

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE WATER CONTROL BOARD

IN RE: PUBLIC HEARING/INFORMATIONAL BRIEFING
TELECONFERENCE
HEARD BEFORE: TIMOTHY HAYES, HEARING OFFICER
MEMBER, STATE WATER CONTROL BOARD

IN RE: VWP INDIVIDUAL PERMIT NO. 19-2036, WEGMANS
DISTRIBUTION CENTER, HANOVER COUNTY, VIRGINIA

JULY 20, 2020

HANOVER COUNTY ADMINISTRATION BUILDING
7516 COUNTY COMPLEX ROAD
HANOVER COUNTY, VIRGINIA

6:31 P.M.

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1 APPEARANCES:

2 Timothy Hayes, Presiding
3 Board member, State Water Control Board

4 DEQ STAFF:

5 Jaime Robb
6 VWP Manager

7 Marilee Tretina
8 Office of Training Services

9 Bryan Jones
10 Environmental Specialist

11 James Golden
12 Piedmont Regional Director

13 Kevin Vaughan***
14 Piedmont Office

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25 ***Staff remote participation.

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**All public comments were offered via GoToWebinar.

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**All public comments were offered via GoToWebinar.

1 (The public information briefing commenced
2 at 6:31 p.m. Staff introduction and presentation
3 commenced as follows:)

4
5 MS. TRETINA: Welcome to the
6 Virginia Department of Environmental Quality
7 virtual public hearing for the Wegmans
8 Distribution Center draft VWP permit.

9 Before we get started with the
10 briefing portion of the evening, we need to
11 go over a few logistics. First, this
12 webinar, the briefing and the hearing are
13 being recorded.

14 Next, you'll see on your
15 screen examples of the webinar control
16 panels for various devices; the PC, the
17 Android and the iPhone. To change your
18 audio preference on a PC, you'll open up the
19 audio pane and select which one.

20 We suggest phone. For most --
21 it seems to be more clear. For Android, you
22 click the three little dots. And for the
23 iPhone, you click the audio icon. All
24 attendees are muted. So during the
25 briefing, you'll need to submit any

1 questions in the question section of the
2 control pane. There it is on the PC and
3 then click -- simply click the question mark
4 on the Android and iPhone. Questions will
5 be addressed at the end of the briefing.

6 Comments are not accepted
7 during the briefing. The question function
8 is turned off during the hearing as only
9 verbal comments are accepted during the
10 hearing. And now I'll turn it over to Jaime
11 Robb for the briefing.

12
13 MS. ROBB: Good evening, everyone,
14 and thank you for joining us tonight. My
15 name is Jaime Robb and I am the Virginia
16 Water Protection, or VWP, permit manager at
17 DEQ's Piedmont Regional Office.

18 We are here tonight to discuss
19 the proposed VWP permit No. 19-2036, Wegmans
20 Distribution Center located in Hanover
21 County.

22 Here with me tonight is Bryan
23 Jones, permit writer for the project, James
24 Golden, DEQ Piedmont Regional Director, and
25 Marilee Tretina with DEQ's office of

1 training and services who's assisting with
2 the webinar. Our hearing officer this
3 evening will be Mr. Tim Hayes, member of the
4 State Water Control Board.

5 Before I get started, I would
6 like to mention a few logistics. DEQ is
7 holding tonight's proceedings as an
8 electronic meeting in compliance with Item
9 4-0.01G of Chapter 1289 of the 2020 Acts of
10 Assembly.

11 As a result of the March 12th,
12 2020, Declaration of a State of Emergency
13 due to COVID-19, Executive Order 51 and
14 subsequent orders 53 and 55 and in keeping
15 with Governor Northam's temporary
16 restrictions an directions to stay at home,
17 this public hearing is being held via
18 electronic communication through
19 GoToWebinar.

20 Anyone wishing to ask
21 questions during the briefing or make
22 comments during the hearing must use the
23 GoToWebinar service. Tonight's proceedings
24 are also being made available through live
25 stream and audio only for individuals not

1 wishing to make comments. Please note that
2 the live stream broadcast has a slight delay
3 and it is not recommended that you try to
4 use the live stream and the webinar service
5 at the same time.

6 Also, please note that at the
7 bottom of each slide there is the phone
8 number, name and email address for staff
9 that may be able to assist if you have
10 technical difficulties during tonight's
11 meeting.

12 Tonight's proceedings are
13 broken into two parts. The first portion
14 will be an informational brief -- an
15 informational briefing where I will present
16 information regarding the VWP program and
17 the draft permit, and answer questions
18 regarding both.

19 This will last until 7:00 p.m.
20 No public comments are accepted during the
21 informational briefing. Comments, as part
22 of the official comment period, must be made
23 during the official public hearing which
24 will be called to order at 7:00 p.m., by the
25 hearing officer. Please note that staff

1 will not be responding to comments during
2 the official public hearing. In order to
3 ensure everyone can hear me and so that DEQ
4 can answer as many questions as possible, we
5 will be showing on the live stream and the
6 webinar the presentation being presented.

7 If you wish to ask a question
8 during the briefing, please click on the
9 question mark feature of the webinar on
10 mobile devices, or type your question in the
11 question box on desk tops or lap tops.

12 Let's get started. A Virginia
13 Water Protection, or VWP permit, is DEQ's
14 regulatory mechanism that ensures impacts to
15 surface waters including wetlands and
16 streams are first, avoided and minimized to
17 the greatest extent practicable.

18 And then, insures that
19 compensatory mitigations for unavoidable
20 impacts result in no net loss of surface
21 water function, wetland acreage and
22 function. DEQ's authority to implement the
23 VWP program is contained in Article 2.2,
24 Virginia Water Resources and Wetland
25 Protection, of the State Water Control law

1 in the Code of Virginia in 9 VAC 25, Chapter
2 210 of the Virginia Administrative Code.
3 Activities typically regulated under the VWP
4 program are those that cause significant
5 alteration or degradation of surface water
6 function and wetland acreage and function
7 such as dredging, excavation, filling,
8 draining or impounding surface waters.

9 Other activities that may be
10 regulated include installation of culverts
11 and bridges, channelizing of streams,
12 placing riprap or hardening material in
13 stream banks or piping to redirect a stream.

14 The VWP program has a narrow
15 focus associated with construction
16 activities and the development of projects.
17 And there are several issues that are not
18 regulated under VWP.

19 These include zoning of
20 property, regulation of noise pollution,
21 resource protection area prohibitions,
22 traffic, public safety concerns, industrial
23 stormwater discharges, stormwater
24 management, air pollution, drinking water
25 wells and aesthetics. In December 2019, DEQ

1 received an application for the proposed
2 Wegmans Distribution Center formally called
3 Project Tiger. In accordance with
4 regulatory requirements, an applicant must
5 identify the purpose and need for the
6 project.

7 In the case of this project,
8 the applicant identified the purpose of the
9 project was to construct a regional grocery
10 distribution center that will serve existing
11 retail locations, relieve transportation
12 burdens from existing supply centers and
13 provide a base of support to serve future
14 retail locations in the Mid-Atlantic region.

15 The applicant explained that
16 the need for the project is to develop a new
17 regional distribution center centrally
18 located to accommodate existing and proposed
19 retail locations in the Mid-Atlantic region
20 in a, quote, logistically responsible and
21 cost-efficient manner.

22 The applicant is proposing to
23 construct a 1.1M square-foot distribution
24 center at the intersection of Sliding Hill
25 and Ashcake Roads that will include a dry

1 warehouse, refrigerated warehouse, return
2 center, food manufacturing facility, office
3 space and parking area.

4 Support facilities that will
5 be constructed include stormwater best
6 management practices, parking and staging
7 areas for tractor trailers and support
8 building for fleet maintenance, dispatch and
9 site security.

10 Applications are reviewed by
11 DEQ to, first, ensure that the applicant has
12 avoided and minimized impacts to surface
13 waters to the maximum extent practicable.

14 Practicable is defined as,
15 available and capable of being done after
16 taking into consideration cost of existing
17 technology and logistics in light of overall
18 project purpose.

19 It's important to note that
20 practicable does not always mean possible.
21 Next, the application is reviewed to ensure
22 the proposed compensation is adequate for
23 any impacts to surface waters that can not
24 be avoided. And that no significant
25 impairments of State waters, both fish and

1 wildlife resources, will result from the
2 project. According to the application
3 materials, the applicant focused site
4 selection in Hanover County due to -- due to
5 the proximity of Interstate 95, and in order
6 to efficiently serve existing and planned
7 retail stores from Northern Virginia to
8 North Carolina with the majority of
9 locations in Northern Virginia.

10 The applicant states that the
11 location of a distribution center in Hanover
12 serves to decrease distance, time and costs
13 associated with transportation to retail
14 stores in those areas, and minimizes damage
15 and loss of product due to transportation
16 times.

17 The applicant evaluated five
18 sites, including the preferred site using 14
19 screening criteria. DEQ reviewed the
20 application materials and the five sites in
21 accordance with 404 (b)(1) guidelines of the
22 Clean Water Act to determine if the
23 preferred site was the least
24 environmentally-damaging practical
25 alternative. Each site was evaluated based

1 on application materials to determine if it
2 met the purpose and need of the project, the
3 extent of impacts to surface waters and
4 threatening endangered species and whether
5 the site proposed logistical, economical or
6 technological challenges.

7 The four alternative sites and
8 a no-build alternative were concluded to
9 either not meet the purpose and need or
10 resulted in greater surface water impacts.

11 Ultimately, DEQ determined the
12 preferred site was the least environmentally
13 damaging practical alternative based on the
14 application.

15 For purposes of on-site
16 avoidance and minimalization, the applicant
17 proposed to implement best industry
18 standards to minimize the footprint
19 including cross-docking, an L-shaped campus
20 and flow-thru selection techniques.

21 Utility crossings are proposed
22 to be paired with road crossings to minimize
23 impacts. Road crossings will be
24 perpendicular to surface waters so that they
25 cross at narrow -- the narrowest point

1 feasible. Culvert pipes are proposed at
2 road crossings to maintain flows. Roadways,
3 buildings and stormwater management
4 facilities are proposed to avoid lateral
5 impacts to wetlands where feasible.

6 During the application review
7 process, DEQ inquired as to whether impacts
8 could be further minimized by reducing
9 parking areas or by adding vertical levels
10 to the distribution center.

11 Reduction in the employee
12 parking area was not considered feasible due
13 to the need for adequate parking for shift
14 changes.

15 Adding vertical levels was
16 determined not feasible based on proposed
17 building heights being near maximum allow
18 heights in local zoning regulations.

19 Additionally, according to the
20 application, the proposed configuration is
21 the most efficient based on review of other
22 large-scale distribution facilities in the
23 industry. Using a different layout,
24 according to the applicant, would mean a
25 less efficient operation and a larger

1 footprint -- and potentially more impacts on
2 site. To ensure that no net loss of surface
3 waters function and wetland acreage and
4 function are met, State Water Control law
5 requires compensatory mitigation.

6 This is the second step in the
7 -- probably the second most important step
8 of the application review process. This is
9 usually accomplished by purchasing wetland
10 mitigation bank credits or contributing to
11 an approved in lieu of fee program.

12 Purchase of wetland mitigation
13 credits from a wetland bank or in lieu fee
14 program is the preferred option for
15 mitigation.

16 The proposed project will
17 impact a total of 6.12 acres of surface
18 waters. 4.89 acres of forested wetlands and
19 .23 acre of emergent wetlands will be
20 impacted through permissible activities.

21 Another 0.91 acres of forested
22 wetland will be secondarily impacted due to
23 loss of hydrology associated with reduction
24 in stormwater flow from the site. Impacts
25 are proposed to be mitigated at a 2:1 ratio

1 for forested wetland impacts and a 1:1 ratio
2 for emergent wetland impacts. The draft
3 permit requires a permittee to purchase a
4 sum total of 12.01 wetland credits prior to
5 taking any impacts on site.

6 Use of credits, for purposes
7 of mitigation, are only permissible if the
8 bank is in the same fourth order sub-basin
9 or in an adjacent sub-basin within the same
10 river watershed, relative to the impact
11 location.

12 This is set forth in the Code
13 of Virginia. The applicant has provided a
14 wetland credit availability letter from the
15 York River Wetland Mitigation Bank. The
16 proposed mitigation plan complies with the
17 requirements of State law.

18 The last major component of
19 review is to ensure that there's no
20 significant impairment of State waters or
21 fish and wildlife resources from a project.

22 To accomplish this, DEQ
23 coordinates with the Virginia Department of
24 Conservation and Recreation, the Department
25 of Wildlife Resources -- formerly called

1 DGIF -- the Virginia Department of Health
2 and Virginia Marine Resource Commission.
3 Information regarding the proposed project's
4 locations, activities and impacts are
5 provided to these agencies for review.

6 No objections to the project
7 were received from the agencies.
8 Additionally, coordination with federal
9 agencies and Virginia Department of Historic
10 Resources is performed through the US Army
11 Corps of Engineers permitting process.

12 As part of the application,
13 the applicant's required to provide a final
14 impact map. This impact map is what you're
15 seeing right now on your screen.

16 For purposes of orientation,
17 Egypt Road is located on the left side of
18 the map. Sliding Hill is on the right side
19 of the map and Ashcake borders the project
20 at the top.

21 And I will leave that for a
22 second. And for anyone that did not receive
23 a copy of the presentation from me, this
24 presentation is on our web site along with
25 the Wegmans public hearing notice. And you

1 also can access the draft permit fact sheet
2 and impact maps to review. Next steps, the
3 public hearing comment period for this draft
4 permit began on June 20th.

5 And the comment period will
6 run until August 4th. After the close of
7 the comment period, DEQ staff will review
8 and assess all written comments received or
9 verbal comments provided during tonight's
10 hearing.

11 Staff may propose revisions to
12 the draft permit as a result of comments
13 received, and will prepare a response to
14 comments document.

15 Staff will then present the
16 draft permit to the State Water Control
17 Board at its next meeting currently
18 scheduled for September 24, and will make a
19 recommendation that the Board either approve
20 or deny the draft permit.

21 Anyone participating in the
22 comment period by providing written comments
23 or speaking on the record tonight may speak
24 in front of the State Water Control Board in
25 response to staff's summary of the draft

1 permit and comments. The State Water
2 Control Board will render a final decision
3 of whether to issue the permit, issue the
4 permit with modifications or deny the permit
5 at the meeting on the 24th.

6 And just as a reminder, the
7 official public hearing begins at 7:00.
8 Until that time, DEQ staff will answer
9 questions on the draft permit or regarding
10 VWP program.

11 So if you have questions -- I
12 see we've got several that have already been
13 typed in. We're going to read those out and
14 try to answer those.

15 And just remember that any
16 questions typed in are not part of the
17 official public hearing for the evening. So
18 make sure you either submit any official
19 comments in writing or speak them this
20 evening as part of the hearing.

21 And Marilee showed a screen
22 earlier that shows the various ways you can
23 type in your questions. And that is to use
24 the question mark on iPhones or Androids, or
25 tap -- type them in the question box. And

1 then lastly -- one more slide here. This
2 slide will remain up for the remainder of
3 the evening.

4 If you submit written
5 comments, please address them to my
6 attention by email or by hard copy. And
7 additionally, if you have difficulties
8 tonight, you can contact Kevin Vaughan.

9 And his contact information
10 will remain on the screen throughout the
11 rest of the night. So with that, we will
12 now take a look at trying to answer some of
13 your questions.

14 And so I think we've answered
15 some of these. The final decision on this
16 permit will be rendered by the State Water
17 Control Board at the September 24th meeting.

18 Next question, will you post
19 the video of the briefing and public
20 hearing? If so, when and where will it be
21 posted?

22 The webinar and a transcript
23 of tonight's proceedings will be posted in
24 about the next 10 days on the web site,
25 along with the hearing materials and the

1 permit materials. Let's see. Sorry, guys.
2 There's some stuff that -- I'm trying to get
3 to some of the technical questions I know
4 you have.

5 Does the State Water Control
6 Board have an upper limit on wetlands that
7 can be impacted for a non-water site? Not
8 to my knowledge, there's no upper limit on
9 any -- and through any of the statutes or
10 regulations.

11 Has DEQ performed its own
12 analysis of sites to determine if there are
13 other sites close to I-95 that are not in
14 the middle of residential and African
15 American burial grounds, or did DEQ simply
16 accept the analysis of the applicant?

17 So the applicant is
18 responsible for conducting the off-site
19 alternatives analysis. And in review of the
20 off-site alternatives and the explanation
21 for locating in the Hanover area, the
22 off-site alternatives that were presented
23 were reasonable. And that is -- so DEQ did
24 not perform its own analysis. Please
25 explain how DEQ accepts that a drought-

1 influenced wetland delineation performed in
2 October of 2019 instead of using a
3 non-drought delineation performed by RKK,
4 which identified 33.8 acres on site?

5 So it's the policy of DEQ to
6 accept the jurisdictional determination from
7 the Corps. And if we have questions about
8 that, we raise that up through the Corps.

9 But ultimately, the Corps
10 confirmed the delineation and that was the
11 jurisdictional determination that was used
12 for the site. Not sure what that's
13 referring to.

14 What environmental impacts
15 caused the other sites from this project to
16 be eliminated from consideration? So we
17 looked at the amount of stream impacts that
18 the project would have on other sites, as
19 well as the amount of wetland impacts.

