**Virginia Soil and Water Conservation Board**
**March 20, 2008**
**East Reading Room**
**Patrick Henry Building**
**Richmond, VA**

**Virginia Soil and Water Conservation Board Members Present**

Granville M. Maitland, Vice Chair
Darlene Dalbec
Richard E. McNear
Michael J. Russell
Ken Carter for John A. Bricker, NRCS
Joseph H. Maroon, Director
Susan Taylor Hansen
Jean R. Packard
Raymond L. Simms

**Virginia Soil and Water Conservation Board Members Not Present**

Linda S. Campbell, Chair
Michael Altizer

**DCR Staff Present**

Russell W. Baxter
Ryan J. Brown
Eric R. Capps
David C. Dowling
Jack E. Frye
Dean Gall
Mark B. Meador
Joshua M. Molnar
Elizabeth Andrews, Office of the Attorney General
Robert Bennett
William G. Browning
David Conniff
Michael R. Fletcher
J. Michael Foreman
Lee Hill
Jim Robinson
Rob VanLier

**Others Present**

John Bailey, Lake of the Woods Association
Sam Bernier, Essex County
Lisa Cahill, Watershed Services
Scott Cahill, Watershed Services
Pete Dalton, Bedford County
Elizabeth Dietzman, Aqualaw
David Garrett, Town of Appomattox
Mike Gerel, Chesapeake Bay Foundation
Ralph Hollm, Lake of the Woods Association
Ann Jennings, Chesapeake Bay Foundation
Robin Knepper, Fredericksburg Free-Lance Star
David Krisnitski, Department of Game and Inland Fisheries
Gary LaRue, Carroll County

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Qiangian Li, Arlington County
Gary Martel, Department of Game and Inland Fisheries
Dan McFarland, Orange County Review
Terry Nester, Carroll County
William Nowers, Lake of the Woods Association
Johnnie Roark, Appomattox County
Eldon Rucker, Lake of the Woods Association
W.H. Shirley, Northumberland County
Greg Sides, Pittsylvania County
W. Lowrie Tucker, Warren County
John L. Wilcox, Town of Appomattox

**Call to Order and Introductions**

Mr. Maitland called the meeting to order and declared a quorum present. He noted that Mrs. Campbell was out of town on business and was unable to attend the meeting. He asked members and guests to introduce themselves and state their affiliation.

**Approval of Minutes from February 1, 2008**

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| MOTION: | Ms. Packard moved that the minutes of the February 1, 2008 meeting of the Virginia Soil and Water Conservation Board be approved as submitted. |
| SECOND: | Ms. Dalbec |
| DISCUSSION: | None |
| VOTE: | Motion carried unanimously |

**Director's Report**

Mr. Maroon gave the Director's report. He gave an overview of the Patrick Henry Building. The building is the former Library of Virginia and now houses the Governor's office as well as the Cabinet Secretarys.

Mr. Maroon reviewed the current status of the budget. A copy of the handout is included as Attachment #1.

Mr. Maroon noted that for Land Conservation the Governor had proposed $50 million in bonds. The General Assembly changed that to $30 million and required that at least $5 million be directed to Civil War battlefields.

The Governor asked for $20 million in bonds for district and DCR dam repairs. The General Assembly increased that to $30 million.

Mr. Maroon said that the first applications for the Dam Safety Loan Program would be brought before the Board at this meeting. He noted that the Governor had proposed $2.7 million for the fund for the biennium, but the General Assembly reduced that to $1.2 million.

Mr. Maroon noted that Water Quality Improvement Fund will receive $20 million for FY09.

Regarding the Water Quality Improvement Fund, Ms. Packard asked how district implementation funding was affected in the next biennium.

Mr. Maroon said that in the WQIF, five percent is set aside for districts for costs associated with getting the BMPs on the ground. He noted that the District funding is a separate item. In October, agencies were asked to implement five percent budget reductions. The Association worked to have their allocation of those reductions restored through the General Assembly but was not successful. That is a separate amount from the five percent in WQIF funds.

