**B. MINUTES – September 14, 2005**

The September 14, 2005 minutes were approved as presented.

**C. PUBLIC HEARINGS**

**1. W-23-05: Colonial Pipeline Company Project Crossings**

Mr. Mike Madjeski presented the case stating that Mr. Daniel T. Rafferty, Colonial Pipeline Company, had applied for a wetlands permit to allow for the possible maintenance of sites along the pipeline that may impact tidal areas in James City County. The specific sites would be determined after internal inspections of the pipeline have been completed. Mr. Phillips, the authorized agent, has been advised that his attendance at the Wetlands Board meeting on November 9, 2005 was highly recommended.

The project involves potential wetlands impact in three areas within James City County. These three areas are along Halfway Creek (Figure 3g, Crossing 13), College Creek (Figure 3g, Crossing 14), and the James River (Figure 3f, Crossing 12). The specific areas of maintenance would not be known until inspections of the internal structure of the pipeline had been completed. The purpose of the project is to determine areas of maintenance inside the colonial pipeline and to perform any repairs if necessary. Appendix B in the original Joint Permit Application contains Colonial Pipeline Company's erosion and sediment control measures along with the best management practices for pipeline maintenance activities. The applicant proposes to mitigate for any impacts by returning areas that have been disturbed to their original state by restoring original contours and seeding/sprigging native wetlands species plants.

Environmental Division staff visited the site on October 20, 2005 along with representatives from VMRC and VIMS to discuss the project scope and potential impacts. It is the staff's recommendation that the Board approve this application, with the following conditions:

1. Land disturbing activities will adhere to the standards indicated in the Joint Permit Application, Appendix B.
2. The applicant shall notify James City County's Environmental Division within forty-eight hours of commencement of any land disturbing activity.
3. The applicant shall restore wetlands to original topographical and vegetative state after completion of land disturbing activities.

4. A wetlands restoration plan with surety must be submitted and approved by the Environmental Division for any land disturbing activity within jurisdictional wetlands.
5. The Colonial Pipeline Company must monitor any areas that have been impacted for a period of two years after completion of any land disturbing activity. The Environmental Division will periodically inspect the impacted areas to ensure that proper restoration is achieved.
6. The permit will expire on November 9, 2006.
7. If an extension of this permit is needed, a written request shall be submitted to the Environmental Division no later than two weeks prior to expiration date.

Mr. Gussman stated he had concerns regarding condition #5. He felt reports monitoring the impacted areas should be submitted to staff to ensure proper restoration is achieved. Mr. Apperson agreed with Mr. Gussman.

Mr. Madjeski responded that staff would be conducting periodical inspections, but the Board could request a change in the condition to have monitoring reports sent to staff.

Mr. Lindsey referenced condition #4 and inquired how the surety would be determined. The Board also inquired how the 2-year monitoring period with surety would be tracked.

Mr. Madjeski and Mr. Cook responded that the surety would be determined based on the scope of work and the number of plantings required for restoration. Mr. Cook further explained that staff currently has a tracking system in place that would be capable of tracking this project.

Mr. Lindsey opened the public hearing.

A. Mr. Richard Whiteside, PH.D., Wetland and Ecological Consultants and agent for Colonial Pipeline Company, LLC, introduced Dan Phillips, Staff Ecologist, Wetland and Ecological Consultants LLC, and Daniel Rafferty, Environmental Project Manager, Colonial Pipeline Company. Mr. Whiteside conducted a slide presentation for the Board. He explained the purpose of the pipe maintenance and explained that it was not only part of Colonial Pipeline Company's Integrity Management Program, but also a requirement of the U.S. Department of Transportation, which sets specific schedules depending on the findings of the tests. He explained the different possible processes that could be used if an anomaly was found. He emphasized that in all cases excavated materials would be temporarily stored on adjacent upland areas, with no impacts on upstream and downstream areas with the maintenance process completed within 2-3 days. He assured the Board that all excavated materials would be returned to the point of excavation and the maintenance site would be returned to pre-existing conditions.