20 And in all four alternatives,
21 it appeared as though there were
22 significantly more surface water impacts
23 associated with the other four sites. Can
24 DEQ request supplemental information from
25 the applicant? If so, was supplemental

1 information be requested for its review of
2 this project? Yes. So it's very common
3 practice with any of our applications that
4 we ask for additional information to further
5 explain purpose and need, to explain
6 off-site alternatives and why they may have
7 been eliminated.

8 Or any additional information
9 that we need to better understand the
10 project. I know for this project in
11 particular, we did ask some questions that
12 led to additional secondary impacts being
13 identified and incorporated into the draft
14 permit.

15 We do have one comment, if
16 there's anything that can be done to improve
17 audio, it's difficult to understand what is
18 being said. So Marilee, I'm just going to
19 make that note to you.

20 Perhaps it is I need to lean
21 into this microphone a little bit more. So
22 I apologize for that. Hopefully, this
23 sounds better. Has a total quantity of
24 existing been calculated based on the
25 applicant's confirmed WOTUS map? Waters of

1 the United States map. I see how much they
2 are claiming that they're impacting, but I
3 don't see a total on the site.

4 So I believe that as part of
5 the jurisdictional determination maps that
6 were provided, we've got that total. And
7 that was around 18 acres, I believe, total
8 on the site.

9 So the proposed impacts are
10 six acres and I believe 18 is what's total
11 on that site. So -- sorry, guys. So there
12 was a question about who were the other
13 folks in the room. Myself, Jaime Robb.

14 Bryan Jones, permit writer.
15 Mr. Tim Hayes, State Water Control Board
16 member and acting as our hearing officer
17 this evening. And Mr. James Golden,
18 Piedmont Regional Director.

19 Marilee Tretina who is our
20 office of training staff support, who's
21 helping us with the webinar this evening.
22 And Debroah Carter, who is our Court
23 Reporter taking our transcription for us
24 tonight. I would like to know the process
25 used to determine the six acres of wetlands.

1 So we received a jurisdictional
2 determination that had been confirmed by the
3 -- the Army Corps of Engineers.

4 And that was the -- how it was
5 determined that the six acres of wetland
6 impact would result from this project. If
7 we're speaking tonight, how do we know what
8 order we're speaking?

9 So when we get started, there
10 will be some opening remarks by Mr. Hayes,
11 the hearing officer, and myself. And then
12 we will get the proceedings started and we
13 will call on folks.

14 So when you're called on,
15 you'll be unmuted. When will DEQ release
16 the opinion that they will provide to the
17 State Water Control Board?

18 That will be towards the end
19 of August, beginning of September and will
20 be made available on the agenda -- with the
21 agenda items for the State Water Control
22 Board meeting for the 24th. And that
23 information can also be -- will also be
24 available on the Virginia Regulatory Town
25 Hall. Why was the same footprint laid out

1 to use for the alternatives analysis rather
2 than site specific layouts for individual
3 sites?

4 The footprint layout is what
5 is determined as necessary by the applicant.
6 And again, as presented, we asked some
7 questions about changes to that layout,
8 changes to the footprint.

9 But ultimately, the applicant
10 is responsible for the final footprint and
11 justifying why changes can not be met. Why
12 can't they build a parking deck exactly?

13 The explanation for that was
14 that the buildings were hitting the -- the
15 maximum height based in county ordinance.
16 So -- we have one question about our policy
17 regarding performing delineation here.

18 Our State Water Control
19 regulation does say that the agency can
20 perform delineations. But again, it's been
21 our practice for -- for many years that we
22 accept the determination from the Corps.
23 And that ultimately, our staff are trained
24 in the same techniques and with the same
25 materials and -- reference materials that

1 the Corps uses. And is similarly trained
2 with their procedures and documents. So
3 that's why it is our policy to accept their
4 delineations.

5 And again, that is -- that is
6 common practice for DEQ. How often does DEQ
7 staff recommend a permit application be
8 denied? Typically -- and this is not
9 isolated to just our VWP program.

10 But typically once information
11 is collected regarding the application and
12 questions are asked of DEQ staff, if an
13 applicant wants to get their permit, they --
14 you know, we'll -- we will ask for
15 additional information to make sure we have
16 a complete application.

17 If we don't have a complete
18 application, then we can move forward with
19 recommending, you know, that we -- we not
20 move forward with the project.

21 But typically, applicants
22 provide all of the required -- regulatory
23 required items and meet all of the
24 regulatory requirements in order to get
25 their permit, so a denial does not occur

1 very often. How are we going to manage the
2 impact of the extra rain, floodwater,
3 etcetera that will now be there since
4 destroying the wetlands and replacing them
5 with pavement?

6 So stormwater management, all
7 -- you know, all development sites greater
8 than an acre are required to -- to obtain
9 stormwater management permitting.

10 And Hanover County is the
11 local authority for that. So they will be
12 responsible for taking a look at that.
13 That's outside of the -- the scope of our
14 VWP permit.

15 And they will have to manage
16 the site accordingly to meet State
17 requirements for quantity and quality of
18 stormwater discharges on the site. So we're
19 coming up -- I'm showing that we are right
20 at 7:00 o'clock.

21 So I'm going to go ahead and
22 turn this back over to Marilee. I thank you
23 all. I am sorry that we did not get to all
24 the questions this evening. But we will get
25 started shortly with the official hearing.

1 Thank you.

2
3 (The informational briefing concluded at
4 7:00 p.m. The public hearing commenced at 7:01 p.m.,
5 and the taking of comment commenced as follows:)

6
7 MR. HAYES: Good evening. I will
8 now call the public hearing to order. My
9 name is Tim Hayes and I'm a member of the
10 State Water Control Board. I'm serving as
11 hearing officer for tonight's public
12 hearing.

13 This hearing is being
14 conducted in compliance with Item 4-0.01G,
15 Chapter 1289 of the 2020 Acts of Assembly.
16 As a result of the March 12th, 2020,
17 declaration and the State of Emergency due
18 to Novel Coronavirus, Executive Order 51,
19 subsequent Executive Orders 53 and 55, and
20 in keeping with Governor Northam's temporary
21 restrictions and directions to stay at home,
22 this public hearing is being held via
23 electronic communications through
24 GoToWebinar. DEQ has received numerous
25 requests for an in-person public hearing on

1 the draft permit. DEQ made a decision to
2 hold the public hearing on the draft permit
3 as electronic only after taking into
4 consideration the limited capacity of the
5 venue while implementing social distance,
6 the technology limitations at other venues,
7 deadlines for conducting public hearings set
8 forth in State law, and in order to ensure
9 protection of public health and safety as
10 well as the health and safety of DEQ staff.

11 All public comments, whether
12 submitted orally at a public hearing or in
13 writing during the comment period are
14 considered equally.

15 All persons that submit
16 comments -- either orally at a public
17 hearing -- or in writing during the public
18 comment period -- will have the same
19 opportunity to address the State Water
20 Control Board during the meeting where the
21 draft permit is initially presented to the
22 Board for action in accordance with the
23 Board's policy for public comment at that
24 Board meeting. It is suggested that you
25 select phone audio to make comments.

1 Utilizing the phone for commenting results
2 in better audio quality. If, during the
3 webinar, you or your equipment have or
4 experience technical difficulties, please
5 contact Kevin Vaughan of DEQ at 804-698-4470
6 or email him at Kevin, K-E-V-I-N, dot
7 Vaughan, V-A-U-G-H-A-N, at DEQ dot Virginia,
8 spelled out, dot gov
9 (kevin.vaughan@deq.virginia.gov).

10 His contact information will
11 remain posted on the screen for the duration
12 of this hearing. I would like to clarify
13 that the State Water Control Board is a
14 seven-member policy-making body of citizens
15 appointed by the governor and empowered by
16 law to adopt regulations and make permit
17 decisions.

18 The Department of
19 Environmental Quality, or DEQ, is an
20 executive branch agency with responsibility
21 for administering relevant laws and
22 regulations including State Water Control
23 law. I am not an employee or staff member
24 of the Department. The relevant State laws
25 and regulations are the basis for the

1 actions taken by the Board and the
2 Department, and neither of us has authority
3 to make changes to the law or to act
4 contrary to the law.

5 Present at tonight's hearing,
6 in the hearing room in addition to myself
7 are James Golden, the Director of the
8 Piedmont Regional Office of DEQ; Jaime Robb,
9 the Virginia Water Protection permit program
10 manager for the Piedmont Regional Office of
11 DEQ and will be presenting the permit --
12 well, the draft permit; Bryan Jones, the
13 permit writer for this project; Marilee
14 Tretina of DEQ's training office and Debroah
15 Carter, Court Reporter.

16 There are no other persons in
17 the room at this time. The State Water
18 Control Board is holding this hearing to
19 receive comments on the proposed issuance of
20 the Virginia Water Protection, or VWP,
21 permit number 19-2036, the Wegmans Food
22 Markets, Inc. Wegmans requested this permit
23 in order to obtain authorization to impact
24 wetlands associated with the construction of
25 the proposed Wegmans Distribution Center in

1 Hanover County. This hearing was authorized
2 by the Director of the Department of
3 Environmental Quality. Notice of this
4 hearing was published in the Richmond Times-
5 Dispatch on June 20th, 2020.

6 This fact-finding proceeding
7 is being held pursuant to Sections 2.2-4019
8 and 62.1-44.15:02 of the Code of Virginia,
9 as well as 9 VAC 25-210-160 and the Board's
10 procedural rule Number 1.

11 The State Water Control Board
12 will ultimately decide whether to issue the
13 permit. There will be no decision made here
14 tonight. It will be made at the next
15 meeting of the Board, which is currently
16 scheduled for September 24th, 2020.

17 Please be assured that the
18 Board will consider all relevant information
19 that you present regarding the proposed
20 permit.

21 The general procedure for this
22 hearing will be as follows, Jaime Robb will
23 make the staff presentation. Before taking
24 comments from the general public, I will
25 first ask if there are any elected State or

1 local officials that would like to speak.
2 Once any elected officials have spoken, I
3 will ask if the applicant would like to
4 speak.

5 Once the applicant has spoken,
6 then individuals who indicated a desire to
7 speak, while registering for the webinar,
8 will be called on.

9 Anyone else participating in
10 the webinar wishing to speak will be asked,
11 at a later time, to use the raise your hand
12 function on the GoToWebinar control bar that
13 appears on your screen.

14 Please do not raise your hand
15 until asked to do so. Once you have raised
16 your hand, please leave your hand raised
17 until you are called on. When called upon
18 to give your statement, you will be unmuted
19 and you can begin to speak.

20 Please state your full name
21 and who you represent prior to making your
22 comments. Please speak slowly and clearly
23 so that your comments can be accurately and
24 completed recorded and transcribed by the
25 Court Reporter. As hearing officer for this

1 public hearing for this public hearing, I
2 reserve the right to restrict comments based
3 on length of time or a repetitive comment.
4 And I ask that you keep your comments to
5 three minutes.

6 You may also submit written
7 comments, in lieu of or in addition, to
8 spoken comments. We will be taping all
9 public comments for the official files. As
10 a reminder, written comments may be
11 submitted to DEQ through August 4th, 2020.

12 Written comments mailed to DEQ
13 must be received by close of business on
14 August 4th, 2020. Emailed comments must be
15 received by DEQ by 11:59 p.m., on August
16 4th, 2020.

17 In the interest of saving
18 time, I will enter the exhibits -- which we
19 have received to date -- into the official
20 file by incorporating the exhibit list as
21 Exhibit No. 1.

22 Are there any objections?
23 Hearing none, they are so entered. This
24 list is available on DEQ's web site for your
25 inspection. At this time, I call on Jaime

1 Robb to give the staff presentation.

2
3 MS. ROBB: Thank you, Mr. Hayes.
4 Good evening, everyone. My name is Jaime
5 Robb and I'm a Virginia Water Protection, or
6 VWP, permit manager at DEQ's Piedmont
7 Regional Office.

8 The subject of this public
9 hearing is the proposed VWP permit No.
10 19-2036, Wegmans Distribution Center located
11 in Hanover County. The applicant is Wegmans
12 Food Markets, Incorporated.

13 The purpose of the project is
14 to construct a 1.1M square-foot grocery
15 distribution center that will house a dry
16 warehouse, refrigerated warehouse, return
17 center, food manufacturing facility and
18 offices with the ability to expand its
19 future growth, as well as parking and
20 staging areas for tractor trailers, parking
21 for associates, stormwater management best
22 -- excuse me, stormwater best management
23 practices, ancillary support buildings for
24 fleet maintenance, dispatch and site
25 security. The project is proposed on an

1 approximate 217-acre parcel of land in
2 Hanover County located southwest of the
3 Ashcake Road and Sliding Hill Road
4 intersection.

5 The site is surrounded by
6 agricultural and forest land. Ashcake Road
7 to the north is residential, development and
8 forest, as well as Sliding Hill Road to the
9 east and south, and Hanover County Municipal
10 Airport and industrial and commercial to the
11 west. The project lies within the Pamunkey
12 River watershed.

13 The selected site provides the
14 least impact to stream and wetlands and was
15 determined to be the least environmentally
16 damaging practical alternative.

17 The project, as proposed, will
18 impact 6.12 acres of surface waters
19 consisting of 4.9 acres of palustrine
20 forested wetland and 0.23 acre of palustrine
21 emergent wetland for the distribution center
22 construction and other associated
23 infrastructure. Secondary impacts to the --
24 to the site include 0.91 acre of palustrine
25 forested wetland due to the diversion of

1 surface water. There are no proposed stream
2 impacts on site. The applicant evaluated
3 four alternatives and a no-build alternative
4 as well as alternative designs within the
5 selected site in order to demonstrate the
6 proposed impacts are the minimum necessary
7 to accomplish the project purpose.

8 The draft permit requires
9 compensatory mitigation for wetland impacts
10 at a 2:1 replacement to loss ratio for
11 palustrine forested impacts.

12 A 1:1 replacement to loss
13 ratio for palustrine emergent impacts and a
14 2:1 replacement of loss -- to loss ratio for
15 secondary impacts to forested wetland. A
16 total of 12.01 wetland credits are required.

17 The applicant proposes to
18 purchase credits from the mitigation bank to
19 fulfill the mitigation requirements. State
20 Water Control law and the proposed permit
21 require that the mitigation banks used be in
22 the same hydrologic unit code as the project
23 site or an adjacent hydrologic unit code,
24 and in the same watershed as the site. In
25 accordance with State Water Control law, DEQ

1 requested comments from sister agencies on
2 the effects of the proposed project on fish
3 and wildlife resources, threatened and
4 endangered species, drinking water supplies
5 and tidal wetlands and State-owned bottom
6 land.

7 DEQ contacted the Virginia
8 Department of Wildlife Resources, formerly
9 the Department of Game and Inland Fisheries,
10 the Virginia Department of Conservation and
11 Recreation, the Virginia Department of
12 Health and the Virginia Marine Resource
13 Commission.

14 None of the agencies commented
15 that the project would have -- have an
16 adverse impact on species or areas within
17 their jurisdiction.

18 The proposed permit contains
19 limits of wetland impacts and a 15-year
20 permit term. The permit requires that
21 mitigation credits are purchased prior to
22 impacts to ensure no net loss of wetland
23 acreage and no net loss of function of
24 wetlands. The permittee must report before,
25 during and after impacts begin to ensure

1 that DEQ can monitor and inspect the
2 project. The permit also contains
3 conditions to minimize impacts to water
4 quality and fish and wildlife resources
5 during constructions -- construction, such
6 as requiring work to be performed in the
7 dry, erosion and sediment controls and
8 stormwater management.

9 The purpose of this hearing
10 tonight is to receive additional public
11 comments to enable DEQ staff to further
12 evaluate the proposed permit.

13 DEQ staff will consider all
14 information provided at this hearing and any
15 written comments received during the comment
16 period until August 4th before making its
17 final permitting recommendation to the State
18 Water Control Board at the Board's September
19 24th meeting. This concludes staff
20 presentation. Thank you very much for your
21 attention.

22
23 MR. HAYES: Thank you, Jaime. If
24 there are any elected State or local
25 officials online who wish to speak, please

1 use the raise your hand function on the
2 GoToWebinar control bar that appears on your
3 screen so I may call upon you now.

4 Please be sure to state your
5 full name and your position before making
6 your comment.

7
8 MS. TRETINA: I see that a Shannon
9 Spival is -- not an elected official. I
10 don't know if they even are registered.

11
12 MR. HAYES: Okay. There are no --
13 no State or local officials wishing to
14 speak, I'll call upon the applicant or their
15 representatives to make a statement.

16
17 MS. TRETINA: That would Mr. John
18 Lain. Mr. John Lain.

19
20 MR. HAYES: That would be John
21 Wayne as the applicant's representative?

22
23 MS. TRETINA: Mr. Lain, you are now
24 unmuted.

1 MR. LAIN: Great. Thank you very
2 much. My name is John Lain. I'm an
3 attorney with McGuire Woods and I'm speaking
4 on behalf of Wegmans tonight.

5 And first, I'd like to thank
6 the staff and the State Water Control Board
7 hearing officer for putting this on in this
8 pandemic time.

9 It's kind of a new experience
10 for me and I appreciate the work you've done
11 to allow this to happen and to allow these
12 regulatory processes to go forward.