Mr. Frye said that the WQIF money does not offset the five percent in reductions under the Board's financial policy. He noted that each district would receive roughly $8,000 less in overall operating funds.

Mr. Maroon noted that with the current structure there would be no money for urban BMP practices.

Mr. Maroon said that interest earned on various Non-General Fund balances is being kept and will not be available for programs.

Mr. Maroon said that the legislative budget also requires a $17.5 million reduction across state government. He said it is expected that agencies will be given targets for additional cuts.

Mr. Maroon gave the legislative update. A copy of this report is included as Attachment #2. He highlighted several pieces of legislation.

HB1335 and SB511 created the Virginia Natural Resources Commitment Fund within the WQIF to direct monies to the agricultural best management practices cost-share program for the implementation of agricultural best management practices. WQIF monies provided to DCR in the biennial budget will be deposited to this fund. Originally, these bills would have also allocated a portion of the sales and use tax to capitalize this fund. That provision was removed.

HB727 would have dedicated a percentage of sales and use tax to Ag BMPs and local Purchase of Development Rights programs. This bill was left in the House Appropriations Committee.

SB135 requires the Board of Agriculture and Consumer Services to adopt regulations to certify the competence of contractor-applicators and licensees who apply any regulated product to nonagricultural lands.

Mr. Baxter said that this bill addresses training and compliance in the section of the Code under nutrient management. He said that there is also a penalty provision, but noted that the implications will not be fully known until the regulations are developed.

SB378 allows DCR to adopt regulations that promote the reclamation and reuse of stormwater in order to protect state waters and the public health and to minimize the direct discharge of pollutants into state waters.

HB119 requires the Office of the Attorney General to represent Soil and Water Conservation Districts in any suits or actions brought by the districts or district directors. This measure was approved by the Governor.

Mr. Maroon said that HB837 was probably the most significant bill of the session with regard to DCR programs. This landmark legislation provides localities with the authority to address development in dam break inundation zones. Mr. Maroon said that this legislation was a result of the work and discussions of the Dam Safety Technical Advisory Committee and was later the focus of a workgroup assembled to draft legislation.

SB594would have exempted the owners of historically significant dams that do not present an imminent danger from having to correct deficiencies identified in a dam safety inspection conducted by the Department of Conservation and Recreation. This bill did not make it out of committee.

**Overview of Regulatory Actions**

Mr. Dowling gave an overview of the current regulatory actions before the agency and those that would be coming before the Board in the next few meetings.

**Dam Safety Regulations**

- Complete Discussion document and File final regulation on the TownHall by March 31, 2008
- Target completion of OAG, DPB, SNR and Governor review by May 15, 2008
- File with the Registrar by May 21, 2008
- Printed in the Virginia Register of Regulation on June 9, 2008
- Public comment period ends and regulations are final on July 9, 2008

**SW-MS4 General Permit**

- Briefed SNR (on March 12, 2008)

- Completing comment form and anticipate sending draft final regulation to EPA for unofficial comment shortly
- Negotiate permit issues with EPA and seek official comment by late April
- Take final regulation to the Board at May 15, 2008 meeting
- File on the TownHall and with the Registrar by May 21, 2008
- Printed in the Virginia Register of Regulations on June 9, 2008
- Public comment period ends and regulations are final on July 9, 2008

**SW-MS4 Individual Permits (Group 1) [HRPDC permits]**
- Send 6 draft permits and fact sheets to EPA for comment by April 30, 2008
- Revise permits per EPA input and put in final form
- Permittees Public Notice final permits in Newspapers
- Revise permits based on public comment if necessary
- Send back to EPA
- Take final permits to the Board at September 18, 2008 meeting

**SW-MS4 Individual Permits (Group 2) [Northern Virginia permits]**
- Take draft permits to Board at July 17, 2008 meeting

**SW-MS4 Individual Permits (Group 3) [Central Virginia permits]**
- Take draft permits to Board at September 18, 2008 meeting