In response to questions from the Board, Mr. Whiteside, Mr. Phillips and Mr. Rafferty assured the Board that no wetland species that did not originate in the project area would be permitted in the project area. All maintenance activities would be conducted in the existing and maintained Right-of-Ways. They assured the Board that they have experience in dealing with maintenance in large waterways.

Mr. Waltrip cautioned the other Board members that maintenance work is necessary but it can be an involved difficult process.

Mr. Whiteside requested the Board consider extending the permit expiration date to a more realistic date of 2008 or 2009. He also wanted assurance that surety would be required only if maintenance work was required in one of the areas listed in staff's report.

It was agreed that if maintenance work were required, surety would only be required in the listed project areas.

Mr. Lindsey closed the public hearing, as no one else wished to speak.

Mr. Gussman made a motion to approve case W-23-05 with staff's recommendations and modifications to the conditions as follows: #4: A wetlands restoration plan with surety in an amount satisfactory to the Environmental Director must be submitted and approved by the Environmental Division for any land disturbing activity within jurisdictional wetlands; #5: The Colonial Pipeline Company must monitor any areas that have been impacted for a period of two years after completion of any land disturbing activity. Monitoring reports shall be submitted to the Environmental Division. The Environmental Division will periodically inspect the impacted areas to ensure that proper restoration is achieved; and #6: The permit will expire on November 9, 2007.

The motion was approved by a 5-0 vote.

#### **D. BOARD CONSIDERATIONS - None**

##### **1. Calendar Year 2006 Meeting Schedule**

The Board adopted the 2006 Wetlands Board meeting schedule by a voice vote, to be held on the 2<sup>nd</sup> Wednesday of each month at 7:00 PM, provided there are cases to be considered.

#### **F. ELECTION OF OFFICERS FOR YEAR 2006**

Mr. Cook recommended the Board appoint Pat Menichino as Secretary. He stated that being Secretary to both the Chesapeake Bay Board and the Wetlands Board he found it hard to keep up with the cases.

Mr. Hughes moved that William Apperson be appointed as Chairman. All members were in favor. Mr. Gussman moved that John Hughes be appointed as Vice-Chairman. All members were in favor. Based on Mr. Cook's recommendation, the Board approved Pat Menichino as Secretary.

The Board recessed at 8:30 and reconvened at 8:35.

#### **E. MATTERS OF SPECIAL PRIVILEGE**

Mr. Randy Owen conducted a slide presentation for the Board explaining the revisions made by VMRC to the Wetlands Mitigation/Compensation Policy. Mr. Tony Watkinson, VMRC, was also present to discuss the revisions and answer any questions the Board had. Mr. Watkinson informed the Board that the revisions were made effective July 11, 2005 and that phasing in the revisions was not an option. The basis of the policy is to achieve a no-net loss of vegetative wetlands. If VMRC did not see appropriate compensation on board case decisions by local boards, the decisions by those boards would be evaluated by VMRC. Mr. Owen recommended to the Board that they keep good notes to justify their decisions. Mr. Owen added that since these revisions became effective, he felt contractors were more conscientious in designing their work by making better alignments and lowering wetland impacts.

A discussion was held relating to the impacts of the revisions and the emphasis being more on vegetative and not non-vegetative wetlands. Other topics discussed included compensation, mitigation relating to watersheds, in-lieu fees, and property owner rights.

Mr. Apperson stated he felt he needed justification for these radical changes in order to answer citizen questions.

The Board advised staff to notify homeowners and contractors for all future joint-permit applications received that compensation will be required for any fill of vegetated wetlands.

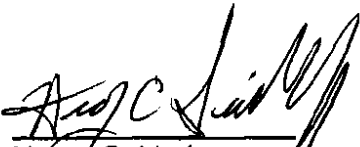
Mr. Cook responded that before the application is approved to go before the Board for their consideration, compensation would be determined and agreed to by the applicant.

Mr. Lindsey referred to VIMS determination that non-vegetative and vegetative wetlands should be treated the same. He inquired if VMRC was considering supporting this determination.

Mr. Owen and Mr. Watkinson stated that VMRC was not considering that determination at this time.

**G. ADJOURNMENT**

The meeting was adjourned at 9:30 PM.



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Henry C. Lindsey  
Chairman



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Darryl E. Cook  
Secretary