13 I really only want to speak to
14 two items tonight for the record on behalf
15 of Wegmans. First dealing with the wetlands
16 delineations questions and the Corps'
17 jurisdictional determination.

18 You know, this site has been
19 the subject of several Corps of Engineers'
20 delineations and confirmations since the
21 early '90's. The most recent JD was based
22 on the -- a wetlands delineation performed
23 by the property owner's consultants this
24 past fall. And then the Corps confirmed
25 that delineation when they conformed their

1 jurisdictional determination in October --
2 October 30th and then revised it in February
3 of 2019 -- or 2020 after the study area
4 boundary update.

5 But I think it's important to
6 note that -- that this was done after a
7 thorough review of the site and including a
8 field inspection by Elaine Holley, a Corps
9 representative who's nearly -- at least a
10 30-year veteran of the Corps and very
11 experienced wetlands delineator.

12 And that time, along with --
13 DEQ was at that site visit also, Ms. Holley
14 determined that portions of the wetlands on
15 the site were mosaic wetlands.

16 Now, mosaic wetlands are
17 listed under the Corps's supplemental
18 guidance as -- as -- I guess you'd stay
19 difficult spot. These are hard spots to
20 delineate.

21 And one of the most important
22 pieces of that guidance says that, in
23 general wetland determinations on difficult
24 or problem sites must be based on the best
25 information available to the field

1 inspector, interpreted in light of his or
2 her professional experience and knowledge of
3 the ecology of wetlands in the region. And
4 I think that that is exactly what happened
5 in this case.

6 We had a 30-year Corps veteran
7 who is usually not in the business of making
8 wetlands -- making wetland calls even
9 smaller than what she thinks are there.

10 Determine that these were
11 mosaic wetlands and the amount of wetlands
12 on the site when the Corps JD. So as
13 Ms. Robb had stated, DEQ's practice has been
14 almost 99.9% of the time, except for
15 sometimes during enforcement matters under
16 their guidance, to follow the Corps' JD for
17 permitting purposes.

18 And we just wanted to, you
19 know, express again and state for the record
20 that we think that's the appropriate call
21 here. The Corps JD is valid and DEQ's
22 reliance on it for the permitting process is
23 in compliance with the Water Protection
24 Permit regulations. And the second point
25 I'd like to address tonight in oral comments

1 are first, the community concerns about
2 environmental justice and the Brown Grove
3 community. I mean, Wegmans wants to be a
4 good neighbor to all its neighbors.

5 And I know specifically, it's
6 reached out with the Brown Grove community
7 in February and met with some -- some of the
8 members of the Brown Grove Church and I
9 think some of the residents of that
10 community to -- to address their concerns
11 where it can.

12 And among other things, I know
13 it's -- it's part of the zoning and they've
14 done further buffering of the property. And
15 exploring back-up beeper alternatives so the
16 noise from back-up beepers ideally won't be
17 a problem.

18 And its changed the design on
19 the entrance of the project to address some
20 traffic concerns. And those are, you know,
21 sort of good neighbor standards. But on the
22 community side and sort of dealing with the
23 specific concerns of the Brown Grove
24 community, some of it comes down to it's
25 been lots of talk about unmarked graves that

1 are located on the property. You know, and
2 talking with historic resources consultant,
3 there's no historic evidence of that.

4 There's no physical evidence
5 on-site of that. And there's anecdotal
6 evidence of that from -- or from -- only
7 anecdotal evidence of that from what people
8 have said they remember being told when they
9 were children or this sort of -- what
10 they've heard as oral history of the
11 property.

12 Now, this will be addressed as
13 part of the Corps' DHR memorandum of
14 agreement process where there'll be an
15 anticipatory burial permit in place in case
16 any human remains are discovered during
17 construction.

18 And this method of
19 anticipatory burial permits for unknown
20 human remains is sort of the common practice
21 with the Corps DHR used when they have a --
22 when no burials are known to exist, but the
23 possibility of burials exist. And I think
24 that that's an important thing to show that
25 as part of our community, you know,

1 addressing community concerns, Wegmans will
2 be -- stand ready to -- to -- to pay
3 attention to that. Like we have a project
4 archeologist on-site during that time in
5 case something does come up.

6 And we'll work with the
7 community to do whatever is needed to be
8 done if there, in fact, are human remains
9 discovered.

10 The second part of the
11 community issue, I think, is that the Brown
12 Grove School and Wegmans -- or Wegmans has
13 agreed to avoid that. There will not be --
14 they won't be part of the project.

15 They'll preserve that in
16 place. And that, too, will be in the --
17 enforceable to the DHR Corps memorandum of
18 agreement process.

19 So while these aren't DEQ's
20 specific water protection issues, I think
21 they touch on some of the environmental
22 justice claims and the impact to
23 environmental justice communities. Again,
24 you know, Wegmans' overarching goal is to be
25 a good neighbor. And it feels like it

1 doesn't have a disproportionate impact to
2 environmental justice communities, but wants
3 to be a good neighbor to -- to all of its
4 neighbors.

5 And other than that, I think
6 those are the issues we just wanted to get
7 onto the record tonight. I think that the
8 Wegmans' application has been developed and
9 processed in compliance with DEQ's law and
10 regulations.

11 And we anticipate and hope to
12 see it being approved by the State Water
13 Control Board on September 24th. Thank you
14 very much.

15
16 MR. HAYES: Thank you, John. Now,
17 I'll call those individuals who wish to
18 speak. Please use the raise your hand
19 function on the GoToWebinar control panel
20 that appears on your screen.

21 Once you've raised your hand,
22 please leave your hand raised until you're
23 called on. Your hand will then be lowered
24 on the webinar control panel so that we can
25 accurately follow who has spoken and who

1 wishes to speak. Please try to keep your
2 comments to about three minutes. Remember
3 that a lot of people want to speak and we
4 have a limited amount of time to be in this
5 room.

6 So if you can limit your
7 comments to about three minutes -- and if
8 somebody else has already said what you
9 wanted to say, all you have to say is I
10 agree with Mary Smith.

11 And that'll be -- that'll be
12 entered into the record. But that's up to
13 you. We want to hear from you. And then
14 we'll look forward to hearing from you.

15
16 MS. TRETINA: Okay. The first
17 speaker will be Lisa Eget.

18
19 MS. EGET: Hi. My name is Lisa
20 Eget. I don't really understand if you can
21 hear me or not. And I don't know how to
22 understand if you can hear me or not.

23
24 MS. TRETINA: We can hear you.

25

1 MS. EGET: I speak for myself only.
2 And I am a neighbor in Milestone. I have so
3 many concerns with the Wegmans project. Not
4 the least of which is this sham public
5 hearing that's being held today.

6 I'm outraged as a citizen of
7 the Commonwealth. And you can cite any laws
8 you want, but this is not a public hearing.
9 A public hearing is where I can meet with my
10 community, see who has come and look my
11 officials in the eye.

12 Jaime Robb, I should be able
13 to meet you eye to eye. All the other
14 people who are listening, I should be able
15 to meet you eye to eye. This public hearing
16 is not for the benefit of Virginia.

17 This public hearing is for the
18 benefit of the citizens of Virginia. And it
19 is being conducted in a way that abuses the
20 State of Emergency which was not designed
21 for instances like this.

22 The State of Emergency was
23 designed to be short term for instances like
24 hurricanes or tornadoes or ice storms. It
25 was not designed to drag on for, you know,

1 four or five months until everybody decided
2 that they would deign to allow the State
3 Assembly to meet or to call them to meet to
4 make some more rules that are anti-
5 constitutional. This is ridiculous.

6 Jaime Robb, it was hard to
7 hear you. You were speaking too fast. And
8 I really have a problem with the idea that
9 you cherry-picked the questions. We should
10 be able, as a community, to understand what
11 all the questions are.

12 One of my questions is, are
13 you going to meet and work with the new
14 environmental council that the Governor had
15 appointed? I think that Wegmans is
16 disingenuous when it says that it was
17 attempting to work with Brown Grove.

18 I attempted to work with Brown
19 Grove from the beginning, from the time this
20 was announced. I went and talked to
21 everybody. I walked up and down that
22 neighborhood. I tried to hear what their
23 problems were and address them. I highly --
24 I -- I think that Wegmans is being
25 disingenuous when they say they've attempted

1 to work with this community. They need to
2 reach out and they need to do a better job.
3 Meanwhile, the idea that Wegmans is claiming
4 to be a good neighbor, first off, if you're
5 a good neighbor, adhere to the same
6 restrictions as we do.

7 You took over five minutes for
8 your presentation today, after already
9 having had 11 months under a non-disclosure
10 agreement to talk to all these people at
11 whim.

12 I find it absolutely
13 outrageous that DEQ only accepted 10 minutes
14 of questions on a Pentagon-sized project.
15 I'm sorry. This whole situation absolutely
16 outrageous and I'm sure my neighbors will
17 have a lot more to say about it.

18 But just this sham public
19 hearing in itself is anti-constitutional.
20 And everyone involved who's in any
21 supervisory capacity should be ashamed of
22 yourself.

23 And I do mean that. As an
24 American citizen, you should be ashamed of
25 yourself. And I will end now.

1 MR. HAYES: We do appreciate your
2 comments and they'll be on the record. Next
3 speaker.

4
5 MS. TRETINA: The next speaker is
6 going to be Shanda Miller.

7
8 MS. MILLER: I disagree with the
9 DEQ's assessment that this is the best
10 location. I think Elaine Holley was right
11 when she said that this was a difficult
12 site. Because the study of wetlands on the
13 site has been influenced by politics.

14 It's been compromised and it
15 should not stand. So the Corps of Engineers
16 did not follow procedure and policy when
17 determining the number of wetlands that were
18 affected.

19 In addition, appropriate
20 studies have not been completed to study the
21 protected animals that have been seen on
22 this site, like Bald eagles and Red-tailed
23 hawks. It is -- it's well known that the
24 endangered Eastern Tiger salamander lives in
25 vernal pools that are similar to that, that

1 are on this site. There's been no study to
2 identify them. And the worst part of this
3 whole thing is that the historic Brown Grove
4 community has been disproportionately
5 effected by this development.

6 The water displacement plan
7 goes straight through their culverts in
8 their community, which is already prone to
9 flooding. And they -- you know, I disagree
10 that this is just oral history that there
11 are graves on site.

12 There are multiple members of
13 the community that had -- has gone on record
14 saying that they do exist, that they've seen
15 them when they were children when they were
16 on the site.

17 It's not just through stories,
18 they've actually seen them. And you know,
19 it's -- this is -- you know, it's not right.
20 And I really hope that you guys do something
21 and -- and I ask that you throw out the
22 Corps of Engineers' study because they did
23 not follow procedure and policy when
24 determining the number of wetlands affected.

25

1 MS. TRETINA: Thank you for your
2 comment. Next speaker, Jeff Hetzer. Jeff,
3 you're -- okay, he's unmuted now.
4

5 MR. HETZER: Okay. I hope you can
6 hear me. I'm Jeff Hetzer, a resident of
7 Mechanicsville, Virginia. I request that
8 the Virginia Water Permit No. 19-2036
9 related to the proposed construction of the
10 Wegmans Distribution Center on property
11 owned by the Airpark Associates in Hanover
12 County, Virginia, be denied for defective
13 performance of various administrative and
14 technical policies and requirements to
15 include the following.

16 First and foremost, the
17 wetlands delineation contained in the permit
18 incorrectly states the amount of impacted
19 wetlands on that property.

20 Using publicly available
21 Chesapeake Bay Watershed web site
22 information, it illustrates the designated
23 wetlands on the property. You can overlay
24 the plan for the Wegmans -- the site plans
25 for the Wegmans project and measure a line

1 of sight in -- by using a ruler -- and
2 measure the amount of impacted wetlands.
3 You get at least an estimate of 14 to 18
4 acres that are impacted by that project.

5 It's just a simple method that
6 anybody can take a look at and see that the
7 6.1 acres that are claimed by Wegmans being
8 impacted just is not tractful. The wetlands
9 analysis for this project was conducted
10 during a drought.

11 A proper evaluation of
12 hydrology, vegetation and soil indicators
13 was not conducted, nor was there the
14 recommended revisiting of the site during a
15 period of normal rainfall to confirm those
16 initial expectations.

17 Consultant services performed
18 for the project originally identified up to
19 33.8 acres of wetlands on the property.
20 This amount was subsequently reduced by the
21 Corps of Engineers in the amount of at least
22 2.5 acres. Based upon the method of mosaic
23 wetlands delineation, this is how they came
24 about with that reduction. And quite
25 frankly, the -- to utilize the mosaic

1 methodology is quite unusual. And the way
2 that it was implemented on this particular
3 project did not follow the Corps of
4 Engineers' own manual for its policies and
5 procedures on how to implement that type of
6 mosaic method.

7 It's really clear to me, and I
8 think most people, that the amount of
9 impacted wetlands on this property on the
10 proposed 1.7M square-foot Wegmans
11 Distribution Center has been significantly
12 under-stated due to poor methodology.

13 And quite frankly, it's
14 reflective of an effort to expedite this
15 project and save costs to Wegmans. Instead
16 of 6.12 acres contained in the permit
17 application, I believe the actual amount of
18 impacted wetlands is closer to 18 acres and,
19 actually, could be greater than that.
20 Simply because the proper methodologies have
21 not been used.

22
23 MR. HAYES: Would you wrap up your
24 comments in a -- in a short while, please?
25 You're over your time.

1 MR. HETZER: Due to this
2 discrepancy, the wetlands and watersheds
3 associated with the adjacent project --
4 adjacent to this project must be adequately
5 protected and accounted for. Thus, this
6 permit should be denied. Thank you.

7
8 MR. HAYES: Thank you.

9
10 MS. TRETINA: All right. Next
11 commenter, Mary Jones. Mary Jones, you need
12 to unmute your mic. There you go.

13
14 MS. JONES: Can you hear me?

15
16 MS. TRETINA: Yes, we can hear you.

17
18 MS. JONES: Okay. My name is Mary
19 Jones. I live downstream in Milestone
20 neighborhood. I'm requesting that you deny
21 this permit.

22 There are so many policies and
23 procedures that were not followed properly.
24 You truly have no choice but to deny this
25 permit. When you make mistakes, there are

1 consequences downstream. An occasional
2 mistake is understandable, but this permit
3 process look like the errors might have been
4 done on purpose by an entire group of people
5 to come up with a more favorable outcome for
6 Wegmans.

7 Quoting an email from June
8 10th, 2019, from Linwood Thomas, director of
9 Hanover County Economic Development, quote,
10 I just got off the phone with Timmons and
11 the head of Wegmans real estate group, Dean
12 Aiken.

13 And they have done an updated
14 wetlands delineation and determined that
15 there are significantly more wetlands than
16 was indicated in the last delineation in
17 2016.

18 Also from Linwood Thomas in
19 June of 2019, the old wetlands delineation
20 done on the property did not show the
21 significant amount of new found wetlands.

22 This could deem the site
23 undevelop-able, unfortunately. We may need
24 the -- the State to help us with the DEQ at
25 some point. Fast forward to emails from

1 October of 2019, and we've got several
2 people from RK&K Engineers and Elaine Holley
3 from Army Corps of Engineers manipulating
4 wetland map boundaries and contours. And
5 suddenly, voilà, wetlands have magically
6 disappeared. Wait, what?

7 There are required policies
8 and procedures written out. I do not think
9 map manipulation is one of those strict
10 policies. This permit must be denied.

11 Let's go back to that one statement from
12 Linwood Thomas.

13 We may need the State to help
14 us with the DEQ at some point. Sounds to me
15 like maybe Linwood Thomas is implying he
16 might get the governor, aka the State,
17 involved to put pressure on DEQ to come up
18 with the more favorable result that they
19 want instead of the actual results they
20 have.

21 This is speculation, of
22 course. But why would the DEQ need the
23 State's help doing a wetlands delineation or
24 permit? It sounds pretty questionable to me
25 and not scientific at all. This permit must

1 be denied. Earlier, I mentioned that when
2 you make mistakes, there are consequences
3 downstream. I live in Milestone. And when
4 it was built 20 years ago, someone made a
5 mistake and I'm still suffering the
6 consequences every time it rains.

7 I've sent in photos to you of
8 my backyard flooding during just a regular
9 rainstorm. All the yards on our street
10 drain into my backyard and they flow into
11 the wetland stream that runs between
12 Milestone and Ashcreek neighborhoods.

13 Last summer, Hanover County
14 Planning came out to look at our yard and
15 discovered when our neighborhood was built,
16 someone made a mistake or someone
17 manipulated something.

18 And they forgot or neglected
19 to put in a storm drain two yards down from
20 us. It shows up on the neighborhood platt
21 still to this day, but it's not there in
22 real life.

23 So now our backyard floods
24 every time it rains. In the photo I sent
25 you, you can see my kids are swimming in our

1 backyard flood. It's not just a little bit
2 of soggy grass. Maybe Hanover County
3 officials or the contractors are doing that
4 again now with Wegmans, overlooking some
5 things or manipulating things to make a big
6 company happy.

7 But at what expense? Only
8 this time, the Wegmans project is on a much
9 bigger scale with much bigger consequences
10 downstream.