**SW - local program and Water Quality and Water Quantity Criteria**
- 60-day public comment period opened on the TownHall on February 18, 2008
- NOIRA published in Register March 17, 2008 (previous NOIRA stage withdrawn)
- 60-day public comment period closes April 16, 2008
- Take proposed regulation to the Board at the September 18, 2008 meeting
- Take final regulation to the Board at the September 2009 meeting

**SW - Permit Fees**
- Take proposed regulation to the Board at the September 18, 2008 meeting
- Take final regulation to the Board at the September 2009 meeting

**SW - Construction General Permit**
- File NOIRA with Registrar by March 26, 2008
- Hold TAC meetings July - September 2008
- Take proposed regulations to the Board at November 20, 2008 meeting [May need special meeting in October]
- Take final regulations to Board at March or May 2009 meeting
- Permit must be effective by July 1, 2009

Mr. Dowling said that it might be necessary for the September meeting to be a two-day meeting.

Mr. Dowling said that with regard to the Construction General Permit, in July, the Board authorized DCR to go forward with the NOIRA. Further review identified additional items to be covered in the NOIRA. Mr. Dowling presented a revised motion for Board action to clarify the Board's intentions for items to be included in the NOIRA.

Mr. Dowling said that the passage of the motion would allow DCR to file the NOIRA by March 26. This would allow for Technical Advisory Committee (TAC) meetings to be held from July to September. Because of the timing, an October Board meeting may be necessary. These regulations need to be in place by July 1, 2009.

Mr. Maitland recognized Ms. Packard for the following motion:

**VIRGINIA SOIL AND WATER CONSERVATION BOARD**
March 20, 2008 Meeting
at Patrick Henry Building
Richmond, Virginia

**Motion to authorize and direct the filing of a Notice of Intended Regulatory Action (NOIRA) related to the Part XIV of the Board's Virginia Stormwater Management Program (VSMP) Permit Regulations and other related sections:**

The Board authorizes the Director of the Department of Conservation and Recreation and the Departmental Regulatory Coordinator to prepare and submit a NOIRA to consider changes and solicit recommendations related to the Part XIV of the Board's Virginia Stormwater Management Program Permit Regulations **[entitled General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Construction Activities]** and other necessary related sections, including but not limited to, Part I definitions and the VSMP General Permit Registration Statement – Construction Activity Stormwater Discharges (DCR-01) form which is incorporated by reference. The changes may include, but not be limited to, compliance with water quality and quantity standards setout in Stormwater Management Program Technical Criteria [Part II], compliance with local program technical criteria setout in Local Programs [Part III], compliance with the technical and administrative requirements setout in Technical Criteria and Permit Application Requirements for State Projects [Part IV], compliance with the general requirements setout in VSMP General Program Requirements Related to MS4s and Land-Disturbing Activities [Part VI], compliance with the requirements setout in VSMP Permit Applications [Part VII], compliance with the general permit conditions setout in VSMP Permit Conditions [Part VIII], Stormwater Pollution Prevention Plan requirements including water quality and quantity standards, consistency requirements with other regulations such as Erosion and Sediment Control, requirements for impaired waters and waters with an EPA approved TMDL, timing of effective date of permit coverage, registration statement requirements, timing of registration submittal and other registration processes, procedures for permit termination and transfer, operation and maintenance of construction site controls and procedures, natural resource protection considerations, and monitoring processes. As part of this exempt process, and in

accordance with § 2.2-4006 A9, the Board further authorizes that following the passage of 30 days from the publication of the Notice of Intended Regulatory Action form, a technical committee composed of relevant stakeholders be established to make recommendations to the Director and the Board on potential regulatory changes, that the Department hold other stakeholder group meetings as it deems necessary, and that the Department prepare a draft proposed regulation for the Board's review and consideration.

In implementing this authorization, the Department shall follow and conduct actions in accordance with the Administrative Process Act exemption requirements specified in § 2.2-4006 A9, the Virginia Register Act, and other technical rulemaking protocols that may be applicable.

