



October 21, 2016

**VIA ELECTRONIC MAIL**

Mr. Lee M. Crowell  
Virginia Department of Environmental Quality  
629 East Main Street  
P.O. Box 1105  
Richmond, VA 23218

**Re: DEQ Proposed Revisions to Civil Enforcement Manual**

Dear Mr. Crowell:

I am writing on behalf of Mission H<sub>2</sub>O to provide comments on the Virginia Department of Environmental Quality's ("DEQ") proposed revisions to its civil enforcement manual Chapters 2, 3, and 4. The proposed revisions were published on the Regulatory Town Hall on August 22, 2016. These comments are provided within the public comment period, which runs through October 21, 2016.

Mission H<sub>2</sub>O is a stakeholder group focused on water supply issues in Virginia. Our members are water users (industrial and agricultural), water providers, and water service professionals. The goal of Mission H<sub>2</sub>O is to ensure that sound policy and regulatory decisions are made on issues impacting water supply and water resource management in Virginia.

Overall, Mission H<sub>2</sub>O supports the changes to the enforcement manual. The changes remove redundancy, and simplify and clarify many aspects of the enforcement program. Mission H<sub>2</sub>O also appreciates the specificity with which DEQ identifies the civil charges for various violations. Such specificity enables DEQ to set a higher civil charge for violations that have the greatest impact either on the environment or on the regulatory program.

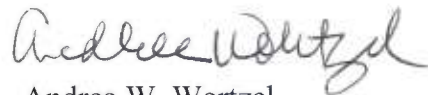
Along these lines, water withdrawal, particularly in the Eastern Virginia Groundwater Management Area, has become a priority issue for DEQ and for the Commonwealth. The proposed revisions to Chapter 4 of the manual include significant increases in civil charges and civil penalties for groundwater withdrawal violations. Mission H<sub>2</sub>O recognizes that identifying unpermitted withdrawers that should be permitted is important to DEQ and for protection of the aquifer. Additionally, unpermitted withdrawals that should be permitted arguably present a greater threat to the aquifer, both because they have not been subject to the permitting process so that the water withdrawal and its impacts can be evaluated, but also because it impedes the state from effectively evaluating the cumulative effect of all withdrawals on the resource. For this reason, Mission H<sub>2</sub>O supports the proposed increases in the civil charges for unpermitted withdrawals that should be permitted.

In fact, Mission H<sub>2</sub>O would argue that the civil charges for withdrawals subject to permitting requirements but not permitted should be the highest of any of the civil charges for violations of the groundwater program. At this point in time, Mission H<sub>2</sub>O does not see the need for the other increases in civil penalties and civil charges associated with the groundwater withdrawal program that are included in the manual revisions. Mission H<sub>2</sub>O requests that DEQ reevaluate the necessity of increasing civil penalties and civil charges for groundwater withdrawal violations other than unpermitted withdrawals that should be permitted.

With respect to the civil charges associated with permitted surface water withdrawals, DEQ has added a new penalty provision for “Failure to implement a Water Conservation Plan.” It would be helpful to have clarification about what types of action or inaction would fall into this category. Does this apply to any element of a water conservation plan that is not implemented, or would it only apply if a permittee fails to implement any element of the water conservation plan? As this is a new category added to the matrix, it would be helpful to have some understanding of how this would be applied.

Mission H<sub>2</sub>O appreciates the opportunity to comment on the proposed revisions to the civil enforcement manual and would welcome the opportunity to discuss alternative, reasonable penalty provisions for groundwater withdrawals. Please contact me if you would like to further discuss this issue.

Sincerely,



Andrea W. Wortzel  
Counsel to Mission H<sub>2</sub>O

cc: Mission H<sub>2</sub>O Members