11 What happens when the
12 consequences of these wetland map
13 manipulations come to fruition? There are
14 hundreds of families --

15
16 MR. HAYES: Ma'am, you need to --
17 you need to wrap it up.

18
19 MS. JONES: -- downstream -- okay.
20 There are hundreds of families downstream
21 that will be affected, but how? Will all of
22 the homes on Egypt Road, Foxhead, Milestone
23 and Ashcreek be flooded even more every time
24 it rains? The area's already prone to
25 flooding. Your errors are manipulation or

1 your, quote, help from the State, can have
2 serious real life consequences to those of
3 us living downstream. This permit must be
4 denied. Thank you.

5
6 MR. HAYES: Thank you.

7
8 MS. ROBB: Okay. Next speaker will
9 be Jessica Gurbonos -- or ganos. I
10 apologize, I'm --

11
12 MS. TRETINA: I don't see that
13 Jessica on the line.

14
15 MS. ROBB: So the next person on
16 the list is Weedon Cloe.

17
18 MS. TRETINA: Weedon, you are self-
19 muted and you need to unmute your mic and
20 you'll be able to speak.

21
22 MR. W. CLOE: Hello, can you hear
23 me?

24
25 MS. TRETINA: Yes, we can hear you.

1 MR. W. CLOE: All right, super.
2 Ms. Robb, Mr. Jones, Mr. Hayes and
3 representatives of DEQ, good evening and
4 thank you for the opportunity to speak. My
5 name is Weedon Cloe and I'm a resident of
6 Forest Lake Hills, a neighborhood adjacent
7 to the proposed Wegmans Distribution Center
8 site.

9 I've worked at the local and
10 regional level as a water quality
11 professional for over 25 years and I am a
12 professional wetland scientist.

13 I am speaking tonight to
14 respectfully request denial of Virginia
15 Water Protection permit 19-2036 that would
16 allow for the filling of wetlands on the
17 proposed distribution center site based upon
18 the applicant's incomplete analysis and
19 non-conformance with the tenets of 9 VAC
20 25-210-45.

21 As a reminder, this State Code
22 specifies that each wetland delineation,
23 including those for isolated wetlands, is to
24 be conducted in accordance with US Army
25 Corps of Engineers, 1987 Wetlands

1 Delineation Manual and any reasonable
2 wetlands supplements approved for use by the
3 Corps. The work conducted on-site was
4 inconsistent with this regulation on the
5 following accounts.

6 Two of the largest off-site
7 wetland complexes were identified using the
8 wetland --

9
10 MS. ROBB: Mr. Cloe, Mr. Cloe.
11 We're having a hard time understanding you.
12 I don't know if you're on a computer mic,
13 but if you could --

14
15 MR. HAYES: Slow down, anyway.

16
17 MS. ROBB: Slow down just a tad.

18
19 MR. W. CLOE: I will slow down just
20 a tad. How's that?

21
22 MR. HAYES: That's good.

23
24 MS. ROBB: That's good. I
25 apologize for the interruption.

1 MR. W. CLOE: No, that's -- that's
2 quite all right. I'm on my computer audio.
3 So I'm -- I apologize for not being on my
4 phone.

5 Two of the largest on-site
6 wetland complexes were identified using the
7 wetland non-wetland mosaic approach outlined
8 in Chapter 5 of the Atlantic and Gulf
9 Coastal plain regional supplement manual.

10 And these [inaudible] areas
11 comprised of 30% wetlands for Wetland 7 and
12 10% wetlands for Wetland 9. The issue at
13 hand is that the protocol and results by
14 which the wetland non-wetland mosaics were
15 identified and quantified were not presented
16 in the delineation report.

17 Both the transected and the
18 point intercept method of identifying a
19 mosaic environment are labor-intensive and
20 require dedicated field forms and percentage
21 equations completed.

22 This detailed reporting and
23 precise unequivocal empirical analysis is
24 paramount to insure correct application and
25 accurate interpretation. No analytical

1 component or supporting data demonstrating
2 how the obtained mosaic percentages were
3 calculated are present in the submitted
4 documentation to this project.

5 In fact, email correspondence
6 obtained by a Freedom of Information Act
7 request undeniably show that the mosaic
8 percentages obtained and reported were based
9 entirely on subjective judgments, rather
10 than empirical evidence.

11 As a result, significant
12 under-reporting of existing wetlands and
13 impacts are highly likely. The delineation
14 was conducted during a period of significant
15 drought in Central Virginia.

16 While it is not been common
17 for wetland delineations to be conducted
18 during drought, the abnormal climatic and
19 hydrologic conditions that were present in
20 October of 2019 -- when considered for this
21 particular site -- that has no -- or little
22 topographic relief have potentially
23 significant consequences. For wet sites
24 with lower leaf during a period of drought,
25 one of the three indicators -- hydrology --

1 may not be as readily apparent due to
2 complete desiccation of the wetland.
3 Chapter 5 of the regional supplement has an
4 entire section devoted to wetlands that lack
5 indicators of hydrology during dry
6 conditions that demonstrate soils and --

7
8 MR. HAYES: Sir, would you --

9
10 MR. W. CLOE: -- that demonstrate
11 and soils and plant communities consistent
12 with a wetland environment.

13
14 MR. HAYES: You need to --

15
16 MR. W. CLOE: Hydric soils and
17 plant communities dominated by hydrophytic
18 species were present throughout the site.
19 And these features seldom form and thrive in
20 upland areas.

21 A site revisit during a period
22 of normal rainfall and re-evaluation of the
23 hydrologic indicators should've been
24 conducted prior to report submittal to
25 ensure accurate accounting of jurisdictional

1 features. To conclude, it is my
2 professional opinion that the wetlands
3 present on the on the subject parcel are
4 more extensive than as depicted in the
5 submittals to the State and federal
6 regulators and represent an under-accounting
7 of impacts.

8 As the conditions of the
9 regulatory framework were not met, the
10 permit should be denied. Thank you.

11
12 MR. HAYES: Thank you.

13
14 MS. TRETINA: All right. Next,
15 Brett Blose. Brett, you need to unmute your
16 mic. There you go.

17
18 MR. BLOSE: Can you hear me?

19
20 MS. TRETINA: Yes, we can.

21
22 MR. BLOSE: All right. Title 9,
23 Virginia Administrative Code 25, Chapter
24 210-45 concerning surface water delineation
25 states; each wetland delineation, including

1 those for isolated wetlands, shall be
2 conducted in accordance with the US Army
3 Corps of Engineers Wetland Delineation
4 Manual, and any regional wetlands
5 supplements approved by the US Army Corps of
6 Engineers.

7 This uses mandatory language.
8 There is no provision for deviation from the
9 procedures outlined in the Corps manual. In
10 October during the drought, RK&K performed a
11 delineation resulting in the identification
12 of 33.8 acres of wetlands on the Wegmans
13 site.

14 This delineation resulted in a
15 project impact of approximately 18 acres. A
16 few days later, the US Army Corps of
17 Engineers produced a map using the incorrect
18 application of a mosaic determination and
19 arbitrary deletion of vast areas of
20 wetlands, including the removal of Data
21 Point 2 that RK&K determined to be located
22 within a wetland. The map produced by the
23 Corps removed 12 acres of wetland and
24 reduced the alleged impact to 6.12 acres.
25 DEQ is basing the recommendation to approve

1 this permit on the flawed map produced by
2 the Corps contrary to procedures outlined in
3 the manual. The Corps regional supplement
4 manual outlines the only acceptable
5 procedure for determination of the
6 percentage of wetland mosaics.

7 The first step of the
8 procedure states, establish one or more
9 continuous line transects across the mosaic
10 area as needed.

11 However, an email obtained
12 through FOIA from the Corps -- Elaine
13 Holley, the permit writer -- writes to a
14 colleague concerning the alleged mosaic on
15 the Wegmans site.

16 Quote, my site is difficult.
17 Almost the whole site is hydric soils
18 without transects. We -- RK&K, Timmons, DEQ
19 and I -- agreed yesterday in the pouring
20 rain to accept one area as 10% and another
21 area as 30%, end quote.

22 The manual outlines a
23 procedure to measure, calculate and report
24 the mosaic percentage. This is something
25 that is to be measured and calculated, not

1 agreed upon, in the rain. Ms. Holley was
2 kind enough to put this is writing that the
3 mosaic determination was done contrary to
4 procedure outlined in the manual.

5 This means that the use of the
6 Corps map, including the mosaic
7 determination, and arbitrary deletion of wet
8 data points and shifting of wetland
9 boundaries for permitting purposes by the
10 DEQ would be a direct, willful and blatant
11 violation of Virginia Administrative Code.

12 This permit must be denied due
13 to the fundamental basis for the calculation
14 of impacts as fatally flawed and unsuitable
15 for use by the DEQ.

16 Any permit issued using the
17 flawed map produced by the Corps would be in
18 violation of Virginia Administrative Code
19 and would open up a clear path for judicial
20 challenge of the permit and set a dangerous
21 precedent that DEQ rules are mere
22 suggestions. That's it.

23
24 MR. HAYES: Thank you. Next
25 speaker.

1 MS. ROBB: Next speaker will be
2 Mr. Chris French. And Marilee, there's a
3 few slides that need to be presented.

4
5 MS. TRETINA: Yes.

6
7 MS. ROBB: Mr. French had asked for
8 them.

9
10 MS. TRETINA: Let me get that up
11 for him.

12
13 MS. ROBB: She's putting some
14 slides up, so you should be able to see them
15 once Marilee get them --

16
17 MR. FRENCH: Good evening. Can you
18 hear me okay?

19
20 MS. TRETINA: Yeah, Chris, hold on.
21 I'm trying to get your -- your slides up.

22
23 MR. FRENCH: Okay, thank you.

24
25 MR. HAYES: Okay. Well, whenever

1 you're ready.

2
3 MS. TRETINA: I know. I need to --

4
5 MR. HAYES: Okay.

6
7 MS. TRETINA: This is not my
8 computer. Okay? Bear with me. There it
9 is.

10
11 MR. HAYES: Okay. I see it.

12
13 MR. FRENCH: Thanks a lot. Well,
14 thank you very much for the opportunity to
15 offer comments this evening. My name is
16 Robert Christopher French.

17 I am the environmental
18 committee chair for the NAACP Hanover County
19 Branch, and also a downstream resident in
20 the Ashcreek subdivision. I live within 200
21 yards of the Totopotomoy Creek.

22 I will incorporate the
23 comments of both Mr. Weedon Cloe and Brett
24 Blose as part of my comments. I will focus
25 on two primary focus areas; one, the wetland

1 issues as well as environmental justice
2 issues associated with Brown Grove. With
3 the first map that you see on the web site
4 or on the web cast right now, you see what
5 the RK&K delineation looks like prior to the
6 October field meeting in which DEQ, the Army
7 Corps of Engineers and the consultants
8 involved with the project had in the field,
9 as well as other representatives who spoke
10 earlier tonight.

11 Next slide, please. Okay.

12 This shows what the wetland delineation
13 looks like after the field meeting occurred
14 in October. Next slide, please. What you
15 will notice in this process is that a number
16 of reductions have occurred.

17 We've seen some references to
18 this in the presentation with other speakers
19 this evening about Data Point 2. This is a
20 feature that was noted on the first set of
21 the wetland delineation.

22 Next slide, please, Marilee.

23 This slide now shows what happens after this
24 field meeting. In addition to concerns
25 regarding the wetland mosaic and off-site

1 impacts that were not calculated for. And
2 one example being the adjacent property just
3 to the north of this area this is connected
4 directly with wetlands to the northeast and
5 the southwest.

6 We also see that Data Point
7 No. 2 disappears. However, if you take a
8 close reading of the actual delineation that
9 was done, Data Point 2 is still within the
10 wetlands delineation as far as the field
11 sheets are concerned.

12 But it is deleted from the
13 map. As a result, because the reference to
14 Data Point 2 still exists and that criteria
15 is still there, it is -- basically, it still
16 exists.

17 It remains and it was
18 knowingly deleted from the visual depiction
19 of the project. And as a result, it calls
20 into question the entire basis of the
21 wetlands delineation for this entire effort.

22 Next slide, please. I'm
23 sorry, that's it for me on slides.
24 Regarding this effort, I just want to
25 reiterate the comments of my colleagues here

1 that there is no documentation justifying
2 the application of mosaic classification for
3 this particular project.

4 In addition to the quotation
5 that Mr. Blose provided with the Army Corps
6 of Engineers, there also was an email with
7 DEQ from Jaime Robb to Bryan Jones.

8 By the following day of the
9 field visit that says, quote Bryan, spoke
10 with Trish and Dave Davis regarding the
11 transect issue. Give me a call on my cell
12 in the morning and let's discuss.

13 I have also updated James and
14 Jeff. This email placed into proper context
15 implies that DEQ staff was aware of the
16 transect issue and came up with a potential
17 solution to address it should this ever come
18 up in question.

19
20 MS. ROBB: Sir, you're over your
21 time. If you could wrap it up, please.

22
23 MR. FRENCH: Sure. One last thing
24 in regards to the environmental justice
25 issues, which will be coming up even with

1 other speakers this evening is that back in
2 December, a Brown Grove resident contacted
3 DEQ and made mention about the grave sites
4 on the property.

5 Seven weeks after that
6 contact, a memorandum to file was produced
7 and documented. It raises the questions
8 regarding, not only why did it take so long
9 for such correspondence to end up in the
10 file.

11 But why did this not end up in
12 the public record as far as public comments
13 are concerned, given that there have been a
14 number of concerns expressed regarding Brown
15 Grove.

16 It raises a number of
17 significant questions about how DEQ has
18 handled this entire effort. It raises the
19 fact that environmental justice has not even
20 been dealt with as part of this entire
21 effort. And --

22
23 MR. HAYES: You say that other
24 speakers are going to address this issue?
25

1 MR. FRENCH: -- it really requires
2 everybody to take a pause. With that, I
3 would like to request that the agency deny
4 the proposed permit based off of the factual
5 information that has been obtained through
6 the Freedom of Information Act and
7 questionable analyses that have been done
8 with both the wetlands delineation and the
9 lack of engagement of the Brown Grove
10 community and others in this process. Thank
11 you for your time.

12
13 MR. HAYES: Thank you.

14
15 MS. ROBB: Okay. The next speaker
16 is Rod Morgan.

17
18 MS. TRETINA: Wrong line, sorry.
19 Rod, you're now unmuted.

20
21 MR. MORGAN: Wonderful, thank you.
22 I was speaking there and I thought you
23 couldn't hear me. I'm not going to get into
24 the wetlands. My name is Rod Morgan and I
25 live in Hanover County, Virginia. And I am

1 speaking with regard to VWPP permit 19-2036.
2 And I urge that the State Water Control
3 Board take action to deny this -- this
4 permit.

5 I'm not going to get too
6 heavily into the wetlands aspect of it,
7 although I would like to respond to
8 Mr. Lain's comment about Ms. Holley and her
9 long experience.

10 Ms. Holley has been a long
11 term employee of the Corps and has
12 undoubtedly participated in countless
13 wetlands delineations.

14 But the email that she wrote
15 to her colleague, David Neper [sp] in
16 Norfolk, really indicates that she's never
17 done a mosaics delineation before. She asks
18 him, have you ever done one of these things
19 before?

20 The clear implication is that
21 she has not. So I -- I would respectfully
22 submit that perhaps she is not as
23 experienced in mosaic wetlands delineation
24 as another -- other areas. So I'm going to
25 speak about the alternatives analysis and --

1 and how they impact on environmental
2 justice. And first, to set the stage, I'm
3 going to quote Governor Northam's Executive
4 Order 29 from 2019 where the governor says,
5 the Constitution of Virginia states that it
6 is the Commonwealth's policy to protect its
7 atmosphere, lands and waters from pollution,
8 impairment or destruction for the benefit,
9 enjoyment and general welfare of the people
10 of the Commonwealth.

11 The protection of our natural
12 resources applies equally to all
13 individuals. All deserve to live in healthy
14 environment.

15 The Commonwealth has a duty to
16 protect our air, water and land and to
17 ensure that no community in Virginia is
18 disproportionately impacted.

19 Environmental justice is
20 defined by the US EPA as the fair treatment
21 and meaningful involvement of all people,
22 regardless of race, color, faith, national
23 origin or income in the development,
24 implementation and enforcement of
25 environmental laws, regulations and

1 policies. No population, especially
2 minority, low income, or historically under-
3 served communities should face higher levels
4 or greater impacts of pollution than other
5 populations.

6 Some of these communities face
7 more severe environmental degradation, which
8 disproportionately affects public health and
9 quality of life.

10 This executive order then goes
11 on to establish the Virginia Council on
12 Environmental Justice, which it became
13 permanent later -- later on here in 2020.
14 It lays out the duties of the council.

15 Northam's executive order
16 specifically identifies transportation
17 systems saying, low income and minority
18 communities can be more vulnerable to health
19 impacts from transportation pollution.

20 The council shall examine
21 transportation systems and include
22 recommendations regarding areas that could
23 be improved to reduce air pollution and
24 other transportation-related environmental
25 concerns. At a meeting earlier this year, I

1 encouraged Mr. Aiken directly and Wegmans to
2 refer their proposal to the EJ council for
3 review and recommendation to avoid disparate
4 impacts on the Brown Grove community.