This authorization extends to, but is not limited to, the drafting and filing of the NOIRA, the holding of public meetings if determined to be necessary, the development of the draft proposed regulation and other necessary documents and documentation, as well as the coordination necessary to gain approvals from the Attorney General, the Virginia Registrar of Regulations, and the U.S. Environmental Protection Agency.

The Board requests that the Director or the Regulatory Coordinator report to the Board on these actions at subsequent Board meetings.

Motion made by: Ms. Packard

Motion seconded by: Ms. Hansen

Action: Motion carried unanimously

Mr. Maroon said that Mr. Dowling's presentation gave a good overview of the complexity of the regulatory program. He said that Stormwater Management is not a singular activity, but involved various issues with regard to regulations and permits.

**Stormwater Management Program Update**

Mr. Hill presented the Stormwater Management Program Update.

*Construction General Permits Issued*

Mr. Hill said that as of the last board meeting, 1,238 general permits had been issued. Since February 1, approximately 300 more permits have been issued for a total of 1,535.

*Termination of Dual Permit Coverage for Newport News*

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board receive and approve the staff recommendation to notify the Newport News/Williamsburg International Airport that it is not

required to retain coverage for its facility under the VSMP General Permit for the Discharge of the Stormwater from Small Municipal Separate Storm Sewer Systems Registration Coverage Number VAR040098. Stormwater discharges from the facility are authorized under the Virginia Pollutant Discharge Elimination System Permit Number VA0089681.

SECOND: Ms. Dalbec

DISCUSSION: None

VOTE: Motion carried unanimously

*2008 Linear Projects Annual Standards and Specifications for Utility Companies*

MOTION: Ms. Dalbec moved that the Virginia Soil and Water Conservation Board receive the staff update concerning the review of the 2008 annual standards and specifications for the Transco/Williams Gas Pipeline. The Board concurs with staff recommendations for conditional approval of the 2008 specifications for the Transco/Williams Gas Pipeline in accordance with the Erosion and Sediment Control Law and Regulations. The Board requests the Director to have staff notify the Transco/Williams Gas Pipeline of the status of the review and the conditional approval of the annual standards and specifications.

The four items for conditional approval are:

1. A revised list of all proposed projects planned for construction in 2008 must be submitted by April 11, 2008. The following information must be submitted for each project:

    - Project name (or number)
    - Project location (including nearest major intersection)
    - On-site project manager name and contact information
    - Project description
    - Acreage of disturbed area for project
    - Project start and finish dates

2. Project information unknown prior to April 11, 2008 must be provided to DCR two (2) weeks in advance of land disturbing activities by e-mail at the following address: LinearProjects@dcr.virginia.gov.

3. Notify DCR of the Responsible Land Disturber (RLD) at least two (2) weeks in advance of land disturbing activities by e-mail at the following address: LinearProjects@dcr.virginia.gov. The information to be provided is name, contact information and certification number.

4. Install and maintain all erosion and sediment control practices in accordance with the 1992 Virginia Erosion and Sediment Control Handbook.

SECOND: Mr. Simms

DISCUSSION: None

VOTE: Motion carried unanimously

*2008 Annual Erosion and Sediment Control Standards and Specifications for Wetland Mitigation Banks*

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board receive the staff update concerning the review of the 2008 annual standards and specifications for Angler Environmental. The Board concurs with staff recommendations for conditional approval of the 2008 specifications for Angler Environmental in accordance with the Erosion and Sediment Control Law and Regulations. The Board requests the Director to have staff notify Angler Environmental of the status of the review and the conditional approval of the annual standards and specifications and requests for variances to Minimum Standard 6a and 6b.

The four items for conditional approval are:

1. A revised list of all proposed projects planned for construction in 2008 must be submitted by April 11, 2008. The following information must be submitted for each project:

   - Project name (or number)
   - Project location (including nearest major intersection)
   - On-site project manager name and contact information
   - Project description
   - Acreage of disturbed area for project
   - Project start and finish dates

2. Project information unknown prior to April 11, 2008 must be provided to DCR two (2) weeks in advance of land disturbing

activities by e-mail at the following address MitigationBank@dcr.virginia.gov.