5 Mr. Aiken advised that Wegmans
6 has no interest in doing so, and that the
7 Brown Grove community had no concerns about
8 their project or their proposal. I believe
9 that we have all come to learn that this
10 statement is not accurate.

11 The only way that Wegmans
12 could've believed this is through the lack
13 of meaningful involvement and participation
14 on the part of the Brown Grove community.

15 This is not the only
16 inaccuracy that I've identified in the
17 recorded analysis of site alternatives
18 submitted as part of the application to
19 destroy these wetlands.

20 Wegmans makes a number of
21 dubious claims. I have previously addressed
22 these claims in my written comments. What
23 is notably absent from the analysis of the
24 alternative sites is any effort to identify,
25 quantify or address impacts to the Brown

1 Grove community. It's obvious to all
2 observers the Brown Grove, as an EJ
3 community as defined by case law.

4 And I refer interested parties
5 to read the decision of the Fourth Circuit
6 Court of Appeals relating to EJ issues
7 surrounding the Atlantic Coast Pipeline and
8 the Union Hill community.

9
10 MR. HAYES: Excuse me, sir. I'm
11 going to interrupt you again. You said you
12 submitted written comments on these points:

13
14 MR. MORGAN: I did as a part of the
15 original -- the original submission.

16
17 MR. HAYES: Well, you're two
18 minutes over your time almost on the spoken
19 comments. So we'll incorporate your written
20 comments.

21 If you want to supplement your
22 written comments, you have until August 4th.
23 You can go into all the detail you want in
24 your written comments. But we have to --

25

1 MR. MORGAN: I understand, okay.
2 In closing, because DEQ's made no inquiries
3 into these EJ issues, I urge that the permit
4 be denied.

5
6 MR. HAYES: All right, thank you.

7
8 MS. ROBB: Okay. Next is Collin
9 Moseley.

10
11 MS. TRETINA: Collin, you are self-
12 muted. You need to unmute your mic. There
13 you are. Go ahead and speak. Collin?
14 Mr. Moseley? We can't hear you. He's self-
15 muted.

16 You're unmuted. You want to
17 try it again? If you want to, switch to
18 phone audio. Maybe that would be a better
19 option for you. We can come back to you.

20
21 MS. ROBB: Okay. We'll come back
22 to Mr. Moseley. Next we have Jerry
23 Gurthrie? Guthrie?

24
25 MS. TRETINA: Guthrie.

1 Mr. Guthrie, you're unmuted.

2
3 MR. GUTHRIE: Thank you. I
4 apologize. I'm using the computer audio
5 because our cell tower in this area got
6 struck by lightening a couple weeks ago.
7 And this is what we've got.

8 My name is John Guthrie, Jerry
9 Donald Guthrie. And I appreciate the time
10 to speak. I'm a resident of Somerset
11 subdivision, right across the street from
12 the proposed site.

13 I am a licensed architect and
14 accredited professional. As related by some
15 others, my comments relate to the quantity
16 of wetlands being described in the wetlands
17 application.

18 The Fish and Wildlife Services
19 wetlands inventory identifies 68.7 acres of
20 forested and emergent wetlands that are
21 attached to this site.

22 I'm using the acreage numbers
23 from the wetlands inventory and the areas
24 identified in the permit application. This
25 is approximately 50 acres more than what is

1 being identified in the applicant's --
2 quote, unquote -- confirmed maps. I
3 recognize that the wetlands inventory is not
4 generated by on-site assessments.

5 However, I have not heard of
6 an instance where the surveyed quantity and
7 the inventory maps being so divergent. I
8 have also contacted colleagues who are civil
9 engineers and deal with this on a more
10 regular basis than me.

11 And they have not, either.

12 It's not unusual for it to be different by a
13 little bit, but that amount is considerable.
14 I ask that DEQ look carefully at the
15 existing wetlands quantities on the site and
16 comparing those to the ones being -- being
17 claimed by the -- by the -- by Wegmans and
18 their -- their engineers.

19 I respectfully request and ask
20 that this permit be denied. Thank you very
21 much and I yield my extra time to whoever
22 wants to go over their time. Thank you.

23
24 MR. HAYES: Thank you.

1 MS. ROBB: Okay. Do we -- let's
2 see. Pam Jones next.

3
4 MS. TRETINA: I do not have a Pam
5 Jones on the webinar.

6
7 MS. ROBB: Okay. James Theobald.

8
9 MR. THEOBALD: Hello.

10
11 MS. TRETINA: Sorry. Okay. You're
12 on now, James.

13
14 MR. THEOBALD: Good evening,
15 Mr. Hayes, ladies and gentlemen. My name is
16 Jim Theobald. I'm an attorney with
17 Hirschler Fleischer and I represent Airpark
18 Associates, the owners of the site in
19 question under contract to sell to Wegmans.

20 Subsequent to registering, I
21 have provided written comments on which I
22 would ask you to rely and let you get on
23 with your evening. Thank you very much.

24
25 MS. ROBB: Okay. Next we have

1 Kathy Woodcock.

2
3 MS. WOODCOCK: Thank you. Good
4 evening. Can you hear me?

5
6 MS. TRETINA: Yes, we can.

7
8 MS. WOODCOCK: Thank you. My name
9 is Kathy Woodcock. I live on Ashcake Road,
10 directly across the street from the proposed
11 Wegmans Distribution Center. There are so
12 many things wrong with this project and the
13 processes regarding its approval.

14 What they all boil down to is
15 that this is not the right place for such a
16 monstrous facility. The property is
17 surrounded by homes and neighborhoods and is
18 covered in wetlands.

19 These inconvenient facts --
20 inconvenient to development -- have been
21 ignored and even erased without regard to
22 the human and environmental impact and the
23 policies that govern their protection. I
24 urge the DEQ to deny this permit. There
25 were 33.8 acres of wetlands identified on

1 the property in the RK&K October 2019
2 delineation, which was improperly conducted
3 during a drought.

4 In addition, there is no
5 evidence to indicate that drought procedures
6 to further check for wetlands hydrology
7 indicators were followed in this
8 delineation.

9 As such, the wetlands were
10 under-stated and the permit should be
11 denied. The Army Corps of Engineers then
12 revised this already flawed determination in
13 December 2019 and erased 12.5 acres of
14 wetlands, largely where Wegmans buildings,
15 parking lots and roads are slated to built.

16 The wetlands area borders were
17 reduced and one particular data point was
18 deleted, both without justification or
19 documentation.

20 A rarely used mosaic
21 designation was used to further decrease the
22 wetlands, yet there's no evidence the mosaic
23 transect procedure as required by the Corps
24 was utilized at all. As such, at least 18
25 acres of wetlands slated to be destroyed

1 were improperly reduced to six acres, and
2 the permit should be denied. I'm concerned
3 about the impact 80 plus acres of buildings
4 and parking lot and concrete will have on
5 the remaining wetlands on this site and the
6 off-site impacts as well.

7 Even at the reduced drought
8 measured amount, 33.8 acres of wetlands, is
9 a huge amount to put at risk. Ashcake Road,
10 where I live, floods even in moderate rain.

11 The nature of the soils in
12 this area and the lack of drainage ditches
13 leave the water with nowhere to go.
14 Standing water in street, which turns into
15 ice in the winter, have already led to many
16 accidents.

17 And the problem will likely be
18 exacerbated by this facility. I'm also
19 gravely concerned about the impact this
20 facility could have on the quality of life
21 of people in the surrounding homes and
22 neighborhoods, the human environmental
23 quality. This is a quiet, rural area
24 steeped in history. This immense, 24-hour
25 day -- 24-hour, seven-day a week, 1.7M

1 square-foot facility with its noise and
2 traffic and impact on property values would
3 destroy the rural and historic nature of
4 this entire section of Hanover County.

5 And could be the last straw in
6 a long line of industrial encroachments that
7 threaten to destroy the Brown Grove
8 community altogether.

9 Please consider not only the
10 environmental cost, but also the human cost
11 of this project and deny the permit. Thank
12 you very much.

13
14 MR. HAYES: Thank you.

15
16 MS. ROBB: Marilee, I'm going to
17 circle back to Collin Moseley. He was going
18 to try to connect via audio.

19
20 MS. TRETINA: He has, but he has
21 not put in a PIN number. Collin, I have
22 sent you a PIN number a couple of times.
23 I'll send you another one. You need to
24 enter that, otherwise we can't unmute you we
25 won't be able to hear you.

1 MS. ROBB: Okay, so we will wait
2 for that, hopefully, to get resolved. Next
3 on the list is John Dumont.

4
5 MR. DUMONT: Can you hear me?

6
7 MS. TRETINA: Yes, we can hear you.

8
9 MR. DUMONT: Let me start by -- the
10 beginning that saying that I'm against
11 having this hearing held virtually, as I
12 believe this impedes our right to
13 effectively participate.

14 And it infringes on our rights
15 to participate in -- with our government. I
16 oppose the Wegmans permit application. I
17 believe it should be rejected as it is not
18 in the public interest, and that this permit
19 sets a unacceptable precedent.

20 The delineation was performed
21 during a drought on two large wetland --
22 wetlands and an approach labeling them as
23 mosaics was used. And therefore, they were
24 said to be only partially wet. As far as I
25 can tell, this approach has rarely been used

1 in Virginia or the Mid-Atlantic region. And
2 I ask for caution in allowing this to become
3 a new precedent. I believe using this
4 mosaic labeling downplays the number of
5 wetlands that will be impacted.

6 This area has been known to
7 have high water on the roads that run along
8 this parcel of land, specifically Ashcake
9 Road.

10 Wegmans permit application
11 with this mosaic labeling has me extremely
12 concerned about how their construction on
13 and near the wetlands will affect adjacent
14 properties and the entire area's drainage
15 patterns.

16 I implore you to reject the
17 Wegmans permit. I believe the employees of
18 the DEQ did not choose a career in
19 environmental sciences to allow politicians
20 and businesses to change the laws or the
21 interpretations of the laws for their
22 benefit. I believe the employees of your
23 agency want to protect the people, animals
24 and various species of our state. If this
25 permit precedent is set, think of what this

1 allow all businesses and politicians to do
2 throughout our state. When people are --
3 are in positions of authority long enough,
4 they will inevitably be put in the position
5 of deciding to take the path of least
6 resistance or of doing the right thing.

7 Please, when you make your
8 decision, remember the mission of the
9 Virginia Department of Environmental Quality
10 is to protect and enhance Virginia's
11 environment and promote the health and well
12 being of the citizens of the Commonwealth.

13 Thank you.

14
15 MR. HAYES: Thank you. Next
16 speaker.

17
18 MS. ROBB: All right. You've let
19 us go back. It sounds like Collin Moseley
20 is now -- has audio.

21
22 MS. TRETINA: He's self-muted, so
23 he -- oh, there you go. Collin?

24
25 MR. MOSELEY: All right. Can you

1 hear me now?

2
3 MS. TRETINA: Yes, we can.

4
5 MR. MOSELEY: All right. I'd like
6 to think of myself as a technologically
7 savvy individual, but I can't believe how
8 difficult it was to speak in a public
9 meeting.

10 So I will supplement my
11 comments with a written comment about how
12 difficult this was to access. Let me
13 introduce myself again.

14 My name is Collin Moseley and
15 I am a resident of the Foxhood neighborhood
16 which is situated across the street from the
17 proposed land use here for Wegmans.

18 And I -- I'm very concerned
19 about many of the surrounding issues with
20 this permit. And because my family lives
21 one mile -- or less than one mile from this
22 site. And I've got two small children and
23 an unborn daughter, and they will have to
24 live with the consequences if this permit
25 has been done wrong. I am very concerned

1 about run-off. I'm very concerned about
2 loss of bio-diversity and the loss of an
3 environmental buffer zone. But I'm most of
4 all concerned about the procedural issues
5 that have been identified with this permit.

6 And specifically, the lack of
7 following an approved procedure. If any one
8 of us in our job didn't follow a procedure
9 correctly, we could lose our job. We could
10 cause substantial harm.

11 We could impact so many
12 people. And in this case, mistakes like
13 this are what are going to cause harm to our
14 community, which is antithetical [sp] to the
15 mission of the Department of Environmental
16 Quality, as well as the State board --
17 State's Water Board.

18 So what I want to call out is
19 the estimates from the applicant show that
20 they could be off by at least a factor of
21 five with the wetlands that they've
22 identified. This means that there's at
23 least a substantial chance, a statistical
24 chance, that the destruction of these
25 wetlands could be greater than 10 acres. It

1 could be as large as 30 or more. So I think
2 Mr. Lain, speaking on behalf of Wegmans,
3 said it best when he called this a difficult
4 site and a problem site. Alone, that shows
5 the importance of getting this right.

6 He also cited that multiple
7 wetlands delineations have occurred in the
8 past. But what he didn't say is that mosaic
9 has never been used for any of them.

10 And all of a sudden, we have a
11 permit to get someone to buy this land. And
12 all of a sudden, this new approach, this
13 different approach, is perfectly acceptable
14 with a whole different answer.

15 So I'm very concerned about
16 that and what I want to call out is that the
17 State Water Board should not be bending to
18 any political pressure. It is there
19 mission, it is their purpose to protect the
20 citizens of the entire State of Virginia.

21 And it's necessary for them to
22 be looking at this and making sure it's done
23 properly, it's being done fairly. And that
24 they and the DEQ should be blameless in this
25 process. There's already legal action that

1 is happening against others who have taken
2 short cuts who have done misgivings in this
3 process. Let's not add DEQ and the State
4 Water Board to that list.

5 The last thing I want to call
6 out is two quick points. One is that we
7 should be really aware that some mysterious
8 back-dated document shows up after this
9 meeting that meticulously details how all of
10 these things aren't significant.

11 That will be a total sham.

12 Second, I think a lot of people believe in
13 the economic value of this project. But I
14 think a lot of people also agree this is not
15 the place to do it.

16 People have quoted from emails
17 of individuals in support of this site. And
18 they're so concerned about the wetlands here
19 that they have alternative sites ready to
20 go.

21 Let's send them to those
22 alternative sites. A denial of this permit
23 will not mean a denial of this project.
24 That's what I had to comment on. Thank you
25 so much for the opportunity.

1 MR. HAYES: Thank you.

2
3 MS. ROBB: Next up, Timothy Miller.

4
5 MS. TRETINA: I do not have a
6 Timothy Miller on the webinar.

7
8 MS. ROBB: Anita Philip.

9
10 MS. PHILIP: Hi. Can you hear me?

11
12 MS. TRETINA: Yes, we can.

13
14 MS. PHILIP: Good evening. Many of
15 the things that I want to say have been
16 covered very nicely by the other before me,
17 beginning with Lisa Eget, who -- who was
18 very condemning of this process.

19 This isn't a public hearing.
20 You know, there could be 50 people on this
21 call, there could be 100 people on this
22 call. There could be 1000 people here. It
23 would be nice to know what kind of support
24 we actually have. However, I won't -- I
25 won't belabor -- I won't expound upon that

1 any further. I'd like to focus a little bit
2 on the Brown Grove community, which some
3 criticism had been leveled at our community
4 for not including their concerns.

5 However, there were
6 individuals -- such as Ms. Eget -- who
7 reached out to them. And we -- we are aware
8 of the Brown Grove community and their
9 history.

10 And to address specifically
11 the -- the -- Mr. Lain's contention that,
12 you know, these graves -- nobody's ever seen
13 them. Let's think about this historically.

14 This -- this site was -- was
15 established 150 years ago, right after the
16 Emancipation Proclamation when the slaves
17 were freed. This are freed slaves -- or
18 they are descended of freed slaves.

19 How many of them would have
20 had the means to mark graves? Just -- just
21 tell me that. Other than with piles of
22 stones or some other organic marker. So you
23 know, please be careful when you say that,
24 you know, this is just oral history. That
25 is what the emancipated slaves had was oral

1 history. And the impacts that that
2 community has suffered, and I mean
3 suffered -- based on the encroachment of 95,
4 the airport, the -- the dump that's been put
5 over there, the cement mixing plant -- are
6 numerous.

7 There are serious
8 environmental justice issues that need to be
9 considered fully. I also -- I -- I realize
10 that the wetlands delineation has been
11 covered, but I would reiterate that while
12 Ms. Holley may be a very experienced
13 wetlands -- or DEQ person.

14 The mosaic wetlands
15 designation was so -- is so obscure that,
16 you know, I don't -- I'd like to see if --
17 if we're going to say that she's an expert
18 in that, give us proof.

19 I don't think it's there. We
20 have had -- there have been FOIA requests
21 for documentation. The -- that property was
22 assessed in the midst of a 20-year drought.
23 People have asked that the -- it be -- that
24 we be allowed to go look at the site, that
25 the community be able to go look at it. And

1 it has been roundly and soundly denied. Why
2 wouldn't you let us go look at it? What is
3 there to hide? You know, we -- we can't go
4 on the site and see what's going on there,
5 you know. That's ridiculous.

6 I've lived here for 25 years.
7 I live on a slight rise, very close to the
8 Atlee Station Road on -- or Ashcake Road and
9 Sliding Hill Road intersection. And my yard
10 floods when it rains heavily.

11 And it flows downhill into the
12 cul-de-sac where several of my neighbors
13 have had flooding that has damaged the
14 underneath of their homes and their garages.
15 That's -- I'm not talking about hurricanes.
16 I'm talking about heavy rain.

17
18 MR. HAYES: Ma'am, you need to
19 start putting the landing gear down.

20
21 MS. PHILIP: Excuse me?

22
23 MR. HAYES: You need -- you need to
24 start wrapping it up. You're over --
25 you're over your time.

1 MS. PHILIP: Thank you. The --
2 there is no question that this area is part
3 of the Chesapeake Bay watershed. And as
4 such, paving this roads is -- or paving this
5 wetland could cause catastrophic flooding,
6 such as has been experienced in Ellicott
7 City, Maryland -- not once, but twice.
8 Please look into this. I request that you
9 deny this permit. Thank you.

10
11 MR. HAYES: All right. Thank you.

12
13 MS. ROBB: Okay. Next we have
14 Cheryl Burham.

15
16 MS. TRETINA: She is not on the
17 webinar.

18
19 MS. ROBB: Okay. Mr. Charles
20 Morris.

21
22 MS. TRETINA: Mr. Morris, you have
23 muted your microphone. Unmute your
24 microphone.

1 MR. VAUGHAN: Hello, Charles
2 Morris.

3
4 MS. TRETINA: Okay. Are you doing
5 that for him?

6
7 MR. VAUGHAN: Yes.

8
9 MS. TRETINA: You're self-muted.

10
11 MR. VAUGHAN: Say again, Charles.

12
13 MR. MORRIS: Can you hear me?
14 Hello?

15
16 MR. VAUGHAN: Yes, they can hear
17 you.

18
19 MR. MORRIS: My name is Charles
20 Morris. I'm a private property owner in
21 Hanover County on Egypt Road. And I've
22 lived there for about 20 years. I --

23
24 MR. HAYES: You're going to have to
25 stop.

1 MR. MORRIS: I well familiar with
2 the Wegmans project --

3
4 MR. HAYES: Sir?

5
6 MR. MORRIS: -- area, mainly
7 because we pick blueberries in that area.

8
9 MR. HAYES: Sir, can you hear me?
10 You need to stop.

11
12 MR. MORRIS: And I can tell you
13 that are graves. They are scattered all
14 over that area. Not only at the road area
15 of what is Ashcake Road and Sliding Hill
16 Road -- there's a little cemetery there.

17 But on further back through
18 the property. In fact, the last time I was
19 there, I saw two graves together, okay? And
20 there are other graves scattered all around
21 there.

22 And these are graves that are
23 not unmarked. Not only did we find graves,
24 but also bullet shells. In fact, I called
25 Hanover on another subject to ask them about

1 the bullets. And they said, well, maybe
2 back there they had a little skirmish there
3 with some soldiers, whatever. And that was
4 that. So it is there.

5 And might I also say, that
6 land there is very moist. On certain days,
7 you can go through there and you will go --
8 your feet will go down into the ground in
9 certain areas.

10 And someone said, maybe there
11 are -- what is it -- three acres of
12 wetlands. There are much more. I would say
13 at least 30% of that land is wetland.
14 Because not -- in summer, we -- we go there
15 picking berries and it was dry. Hello, can
16 you hear me?

17
18 MR. HAYES: We can hear you fine.

19
20 MR. VAUGHAN: Yes. They can hear
21 you, Charles.

22
23 MR. MORRIS: Okay. Something
24 happened to my phone. All right. So other
25 than that, the water now -- I heard someone

1 said earlier about Hanover taking care of
2 the run-off water. Hanover doesn't do that
3 because the Brown Grove Church is always
4 flooded with water in the ground -- in the
5 -- in the street and also around the church.

6 Now they have petitioned
7 Hanover County. But Hanover County says
8 that's VDOT's problem. They don't do that.
9 Now if they're not doing that now, imagine
10 the project.

11 Now all that water -- that
12 retention pond runs down into Egypt Road
13 that they are -- into that little gully down
14 there. I'm familiar with it because I walk
15 that road. Okay.

16 And the pipe is -- is -- you
17 can not get water through it. The water
18 stays on one side of the road. That means
19 you're going to have a flood right there.

20 The residents on the other
21 side will not be able to come out because
22 that's the only way they can get out. And
23 basically, that's all I wanted to say other
24 than, you know, Wegmans is going to add to
25 the air pollution just like the airpark and

1 the cement place there also. You're going
2 to have a network of nothing but pollution
3 there. And that -- and it won't stay in the
4 air. It's going to get into the water.

5 And about five or six of the
6 residents on Egypt Road, all they have is
7 well water. Imagine. And two of the
8 residents there already have cancer.

9 And that -- there should be a
10 study done in and around those areas.
11 Because I know several of my pets have died
12 because of cancers. I'll leave it at that.

13 Thank you.

14
15 MR. HAYES: Thank you, sir.

16
17 MR. MORRIS: Might I also say, I
18 would like for that permit to be denied.

19
20 MR. HAYES: All right, thank you.

21
22 MR. MORRIS: Implicitly denied.
23 Thank you.

24
25 MS. ROBB: All right. Next we have

1 Mr. or Mrs. Johnson. I'm going to be
2 honest, I'm not sure how to pronounce.
3 O-L-U -- and I apologize if they are out
4 there.

5
6 MS. TRETINA: I don't see that name
7 on the webinar.

8
9 MS. ROBB: All right. Looks like
10 next up is Brian Buniva.

11
12 MS. TRETINA: Brian, you are
13 unmuted. Brian? We can't hear you. Brian,
14 maybe you should switch, go into the audio
15 options and switch to -- okay, I see.
16 Brian?

17 We still can't hear you. You
18 might want to switch to the phone option if
19 that's possible for you. And be sure to put
20 in the PIN number. Dial the number, put in
21 the access code and the PIN number.

22
23 MS. ROBB: Do we want to go to the
24 next one while Brian gets sorted out?

25

1 MR. HAYES: Why don't we do that so
2 we can --

3
4 MS. ROBB: Okay.

5
6 MR. HAYES: -- keep moving.

7
8 MS. ROBB: Nathan Arries. Do you
9 have him, Marilee?

10
11 MS. TRETINA: Yeah, I do. Nathan,
12 you need to -- okay, you're unmuted, Nathan.

13
14 MR. ARRIES: Okay. Hey, my name is
15 Nathan Arries. I'm a member of the
16 environmental justice group Sunrise
17 Richmond. And I'd like to speak against
18 allowing the -- against the permit.

19 Because I think this project
20 would upset the local environment and
21 potentially be damaging to the wetlands.
22 And I think it would disturb African-
23 American burial grounds and those of
24 African-American ancestors. And I think the
25 burial grounds should be respected and also

1 those of the community, particularly the
2 African-American community. So I would urge
3 the Board not to -- not to give the permit
4 to the Wegmans.

5 And to respect the wishes of
6 the Black community. Thank you and that's
7 what I wanted to say.

8
9 MR. HAYES: Thank you, sir.

10
11 MS. ROBB: All right. Next --
12 let's see. Sorry, I am not going to
13 pronounce the name. The last name Fisk,
14 F-I-S-K.

15
16 MS. TRETINA: Fionnula. Ms. Fisk,
17 you are unmuted. You need to unmute your
18 mic. Okay, unmute your mic.

19
20 MS. FISK: Hi. Can you hear me
21 now?

22
23 MS. TRETINA: Yes, we can hear you.

24
25 MS. FISK: Fabulous. Hello. My

1 name is Fionnula Fisk. I am the
2 co-coordinator of Sunrise Richmond, an
3 environmental justice organization focused
4 on the Metro Richmond area.

5 I'm here in support of the
6 residents of Egypt Road and the Brown Grove
7 community. And I'm requesting the denial of
8 this permit. First and foremost, I am
9 disappointed in the work that the Army Corps
10 of Engineers did on this project.

11 They literally only eye balled
12 the mosaic areas, not engaging in the
13 required transect procedures. In addition,
14 they originally identified 33 acres of
15 wetlands according to their own criteria.

16 I'm not sure how that number
17 got dropped to just six acres. And to top
18 it off, they didn't follow the appropriate
19 procedures for examining wetlands in
20 droughts.

21 Aside from the environmental
22 and procedural concerns -- which many people
23 are highlighting in greater detail this
24 evening -- this, to be clear, is an issue of
25 environmental racism. The Brown Grove

1 community does not approve of their
2 ancestors' remains being disturbed. We have
3 extensive oral histories of graves buried on
4 this property, which is not just, quote,
5 unquote, anecdotal evidence like Wegmans has
6 referred to it.

7 The archeological surveys
8 conducted to date were not designed to find
9 graves, instead focusing on visual surveys
10 for depressions which does not always occur.
11 That is not enough research.

12 Would you ever consider
13 putting a Wegmans on top of Hollywood
14 Cemetery. I should hope not. If there are
15 graves, and there likely -- very, very
16 likely are based on our oral histories, then
17 that is sacred land.

18 I demand a more substantial
19 analysis be performed. And if there are
20 graves, pick a different site. I save my
21 time.

22
23 MR. HAYES: Thank you.

24
25 MS. ROBB: All right. Next we have

1 Laurie O'Toole.

2
3 MS. TRETINA: What's the first
4 name?

5
6 MS. ROBB: Laurie.

7
8 MS. TRETINA: I do not have a
9 Laurie O'Toole on the webinar.

10
11 MS. ROBB: All right. If you would
12 circle back to Mr. Buniva.

13
14 MS. TRETINA: Mr. Buniva, you're
15 unmuted now.

16
17 MR. BUNIVA: Oh, sorry folks.
18 Mr. Hayes and staff of the DEQ, my name is
19 Brian Buniva. I have the privilege of
20 representing a number of the folks who have
21 spoken tonight in litigation against Hanover
22 County. I will try to focus my remarks -- I
23 will focus my remarks on the issues before
24 the State Water Control Board. Mr. Hayes
25 and I go back a long, long way. And I think

1 we're both sort of semi-retired, if not
2 fully retired at this point. And that gives
3 you a great deal of freedom. And the
4 freedom it gives us is to seek the truth.

5 And tonight, I am going to
6 point out a couple of things where the truth
7 has been scrubbed by Wegmans and, frankly,
8 by Airpark Associates. You've heard from
9 others, I won't repeat it.

10 The fact of the matter is that
11 there have been multiple delineations of
12 this site. But the one that has been
13 selected is the one that has the smallest
14 number of acres of wetlands impact.

15 Now, why is that? If there
16 was an opportunity to take a look at this in
17 an objective, truthful way, it was ignored.
18 And what was selected was the smallest
19 number of wetlands possible.

20 And that's simply not the
21 truth. So where do we go? We ask Airpark
22 Associates, the owner of this property and
23 Wegmans, for the opportunity to have our
24 wetlands expert to go on the site and to do
25 their own delineation and to compare it.

1 Not in a drought, but in current conditions.
2 And that was denied before the board of
3 supervisors meeting. It was denied during
4 the board of supervisors meeting.

5 And in this law suit, we have
6 filed a request to enter the land for such
7 investigations. And Airpark Associates --
8 and I hope you're listening to the people --
9 has not even responded. Has not responded.

10 The fact of the matter is
11 there is truth being hidden by the owners of
12 this site and by Wegmans. Because they
13 don't want the truth to come out.

14 And so I am asking Mr. Hayes
15 and your colleagues on the State Water
16 Control Board to not accept the applicant's
17 word. But to conduct your own independent
18 investigation, because the truth is not
19 before you.

20 And it won't be before you
21 unless you make it come before you. Please,
22 please, don't do that. The last thing I'll
23 just talk about -- and I -- I know you saw
24 the front page of the Times-Dispatch
25 yesterday. This has been a hidden issue,

1 but now it's out there in the open. The
2 fact of the matter is that the community of
3 Brown Grove, which I'm not a member of --
4 and frankly, don't have a right to speak of
5 -- speak for.

6 But that community has not
7 been consulted by Wegmans. They met with
8 the community and said, this is a done deal.
9 No matter what you guys say, this job --
10 this project is going through.

11 And that is outrageous.
12 Absolutely outrageous. Wegmans should be
13 ashamed of itself. Airpark Associates --
14 oh, I know you're trying to sell your
15 property. I get it.

16 But you should be ashamed.
17 You have not consulted anybody. But you
18 have simply tried to bolt your way through
19 this. Now, my clients want Wegmans in this
20 state.

21 They'd love to have it in this
22 county. But this is the most ridiculous
23 site, applying objective criteria, for the
24 location of a 1.7M square-foot site --
25 project where there's a minimum of 33 acres

1 of wetlands based upon a delineation that
2 was done in a severe -- in a moderate
3 drought.

4
5 MR. HAYES: Brian, let me -- let me
6 interrupt you for a minute. Are you
7 representing somebody tonight in this
8 hearing?

9
10 MR. BUNIVA: Yes. I'm representing
11 most of the folks that spoke before.

12
13 MR. HAYES: Okay. You're
14 representing as -- in your capacity as an
15 attorney for them?

16
17 MR. BUNIVA: Yes.

18
19 MR. HAYES: I'll let you speak a
20 couple more minutes, then, since I let John
21 speak for a little over time. So --

22
23 MR. BUNIVA: Okay.

24
25 MR. HAYES: But I'd ask you to --

1 I'd ask you to wrap it up in about a minute
2 and a half, two minutes.

3
4 MR. BUNIVA: Tell you what. I've
5 said what I want to say. What I'm asking
6 the Board to do and the staff to do is don't
7 accept at face value, as the Corps of
8 Engineers has done -- and apparently, the
9 DEQ takes at face value what the Corps of
10 Engineers says.

11 Don't do that. Take an
12 independent look at this. Ask that we be
13 allowed to go on there with our independent
14 expert or bring your own. But let's not
15 just push this one along.

16 It is wrong for so many
17 reasons. I thank you for the opportunity to
18 speak to you. And God bless you, Tim.

19
20 MR. HAYES: Thank you.

21
22 MS. ROBB: All right. Our next
23 speaker, Andrea Chavez.

24
25 MS. TRETINA: I do not have an

1 Andrea Chavez on the webinar.

2
3 MS. ROBB: All right. Martha
4 Wingfield.

5
6 MS. TRETINA: Martha, you can
7 unmute yourself.

8
9 MS. WINGFIELD: Okay, I'm unmuted.
10 Do you hear me?

11
12 MS. TRETINA: Yes, we hear you now.

13
14 MS. WINGFIELD: Okay. Good
15 evening. My name's Martha Wingfield and I'm
16 a long time Hanover resident. I live not
17 too far from the site and am very familiar
18 with it.

19 I am speaking because I want
20 to ask that you deny this permit, Permit No.
21 19-2036. I think many people have spoken
22 very eloquently in great detail about the
23 wetlands and why, just based on how the
24 wetlands have been delineated is grounds
25 enough to deny this permit. They were done

1 improperly. You know, the concept of
2 mosaics is ludicrous in this process. So
3 that shows that I -- what I believe is a
4 very arbitrary and not a very transparent
5 process in trying to push this permit
6 through.

7 About five months ago, I think
8 it was and several people have referenced,
9 that Governor Northam signed a bill making
10 Virginia -- making the Virginia Council on
11 Environmental Justice permanent.

12 And he stated that he did this
13 to ensure communities impacted by
14 environmental hazards are part of the
15 decision-making process.

16 The creation of a permanent
17 council was to incorporate environmental
18 justice into the daily operations of State
19 agencies.

20 And I quote -- Governor
21 Northam said -- particularly the Department
22 of Environmental Quality. Because he
23 recognized that there is a problem of
24 environmental justice in this department.
25 And I think that has not happened here and

1 with the Brown Grove community and with this
2 permit. Mr. Lain, as others have
3 referenced, said that there's an oral
4 history.

5 But he feels that what they're
6 doing -- he feels -- does not have a
7 disappropriate -- disproportionate impact in
8 terms of environmental justice.

9 And just only talks about the
10 oral histories of this neighborhood. The
11 oral history of the descendents should be
12 given priority in consideration of this
13 permit.

14 And another little piece of
15 history I'll pass on to you, Henry Clay --
16 who is another Hanover son -- his birth
17 place is not too far from here. I'd say
18 it's less than a mile, across Aschcake and
19 over on Sliding Hill.

20 And there is a book, a
21 biography, that was written about Henry
22 Clay. And the title of it is Mill Boy of
23 the Slashes. Now Ms. Robb and Mr. Hayes and
24 Mr. Lain, do you know what slashes are? I
25 mean, this was hundreds of years ago. The

1 title of the biography written about Henry
2 Clay who grew up near this site was Mill Boy
3 of the Slashes. Slashes are wetlands.
4 They're -- they're fens, whatever you want
5 to call them.

6 And I think we know that this
7 area is -- is saturated with wetlands. And
8 it has not been properly documented and not
9 been given the proper consideration. So I
10 ask that you deny this permit. And thank
11 you for the opportunity to speak.

12
13 MR. HAYES: Thank you,
14 Ms. Wingfield.

15
16 MS. ROBB: Rachel Abshire.
17 A-B-S-H-I-R-E.

18
19 MS. ABSHIRE: Hi, can you hear me?

20
21 MS. TRETINA: Yes, we can.

22
23 MS. ABSHIRE: Hi. My name is
24 Rachel Abshire and I'm here to speak for
25 myself and on behalf of Sunrise Movement

1 Richmond, an environmental justice group.
2 And we oppose Virginia Water Permit No.
3 19-2036. We believe the draft permit is
4 defective for administrative, technical and
5 racial reasons.