3. Notify DCR of the Responsible Land Disturber (RLD) at least two (2) weeks in advance of land disturbing activities by e-mail at the following address MitigationBank@dcr.virginia.gov. The information to be provided is name, contact information and certification number.

4. Install and maintain all erosion and sediment control practices in accordance with the 1992 Virginia Erosion and Sediment Control Handbook or per the approved annual standards and specifications.

A variance was requested to Minimum Standard 6.a. The requested variance is approved and the variance is as follows:

**Silt Fence Variance - Standard & Specification 3.05**

Allow the use of reinforced silt fencing in lieu of a sediment trap in areas with slopes less than 2% and when the contributing drainage area is 3 acres or less. All other installation parameters including height, entrenchment, post spacing, etc., as well as maintenance requirements will be in accordance with Std. & Spec. 3.05 of VESCH.

A variance was requested to Minimum Standard 6.b. The requested variance is approved and the variance is as follows:

**Temporary Sediment Trap Variance - Standard and Specification 3.13**

Use a modified sediment trap measure in lieu of a temporary sediment basin when the contributing drainage area exceeds 3 acres. Although this request deviates from the state drainage area limitation, staff believes that the use of a modified sediment trap for wetland construction is in accordance with the intent of the Minimum Standards. Historically the design and construction of wetlands have notably demonstrated a lack of sediment runoff, as the actual constructed wetland area is simply one “giant” silt trap. The wetland areas are designed as large flat areas surrounded by berms with armored outlet structures. Typically the only denuded areas draining to the sediment trapping devices are the created wetland areas. The created wetland areas provide a storage volume that is much greater than typically required. Therefore, in lieu of using a sediment basin when the drainage area exceeds (3)

three acres, a sediment trap will be sized to accommodate a total storage volume of 134 cubic yards per acre.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

*Approval of Alternative Inspection Program for Counties of Alleghany, Carroll, Green, Lunenburg, Northampton, Nottoway*

MOTION: Ms. Packard moved the following motions:

The Virginia Soil and Water Conservation Board approves the proposed Alternative Inspection Program for Alleghany County as being consistent with the requirements of the Erosion and Sediment Control Law and Regulations. The Board requests the DCR staff to monitor the implementation of the alternative inspection program by the County to ensure compliance.

The Virginia Soil and Water Conservation Board approves the proposed Alternative Inspection Program for Carroll County as being consistent with the requirements of the Erosion and Sediment Control Law and Regulations. The Board requests the DCR staff to monitor the implementation of the alternative inspection program by the County to ensure compliance.

The Virginia Soil and Water Conservation Board approves the proposed Alternative Inspection Program for Greene County as being consistent with the requirements of the Erosion and Sediment Control Law and Regulations. The Board requests the DCR staff to monitor the implementation of the alternative inspection program by the County to ensure compliance.

The Virginia Soil and Water Conservation Board approves the proposed Alternative Inspection Program for Lunenburg County as being consistent with the requirements of the Erosion and Sediment Control Law and Regulations. The Board requests the DCR staff to monitor the implementation of the alternative inspection program by the County to ensure compliance.

The Virginia Soil and Water Conservation Board approves the proposed Alternative Inspection Program for Northampton County as being consistent with the requirements of the Erosion and

Sediment Control Law and Regulations. The Board requests the DCR staff to monitor the implementation of the alternative inspection program by the County to ensure compliance.

The Virginia Soil and Water Conservation Board approves the proposed Alternative Inspection Program for Nottoway County as being consistent with the requirements of the Erosion and Sediment Control Law and Regulations. The Board requests the DCR staff to monitor the implementation of the alternative inspection program by the County to ensure compliance.

SECOND: Ms. Dalbec

DISCUSSION: None

VOTE: Motion carried unanimously

*Initial Acceptance of Alternative Inspection Program for Appomattox and Buckingham Counties*

MOTION: Ms. Packard moved the following motions:

The Virginia Soil and Water Conservation Board receives the staff update and recommendation regarding the proposed Alternative Inspection Program for Appomattox County. The Board concurs with the staff recommendation and accepts Appomattox County's proposed Alternative Inspection Program for review and future action at the next Board meeting.

The Virginia Soil and Water Conservation Board receives the staff update and recommendation regarding the proposed Alternative Inspection Program for Buckingham County. The Board concurs with the staff recommendation and accepts Buckingham County's proposed Alternative Inspection Program for review and future action at the next Board meeting.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

*Local Programs recommended to be found consistent based on Initial Review*

MOTOIN: Ms. Packard moved the following motions:

The Virginia Soil and Water Conservation Board commends the City of Williamsburg for successfully implementing the City's Erosion and Sediment Control Program to be fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

The Virginia Soil and Water Conservation Board commends Fairfax County for successfully implementing the County's Erosion and Sediment Control Program to be fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

The Virginia Soil and Water Conservation Board commends the Town of Herndon for successfully implanting the Town's Erosion and Sediment Control Program to be fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

*Local Programs recommended to be found consistent following completion of Corrective Action Agreement (CAA)*

MOTION: Ms. Dalbec moved the following motions:

The Virginia Soil and Water Conservation Board commends Arlington County for successfully improving the County's Erosion and Sediment Control Program to become fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better for Virginia's soil and water resources.

The Virginia Soil and Water Conservation Board commends Franklin County for successfully improving the County's Erosion and Sediment Control Program to become fully consistent with the requirements of the Virginia Erosion and Sediment Control Law

and Regulations, thereby providing better protection for Virginia's soil and water resources.

The Virginia Soil and Water Conservation Board commends the Town of Narrows for successfully improving the Town's Erosion and Sediment Control Program to become fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

The Virginia Soil and Water Conservation Board commends the Town of Occoquan for successfully improving the Town's Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Hill said that out of the 165 programs, 104 have been reviewed and 72 have been found consistent. Sixty-nine percent of the localities that have been reviewed have been found consistent.

*Local Programs recommended to be found inconsistent based on Initial Review and approval of CAA.*

Agenda Item: Bedford County's Erosion and Sediment Control Program and Corrective Action Agreement (CAA)

Mr. Hill gave the update for Bedford County.

The Department of Conservation and Recreation staff reviewed Bedford County's Erosion and Sediment Control Program and the scores for the individual program components were as follows: Administration - 98, Plan Review - 70, Inspection - 65, Enforcement - 35. As all program components did not receive a score of 70 or better, staff recommends that the Virginia Soil and Water Conservation Board find the County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County.

There was no one present from the Town of Bedford.

Agenda Item: Carroll County's Erosion and Sediment Control Program and Corrective Action Agreement (CAA)

Mr. Hill gave the update for Carroll County.

The Department of Conservation and Recreation staff reviewed Carroll County's Erosion and Sediment Control Program and the scores for the individual program components were as follows: Administration - 61, Plan Review - 60, Inspection - 5, Enforcement - 10. As all program components did not receive a score of 70 or better, staff recommends that the Virginia Soil and Water Conservation Board find the County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County.

Mr. Maitland recognized Gary LaRue, County Administrator for Carroll County.

Mr. LaRue said that the County was very concerned about the review and that they were not accustomed to getting low scores. He said that he inherited the program in 2005. He thanked Dean Gall and DCR staff for working with the County.

Mr. LaRue said that the County has been working to bring the program back into compliance. He distributed a packet of information for Board members outlining the County's progress. A copy of this information is available from DCR.

Mr. LaRue said that the County is trying to move forward with a positive example. He said that the County now has a new Board of Supervisors that is taking a more proactive approach to the Erosion and Sediment Control ordinance.

Mr. Russell commended Mr. LaRue for providing the leadership.

Mr. Hill said that the date for the County to complete the corrective actions in the CAA would be on or before September 16.

Mr. LaRue said that the County would prefer to extend the date to December 31, 2008 to better accommodate the new Board's work schedule.