6 First, administratively, the
7 draft permit does not complete with VA
8 Administrative Code as it does not describe
9 how the Board arrives at its final decision
10 on Wegmans permit.

11 Second, the wetlands
12 delineation portion of the project was
13 improper, in which it was conducted during a
14 drought.

15 In drought circumstance, the
16 US Army Corps of Engineers recommends quote,
17 revisiting the site during a normal rainfall
18 year and check again for wetland hydrology
19 indicators appear to be absent.

20 But they did not do this. The
21 wetlands delineation portion should have
22 been conducted when hydrology indicators
23 were present. Considering that this project
24 has been contemplated since the mid '90's, I
25 do not believe it is a mere consequence --

1 coincidence that the wetlands delineation
2 portion of the project was conducted during
3 a drought -- and during a drought in one of
4 the hottest years on record.

5 Moreover, the US Army Corps of
6 Engineers reduced the number of wetlands by
7 12.5 acres. This caused the deletion of a
8 wetland point on a prior map where now the
9 plan shows a paved road.

10 In observing the finagling of
11 map overlays and data points, it is easy to
12 deduce a motive which does not include the
13 preservation of the wetlands and surrounding
14 waters -- including groundwater.

15 And while it's the proper
16 procedure for the applicant to produce their
17 own records and estimates, it is a conflict
18 of interest for a company and its affiliates
19 to police themselves.

20 Especially when the failure of
21 such could result in the loss of potential
22 profit for them. And third, to step back
23 from the particulars of this specific
24 project, I'd like you to consider wetlands
25 in general. It was expressed by the

1 attorney from McGuire Woods, I think his
2 name was John, that a 1:1 or a 2:1 ratio of
3 ecological restoration would occur.

4 Wherever companies do not have
5 a good history of cleaning up their messes,
6 they're also bad at giving proper estimates
7 of the true environmental impact. And
8 furthermore, there is the issue of
9 biological diversity.

10 We do not have time to waste
11 putting back together an already healthy
12 environment. Biological diversity should be
13 at the forefront of our environmental lens
14 and not an afterthought, not something to
15 consider post-destruction.

16 Wetlands and their inhabiting
17 species are critical to the health of the
18 environment and especially water. We think
19 any environmental impact -- no matter how
20 small -- that to be claimed are significant.

21 And finally, there is the
22 issue of racial justice. We in the Sunrise
23 Movement believe that environmental justice
24 is racial justice. This Hanover community
25 has already been significantly impacted by

1 environmental justices in the past,
2 including the construction of I-95 and a
3 large landfill nearby. Increased negative
4 environmental impacts have a direct affect
5 on local communities.

6 And apart from the
7 environmental impact solely, the land on
8 which this project is trying to be built has
9 already once been stolen from indigenous
10 peoples and is trying to be stolen again
11 from the Black and Brown people whose
12 ancestors are buried on these lands.

13 Early in the call, the same
14 attorney -- John from McGuire Woods -- said
15 that there is a protocol for when
16 contractors discover bodies. But at that
17 point, it's too late.

18 At that point, the damage is
19 already done and the ancestral bodies are
20 already uprooted. We need to listen to our
21 community members and respect the dignity of
22 their histories and their lands. We oppose
23 this permit. Thank you.

24
25 MR. HAYES: Thank you.

1 MS. ROBB: All right. Next we have
2 Deborah Staley.

3
4 MS. TRETINA: Okay. Deborah,
5 you're unmuted.

6
7 MS. STALEY: Pardon me?

8
9 MS. TRETINA: We can hear you.

10
11 MS. STALEY: Can you hear me?

12
13 MS. TRETINA: Yes.

14
15 MS. STALEY: Hello, my name is
16 Debbie Staley. I live in Hanover County and
17 I'm not going to say over again what so many
18 people have so well said, including Jeff
19 Hetzler and Weedon Cloe.

20 However, I'm not a
21 hydrologist. I'm not a water specialist,
22 but I harken back to the letter between
23 Elaine Holley and David Neper, I believe is
24 how it's said. And the quote that I wanted
25 to -- to look at is, my site is difficult.

1 Almost the whole site is hydric soils. So
2 not being a hydrologist, I looked up hydric
3 soils. And what does hydric mean?

4 Characterized by, relating to or requiring
5 an abundance of moisture.

6 And yet, that's what is said
7 here about this area. Almost the whole site
8 is hydric soils. So I'm not quite sure how
9 that boiled down to just six plus acres,
10 when almost the whole site is hydric soils.

11 And if you look at
12 groundwater, which are ground -- water
13 table, which I understand is not the same
14 as wetlands.

15 But multiple houses up Ashcake
16 towards Route 1, there has to be a special
17 construction -- I guess is the best way to
18 put it -- of septic tanks because of the
19 water table being so high.

20 So my question is, what are we
21 doing putting an installation of this size
22 on an area that is so known to be saturated?
23 I would basically request that this permit
24 be denied and that a more appropriate
25 evaluation on this property be undertaken.

1 Thank you.

2
3 MR. HAYES: Thank you.

4
5 MS. ROBB: Next we have Christy
6 Schumacher.

7
8 MS. SCHUMACHER: Hello?

9
10 MS. TRETINA: Hello, we can hear
11 you.

12
13 MS. SCHUMACHER: So I am requesting
14 that this Virginia Water Protection permit
15 be denied. I believe that due diligence and
16 a comprehensive examination has not been
17 undertaken by the Army Corps of Engineers or
18 DEQ.

19 They owe it to the citizens of
20 this area to make sure this area is fully
21 evaluated before permits are issued and
22 wetland areas are destroyed. We can never
23 get them back once they're gone. In the
24 original delineation, as many people have
25 said, in October of 2019, it was conducted

1 in a drought. In addition, Mr. French
2 tonight showed us pictures of RK&K's
3 evaluation of this site identifying 33.8
4 acres.

5 Once the Army Corps was done
6 in this area, they reduced it to 12.5. My
7 question is, where did those 21.3 acres
8 disappear to? I believe that the
9 destruction to wetlands is much higher than
10 the 6.12 acres that have been declared by
11 Wegmans.

12 In addition, as a resident
13 around this area, I also know that there is
14 significant flooding on the roads around
15 this property in times of rain. And I live
16 in a neighborhood which has property along
17 Topotomoy Creek.

18 And a number of my residents,
19 instead of having a creek throwing --
20 flowing through their backyard in rains,
21 have a raging river. The DEQ, the Army
22 Corps of Engineers need to do the right
23 thing. They need to do their work. Deny
24 this permit and require the Army Corps of
25 Engineers to do a thorough evaluation.

1 Thank you.

2
3 MR. HAYES: Thank you.

4
5 MS. ROBB: All right. Thomas
6 Gannon.

7
8 MS. TRETINA: Mr. Gannon, you can
9 unmute your mic. You can unmute your mic,
10 Mr. Gannon. Mr. Gannon, your mic is still
11 muted on your end. We've unmuted you, but
12 you need to unmute your mic. Okay, we'll
13 come back to you.

14
15 MS. ROBB: Okay. Next person,
16 Benjamin Rhoades.

17
18 MS. TRETINA: Mr. Rhoades, you're
19 unmuted.

20
21 MR. RHOADES: Okay, thank you. Hi,
22 my name is Benjamin Rhoades and I'm speaking
23 on behalf of Sunrise Movement Richmond. I
24 am asking that the Virginia Water Protection
25 permit in question be recommended to be

1 denied to the State Water Control Board. A
2 more complete wetlands delineation process
3 is needed.

4 As a former employee of the
5 Virginia Soil and Water Conservation
6 districts, I know a bit about best practice
7 for wetland delineation in that -- and from
8 that, I know that serious consideration
9 should be given to recent precipitation.

10 And the Army Corps of
11 Engineers Wetland Delineation Manual would
12 agree. If comprehensive soil samples were
13 not taken in transect throughout the area
14 noted -- noted as a mosaic wetland, then it
15 would be impossible to delineate that that
16 wetland -- delineate that wetland by -- by
17 presence of water or plants alone at a time
18 of drought.

19 While I might -- while I may
20 not live close to the proposed construction
21 site, I value these wetlands -- not only
22 inherently, but also by their historical and
23 ecological value. No wetland delineation
24 manual can prepare us for the rapid changes
25 we're facing as a planet thanks to Global

1 Climate Change. This delicate ecosystem
2 [unintelligible] and wetland forests no
3 doubt will be a haven for indigenous flora
4 and fauna in ways that have yet to be
5 determined.

6 Not to mention that, as an
7 environmental scientist, I have learned more
8 about the planning of development from
9 communities speaking out more than I ever
10 did in the classroom.

11 From Union Hill to the
12 Mountain Valley Pipeline across Virginia.
13 No professional development on wetland
14 delineation can prepare you for facing
15 someone whose -- who can trace their family
16 and community back to a time of enslavement,
17 and who feels their history is being
18 disrespected by engineers who can't be
19 bothered to tread the land respectfully and
20 give an honest report about it. And that's
21 what I have to say. Thank you very much for
22 your time.

23
24 MR. HAYES: Thank you, sir.
25

1 MS. ROBB: Circle back to Thomas
2 Gannon.

3
4 MR. GANNON: Can you hear me?

5
6 MS. TRETINA: Yes, we can hear you,
7 Mr. Gannon.

8
9 MR. GANNON: I finally got this
10 task bar to work. Okay, I am a citizen of
11 Hanover and a citizen of the State of
12 Virginia for 54 years.

13 I'm a contractor and deal with
14 the control board, the water -- you know,
15 the problem we're having is here is the
16 inconsistency of compliant with
17 applications.

18 You know, you have a lot of
19 large corporations that apply for these
20 things. And the rules are not followed
21 specifically like they're laid out by the
22 legislature. I would ask the Board to go
23 ahead and deny the application as there
24 hasn't been a complete review. That's all I
25 have to say.

1 MR. HAYES: Thank you.

2

3 MS. ROBB: Marilee, that's the last
4 name I have on my list. But I understand
5 that you might have others.

6

7 MS. TRETINA: Yes, I'll start at
8 the top. Bonnica Cotman. You're unmuted.
9 Okay. Okay, I'm trying to unmute her.

10 Okay.

11

12 MS. COTMAN: Hi.

13

14 MS. TRETINA: Hi.

15

16 MS. COTMAN: Can you hear me?

17

18 MS. TRETINA: Yes, we can hear you.

19

20 MS. COTMAN: Hi. My name is
21 Bonnica Cotman. I am a resident of the
22 Brown Grove community, more specifically, I
23 am an adjacent landowner on Egypt Road. I
24 wanted to thank all of those who have --
25 have spoken. I think they've spoken really

1 well. And I'm hoping that the State Water
2 Control Board and DEQ will actually listen
3 to what's being said here. I myself have
4 sat on my back porch and been able to look
5 out.

6 And for the first time in my
7 life, I saw a Bald eagle. And I told my
8 husband, I was like, is that a Bald eagle?
9 I had never in my life seen one and it was
10 perched up on -- in a tree right in my
11 backyard.

12 And you know, if something
13 like a Bald eagle that is a species that,
14 you know, that is endangered is -- is living
15 in that area possibly, what in -- what else
16 is down through there?

17 It's like no -- it's been a
18 disregard for our community. I understand
19 that -- I think it was Mr. Lain I think,
20 mentioned that Wegmans had met with the
21 Brown Grove community.

22 They met with five people. I
23 was one of those people. And it was myself
24 and one other person that actually owns a
25 property here in -- in Brown Grove that they

1 met with. They've never come to the
2 community to talk to anybody. I can tell
3 you that for sure. Nobody's ever sent a --
4 a letter or anything.

5 We haven't seen anything from
6 Wegmans stating that they wanted to sit down
7 and talk with us. The only reason I was
8 there is because they reached out to the
9 church and was like, hey, we just want to,
10 you know, meet with you guys.

11 And this was after the -- they
12 reached out to meet with us -- this was at
13 the last minute, the last time when they
14 came when we had the meeting at Oak Knoll
15 School.

16 So I can tell you for sure
17 they have not reached out to the community.
18 Most of the community thinks that -- they
19 have the perception that this is a done
20 deal.

21 There's nothing that we can --
22 that can be done about it. That's the
23 perception we were given because we were
24 told that pretty much, they can build on the
25 land based on the 1995 proffers. And

1 everything that, you know, that was -- you
2 know, with everything that's -- how it --
3 how it currently is. And you know, this
4 whole thing just is not right.

5 You have actual lives here,
6 actual people that live here. We have had
7 so much done in -- over the past -- just
8 over the past 25 years with things just
9 happening to our community without just
10 regard for the people that live here.

11 We've had -- when the Hanover
12 Airpark wanted to extend their area, I --
13 there were seven families that were moved
14 out over on Johnson Town Road that, know
15 you, were either told either you move or
16 we're going to, you know, we're going to
17 come through there.

18 And basically, that's what,
19 you know, people sold their homes. They
20 sold their homes to the airpark and their
21 homes were -- were destroyed.

22 Everybody moved to different
23 -- different areas. I lost my -- my best
24 friend no longer lived up the street from
25 me. And you know, it's just one thing after

1 another that we have to face. It's like
2 we're always fighting to -- to stay a
3 community.

4 And I think with all of these
5 discrepancies, with everything that's going
6 on with this wetlands delineation and -- and
7 dealing with the mosaics -- I'm not an
8 engineer.

9 But I know when something just
10 doesn't smell right. So I'm asking that you
11 deny this permit. And just -- to -- to --
12 if there's anything that I want you to do is
13 just to -- to look at your -- you know, look
14 at yourselves and ask yourselves, would you
15 want -- is something like this the right
16 thing to do?

17 Would you want something like
18 this to just skate on through within your
19 own community, around your own families.
20 And that's all I have to say.

21
22 MR. HAYES: Thank you, ma'am.

23
24 MS. TRETINA: Okay. The next
25 person is Devin Caines. Devin, you need to

1 unmute your mic.

2
3 MR. CAINES: Hi. Can you all hear
4 me?

5
6 MS. TRETINA: Yes, we can hear you.

7
8 MR. CAINES: So I want to -- I'm a
9 member of Sunrise. A lot of my fellow
10 members and people here have already made
11 good points. I just want to say I'm sure
12 you guys are, you know, taking orders, too.

13 But like we all -- most of us
14 hear, I think, know like Wegmans doesn't
15 give a shit. Let's be honest. The people
16 in charge of Wegmans don't really care about
17 like people's stories or anything.

18 And they're doing what they
19 have to do because it's -- they have the
20 ball to walk within the bare minimum. So I
21 just hope that the people saying that like
22 that's unacceptable, I hope that makes
23 itself clear. Listen to the community,
24 please. That's all I have to say. Thank
25 you.

1 MR. HAYES: Thank you.

2
3 MS. TRETINA: Next is Elizabeth
4 Smith. You are unmuted. Okay, you muted
5 yourself. Unmute your phone.

6
7 MS. SMITH: All right, can you hear
8 me?

9
10 MS. TRETINA: Yes, we can hear you
11 now.

12
13 MS. SMITH: Oh, good. Yeah, I've
14 had technological difficulties and got
15 kicked off the webinar and had to dial in,
16 which is not ideal. I just -- I'm not going
17 to repeat everything that people who have
18 spoken before me said.

19 They've been very eloquent. I
20 respectfully request that you deny this
21 permit. It's not in line with the Virginia
22 Administrative Code regarding the
23 determination of wetlands, as other people
24 have spoken to. And also while I -- I
25 really strongly believe that the

1 environmental justice issues are a
2 significant concern. I was a little bit
3 confused by the presentation by Jaime Robb
4 that said they weren't going to address, you
5 know, drainage issues or quality of life.

6 But then when Mr. Lain spoke
7 from the applicant, basically he didn't
8 really address the wetlands issues besides
9 speaking to the Army Corps of Engineers --
10 Ms. Holley's -- experience.

11 Instead, it seemed like he was
12 addressing the newspaper article from Sunday
13 related to the quality of life issues. So I
14 was a little bit confused about that.

15 So I -- I'm, you know, he
16 didn't really address the DEQ issues. So I
17 -- I didn't hear anything from the Wegmans
18 representative about how the wetlands issues
19 were being addressed.

20 And I have significant
21 concerns as other people have more
22 eloquently stated about how the -- the
23 acreage is developed and the questions I
24 posed during Ms. Robb's presentation weren't
25 answered. So I just respectfully request

1 that you deny the permit because of all of
2 the unanswered questions related to the
3 delineation of the wetlands and the concerns
4 about the discussions amongst the Army Corps
5 of Engineers, DEQ, the applicant and their
6 representatives related to determining the
7 amount of wetlands.

8 And it appears that it just
9 seemed to be trying to make it fit, which it
10 probably doesn't. So that's all I have to
11 say. Thank you.

12
13 MR. HAYES: Okay. Thank you,
14 ma'am.

15
16 MS. TRETINA: Next I have John
17 Wilson. You are unmuted, John.

18
19 MR. WILSON: Can you hear me?

20
21 MS. TRETINA: Yes.

22
23 MR. WILSON: Hi, can you hear me?

24
25 MS. TRETINA: Yes, we can hear you.

1 MR. WILSON: My name is John Wilson
2 and I'm also a member of the Richmond hub of
3 Sunrise Movement. I just wanted to ask why
4 haven't the proposed builders committed to a
5 second examination of the site to ensure
6 that there are no unmarked graves of Black
7 folk that have yet to be discovered?

8 While I don't want to speak
9 for the Brown Grove community, I want to
10 speak in support of the community. I think
11 that a second examination, as requested by
12 the Brown Grove community and the Hanover
13 NAACP, will simply be the builders
14 exercising their due diligence, especially
15 given the recent re-examination and
16 re-evaluation of the current and historic
17 state of race relations in America -- as
18 well as Virginia itself.

19 The slow motion and violence
20 of White folk against the Black community
21 requires an active correction, not simply
22 one side resigning to inaction hoping the
23 other can forgive, forget. I hope the
24 county and the company will consider their
25 -- their decision once more for this reason.

1 Thank you.

2
3 MR. HAYES: Thank you.

4
5 MS. TRETINA: I have a Diana Keaton
6 who has her hand up, but there is no audio
7 for her so I've sent her a chat message that
8 she should contact Kevin Vaughan,
9 804-698-4470, and he can help her get on
10 audio.

11 The next speaker is Patty
12 Garza. You're -- you've muted -- okay,
13 you're unmuted, Patty.

14
15 MS. GARZA: Hi. My name is Patty
16 Garza. I am a resident of Foxhead for the
17 past 14 years and a Hanover County resident
18 for the past 40 years.

19 I'm not going to repeat
20 everything that all of my neighbors and
21 friends have said for the past couple of
22 hours, because I don't think that's
23 necessary. They know a lot more about the
24 wetlands and the delineations than I do.
25 But there are a couple of things that do

1 concern me. One is the email from Elaine
2 Holley, just a couple of the statements that
3 she said that I quote about, my site is
4 difficult. The project's complicated.

5 That RK&K went back and went
6 overboard. I think they were just doing
7 their job, I'm not sure if it was overboard.
8 And this one really -- is the one that
9 really bothers me the most.

10 Hanover County is keen to
11 attract the user and the user is ready. So
12 Hanover County wants to bring in a big
13 corporation and the corporation is ready.

14 But is that justification for
15 doing what we're doing by pushing something
16 through that's not correct? There's a lot
17 of procedures that should be followed for
18 the delineation that don't appear to be
19 followed. Wetlands just disappeared.

20 If anyone who lives over here
21 went through that area, drove by that area,
22 definitely know it's wetlands. If you live
23 in any neighborhood that surrounds that
24 area, you know it's wetlands. I sent my
25 original comments and then followed up with

1 probably about 20 or 30 photos to both the
2 DEQ and the Corps of Engineers showing what
3 a typical rainy day looks like in my yard,
4 which is probably two- to three-foot streams
5 going through my front yard/backyard.

6 Just recently, I had trees
7 come down -- not because of a storm. Just
8 because the ground's so wet they just come
9 out of the ground and fall across my
10 driveway or on my house.

11 So I'm asking that this permit
12 be denied and that, you know, the Corps of
13 Engineers, the DEQ, the -- you know, the
14 Water Control Board to do the right thing.
15 Be ethical.

16 Follow the right processes
17 that you put into place and that are within
18 the law. Don't just push something through
19 because Wegmans has the money or Hanover
20 County wants them in the county.

21 Do the right thing for the
22 residents of the county, for the people that
23 surround this area, and for the wetlands.
24 Do what you would do if it was your
25 neighborhood, if it was your land. There's

1 just things that, you know, we shouldn't do.
2 We should be concerned about what we're
3 thinking about, not just trying to fit a
4 square peg in a round hole.

5 There's no need to push it
6 through. We need to do the right thing.
7 One other thing that I wasn't going to
8 mention, but I've heard too much about it.
9 So I can't not say something.

10 There was a comment made
11 earlier about the unmarked graves or the
12 graves of the residents of Brown Grove and
13 talking about, you know, as children they
14 heard about them.

15 They haven't seen them, they
16 don't know where they are. Put yourself in
17 somebody else's place. You have ancestors.
18 And if you had been told that there were
19 graves somewhere and that your relative was
20 buried there.

21 And you believe that your
22 parents told you the truth and they were
23 there. Do you want somebody digging them
24 up? They were put there for their final
25 resting place. That's where they belong.

1 So put yourself in somebody else's shoes and
2 think about it. You may not have seen it,
3 but have you seen everything that you
4 believe or everything that's, you know,
5 known to be true? No.

6 But you still believe it.
7 Don't take away anybody's right of believing
8 something just because they haven't seen it.

9
10 MR. HAYES: Okay.

11
12 MS. GARZA: Do the right thing. Do
13 the right inspections. Find -- find out if
14 there's graves. Don't just walk around and
15 poke a stick every two or three feet for
16 about 20 yards. Do the right thing for
17 everybody.

18
19 MR. HAYES: All right, thank you.

20
21 MS. GARZA: So I'm just asking that
22 it be denied.

23
24 MS. TRETINA: Next is a Rebecca,
25 and I'm going to butcher this last name,

1 Shakiro [sp]. She wants to speak, but she
2 needs to put in a PIN number. So I've sent
3 her a PIN number. So when she -- when that
4 shows up, we'll unmute her. Next is Simon
5 Hetzler. Simon, you can unmute your mic.

6
7 MR. HETZLER: Hi, can you hear me?

8
9 MS. TRETINA: Yes, we can hear you.

10
11 MR. HETZLER: Great. Like I said,
12 my name is Simon. And I'm with the Sunrise
13 group. I was -- didn't know about this --
14 that this was happening until yesterday.

15 And I think that speaks to the
16 fact that this was not well -- this is not
17 thoroughly thought out. The process of
18 gathering these comments and trying to just
19 speak with residents of the County.

20 I think people from -- from
21 the county, people who actually live here,
22 was under-represented in this. So you're
23 going to need to try again. The fact that
24 -- that you had to have this meeting in the
25 first place is an indication that an

1 environmental atrocity is about to be
2 committed. The comments that have been
3 shared, I think, were damning of that fact.
4 You've heard from, you know, a lot of
5 people. And I hear them, I believe them.

6 And I -- and I hope that you
7 hear them and believe them, too. As a young
8 person, I've seen -- within my lifetime --
9 the erasure of natural habitats in my
10 hometown in the places I frequent.

11 I don't want this to happen
12 anywhere, you know. I live in Richmond,
13 which is not too far away. But I don't want
14 -- I don't want that to be, you know, near
15 me. I don't want -- I don't want a huge,
16 you know, Wegmans factory.

17 I -- I hope that you deny this
18 permit and recommend that Wegmans looks
19 elsewhere for land. People have been pretty
20 clear that this is -- this is twice-stolen
21 land. I thought that was a very poignant
22 comment. Like I said, hear the other people
23 who have talked. It's -- it belongs to
24 people who are under-represented, now and --
25 and historically. And it's clear that you

1 need to be doing better. Okay, thank you.

2
3 MR. HAYES: Thank you.

4
5 MS. TRETINA: Next is William
6 Stiles. William, you're unmuted.

7
8 MR. STILES: Hi, yeah. I'm -- my
9 name is Skip Stiles. I'm executive director
10 of Wetlands Watch. We're non-profit based
11 in Norfolk. We work statewide on the
12 conservation and protection of wetlands.

13 And I will just reiterate,
14 it's -- it's getting to be the witching
15 hour. I'll just reiterate a couple of
16 points that we made -- have made over the
17 course of this.

18 First of all, we object -- as
19 many others -- to the use of the mosaic
20 process for delineating wetlands. If I went
21 on to that property in about three more days
22 in the 100-degree weather, I could probably
23 get less wetlands on that property than the
24 -- than the applicant did. If I had been on
25 that property back in March when we had all

1 that rain, I probably could've gotten more.

2 So I -- I think that this
3 property needs to be re-delineated and I do
4 not agree that the -- the use of the mosaic
5 delineation is appropriate for this
6 property.

7 But we also have some -- some
8 real problems with the fact the -- the
9 impacts to the surface waters on the
10 Topotomoy Creek were not considered.

11 I mean, Topotomoy Creek does
12 not start at the corner of New Ashcake and
13 Sliding Hill Road. Topotomoy Creek
14 headwaters are this property. And if you
15 look at -- if you look at that creek, it's
16 pretty well built out.

17 There's a lot of impervious
18 surface. And it makes it even more critical
19 that the headlands that these wetlands that
20 we're talking about on this property are
21 protected in order to -- in order to protect
22 the water quality of Topotomoy Creek. With
23 that, I will ask you to deny this permit and
24 hopefully let you go home soon.

1 MR. HAYES: Well, thank you. We
2 appreciate that.

3
4 MS. TRETINA: All right. I do not
5 see any other hands raise. Diane Keaton, I
6 can not -- you haven't put it in audio, so I
7 don't know whether you're on the phone or
8 using a computer mic.

9 But there's no way for me to
10 give you permission to speak. I don't have
11 that option. Rebecca -- oh, wait a minute.
12 I have somebody else.

13
14 MR. HAYES: You have another hand
15 up. You need a PIN number. Renada Harris
16 wants to speak. Okay, I've unmuted you.
17 Okay, Renada Harris, you can unmute your
18 mic.

19
20 MS. HARRIS: Okay.

21
22 MS. TRETINA: There you go. We
23 hear you.

24
25 MS. HARRIS: Okay. I wasn't for

1 sure if my hand was raised or not. But then
2 when you said you don't have -- see any more
3 hands raised, I know that it was the wrong
4 -- all right.

5 But anyway, I am -- I grew up
6 in Brown Grove. I'm 40 years old now. I --
7 my parents still live there and I go there
8 every week.

9 So their backyard is -- if
10 Wegmans wins on this issue, their backyard
11 will be Wegmans. And their front yard is
12 currently the airport.

13 So the lawyer for Wegmans, he
14 was being disrespectful by dismissing the
15 oral history. So what we have as
16 descendents of African -- of slaves is our
17 oral history. And that's what we stand on.

18 And Wegmans should not address
19 Brown Grove as their community because this
20 is our community. It's the community of our
21 ancestors and generations of family.

22 Unfortunately, some of our family is no
23 longer here because of the airport
24 extension. Like the -- like Bonnica said, a
25 lot of those people were forced out of their

1 homes due to the airport extension.

2 And just 30 years ago, I used
3 to ride my bike along Ashcake Road to my
4 friend's house. An it was common for you to
5 see people riding their bikes along or
6 people walking to church.

7 And now, you no longer see
8 that due to Virginia Precast and the traffic
9 from the landfill. So our tight knit of
10 cousins and family is no longer tight
11 because of the industrial issues that have
12 come and -- and intertwined into our
13 community.

14 And once again, we face
15 another issue with the quality of life in
16 our community with Wegmans. And not only
17 people that grew up here, but it's other
18 people that have built homes here that are
19 now currently residents of the Brown Grove
20 community.

21 And they moved here because of
22 the quality of life that we have at -- the
23 country life that we appreciate. And now
24 bringing in these industrial businesses is
25 going to take that away. And there's a

1 property right on Lakeridge Parkway that
2 would be a prime location for this Wegmans
3 property.

4 So I don't understand why they
5 want to put this industrial complex in the
6 middle of a residential community. It
7 doesn't make sense. So I'm requesting that
8 the DEQ deny this order. And that's it.

9
10 MR. HAYES: Thank you.

11
12 MS. TRETINA: We have Sharon -- oh,
13 excuse me, Shannon Spiggle that wants to
14 speak.

15
16 MS. SPIGGLE: Yes, can you hear me?

17
18 MS. TRETINA: Yes, we can hear you.

19
20 MS. SPIGGLE: Okay, fantastic. I
21 appreciate you allowing me to speak. My
22 name is Shannon and I'm a Hanover County
23 resident. I live on the other side of town
24 and I only speak for myself. And I am
25 speaking today to really -- I'm here to

1 amplify the voices of my neighbors who have
2 lived generations of fighting developers and
3 institutions encroaching on their ancestral
4 home.

5 I -- I wanted to say that I'm
6 here to protect my neighbors from that
7 development. I've listened to impacts
8 regarding water, wetlands and even various
9 animal species.

10 I have listened to everyone
11 speaking who are directly impacted. And I
12 want to highlight and amplify the human
13 impact.

14 Brown Grove deserves to exist
15 and I believe that, in this current climate
16 of addressing systemic institutional racism
17 -- in addressing that -- it would be a
18 tragedy to eradicate this ancestral home of
19 my neighbors and fellow Hanover County
20 residents. This development is poorly
21 planned. I will defer to the Brown Grove
22 residents and amplify their voices. And I
23 will defer my time. I do want to make sure
24 that we are listening to Ms. Bonnie as well
25 as McKinley Harris, who was on the front

1 page of the Richmond Times-Dispatch
2 describing about how he was six years old
3 when he first learned about the burial
4 grounds in Brown Grove.

5 And he described how -- how
6 much this will impact that. It was on the
7 front page of the news and I want to make
8 sure that you guys are listening. And that
9 you deny this -- this permit.

10 It needs to be denied. I
11 don't think that the DEQ would want to risk
12 this being built. All eyes are on you. Do
13 the right thing. And -- and that's all I
14 have to say. Thank you.

15
16 MR. HAYES: Thank you.

17
18 MS. TRETINA: Next we have Maxell
19 -- Maxwell Cloe.

20
21 MR. M. CLOE: Hello, can you hear
22 me?

23
24 MS. TRETINA: Yes, we can hear you.

25

1 MR. M. CLOE: Hello. My name is
2 Maxwell Cloe. I'm a resident of Hanover
3 County where I've lived in the Forest Lake
4 Hills neighborhood for almost 20 years now.

5 Now along with the concerns
6 that others have raised regarding the
7 environmental impact and the permit filing
8 of the proposed distribution center, I'm
9 also really concerned with the lack of an
10 adequate cultural resources study in the
11 area.

12 Now as you all have seen,
13 there's a recent article in the Richmond
14 Times-Dispatch and it noted that there is
15 very likely a historically significant grave
16 site in the area that belonged to the
17 earliest residents of the Brown Grove
18 community -- many of whom were formerly
19 enslaved people.

20 Now though an archeological
21 investigation in 2019 reportedly found no
22 evidence of the grave site. An Army Corps
23 of Engineer official stated, in that very
24 article, that this study was, quote, limited
25 in scope, unquote -- and only covered a very

1 small portion of the much larger area.

2 Therefore, along with the
3 inadequate filings of wetlands delineation
4 and the failure to follow USACE process
5 regarding mosaic wetlands, I believe that
6 more archeological work must be done
7 throughout the area.

8 And a comprehensive cultural
9 resources study must be completed before
10 granting the wetlands filling permit to the
11 project.

12 Now on a personal note, I am a
13 professional historian currently doing work
14 with the Department of Historic Resources
15 while I work on my master's in history.

16 More importantly, I'm an oral
17 historian collecting invaluable historical
18 data from the words of everyday people, like
19 those of Brown Grove.

20 As such, I also reject Chris
21 Lain's very erroneous statement that oral
22 history is simply anecdotal evidence and
23 should, thus, be dismissed. And to the DEQ,
24 I ask that you -- you reject the permit
25 proposal for the Wegmans Distribution

1 Center. Thank you and I cede my time.

2
3 MR. HAYES: All right. Thank you
4 for your comments. Just to interrupt here,
5 we've got two that -- people that wanted to
6 speak, Diane Keaton and Rebecca Scirro [sp].

7
8 MS. TRETINA: Yeah, she's left the
9 webinar now.

10
11 MR. HAYES: It appears that they
12 were unable to connect and so they should
13 email their comments to Jaime Robb. Or they
14 can mail them or deliver them by hand to the
15 DEQ Piedmont Regional Office on Cox Road, as
16 long as they're in by close of business on
17 August 4th.

18
19 MS. TRETINA: Those are all the
20 comments, Mr. Hayes.

21
22 MR. HAYES: All right. So there
23 being no other speakers, I'll just remind
24 everybody that even if you spoke tonight --
25 if you're still listening -- even if you

1 spoke tonight, you can still submit
2 additional written comments.

3 If you've submitted written
4 comments already, you can supplement those
5 comments as long as you do it by the
6 deadline of August 4th.

7 And I'd like to thank
8 everybody for participating and I'd like to
9 thank the staff for their hard work in
10 putting this together and for making it run
11 so smoothly. And I'll adjourn the hearing
12 now.

13
14 (The public hearing concluded at 9:17 p.m.)
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25

1 CERTIFICATE OF THE COURT REPORTER

2
3 I, Debroah Carter, hereby certify that I
4 was the Court Reporter at the PUBLIC INFORMATION
5 BRIEFING and PUBLIC HEARING via TELECONFERENCE
6 regarding VWP PERMIT NO. 19-2036, heard in Hanover,
7 Virginia, on July 20th, 2020, at the time of the
8 PUBLIC INFORMATION BRIEFING and PUBLIC HEARING via
9 TELECONFERENCE herein.

10 I further certify that the foregoing
11 transcript is a true and accurate record of the
12 testimony and other incidents of the PUBLIC
13 INFORMATION BRIEFING and PUBLIC HEARING via
14 TELECONFERENCE herein.

15 Given under my hand this 26th of July, 2020.

16
17 

18 _____
19 Debroah Carter, CMRS, CCR
20 Virginia Certified
21 Court Reporter

22 My certification expires June 30, 2021.
23
24
25