Mr. Maroon suggested that the date remain September 16 and that that time determine if an additional extension is necessary.

Mr. Hill said that if the County has shown progress on the CAA at that time, staff would recommend an additional extension.

Agenda Item: Northumberland County's Erosion and Sediment Control Program and Corrective Action Agreement (CAA)

Mr. Hill gave the report for Northumberland County.

The Department of Conservation and Recreation staff reviewed Northumberland County's Erosion and Sediment Control Program and the scores for the individual

program components were as follows: Administration - 21, Plan Review - 35, Inspection - 55, Enforcement - 65. As all program components did not receive a score of 70 or better, staff recommends that the Virginia Soil and Water Conservation Board find the County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County.

Ms. Hansen asked if there was any indication that the locality was agreeable to the findings.

Mr. Hill said that localities had been presented with the findings and the CAA.

Mr. Shirley from Northumberland said it was the intention of the County to be consistent by the September deadline. He noted that the individual responsible for the program had left County employment. The County is seeking to fill this position.

Agenda Item: Pittsylvania County's Erosion and Sediment Control Program and Corrective Action Agreement.

Mr. Hill gave the report for Pittsylvania County.

The Department of Conservation and Recreation staff reviewed Pittsylvania County's Erosion and Sediment Control Program and the scores for the individual program components were as follows: Administration - 94, Plan Review - 45, Inspection - 20, Enforcement - 25. As all program components did not receive a score of 70 or better, staff recommends that the Virginia Soil and Water Conservation Board find the County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County.

Mr. Sides from Pittsylvania County said that the County realizes the deficiencies in the program. He said the County had been dealing with insufficient funding and staff. He said that the County had no objections to the CAA.

Agenda Item: Warren' County's Erosion and Sediment Control Program and Corrective Action Agreement (CAA).

Mr. Hill gave the report for Warren County.

The Department of Conservation staff reviewed Warren County's Erosion and Sediment Control Program and the scores for the individual program components were as follows: Administration - 100, Plan Review - 65, Inspection - 75, Enforcement - 60. As all program components did not receive a score of 70 or better, staff recommends that the Virginia Soil and Water Conservation Board find the County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County.

Mr. Tucker, the Deputy Building Official from Warren County was present. He indicated the County was in agreement with the CAA.

Agenda Item: Wise County's Erosion and Sediment Control Program and Corrective Action Agreement (CAA)

Mr. Hill gave the report for Wise County.

The Department of Conservation and Recreation staff reviewed Wise County's Erosion and Sediment Control Program and the scores for the individual program components were as follows: Administration - 49, Plan Review - 40, Inspection - 20, Enforcement - 10. As all program components did not receive a score of 70 or better, staff recommends that the Virginia Soil and Water Conservation Board find the County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County.

There was no one present from Wise County.

Agenda Item: Town of Appomattox's Erosion and Sediment Control Program and Corrective Action Agreement (CAA)

Mr. Hill gave the report for the Town of Appomattox.

The Department of Conservation and Recreation staff reviewed the Town of Appomattox's Erosion and Sediment Control Program and the scores for the individual program components were as follows: Administration - 14, Plan Review - 55, Inspection - 0, Enforcement - 5. As all program components did not receive a score of 70 or better, staff recommends that the Virginia Soil and Water Conservation Board find the Town's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations an approve the draft CAA for the Town.

Mr. Garrett spoke on behalf of the Town of Appomattox. He introduced Appomattox Mayor John Wilson and Johnnie Roark from Appomattox County.

Mr. Garrett said that the Appomattox Town Council has made a request to the Appomattox County Board of Supervisors that the County assume responsibility for the Town's Erosion and Sediment Control Program. The County has accepted that request as of March 17, 2008.

Mr. Roark said that the County has hired someone jointly with Nottoway County to address the Erosion and Sediment Control programs for the Counties. He said the County has accepted the responsibility for the Town's program.

Mr. Roark said that the remaining issue for the County was the approval of the Alternative Inspection Program. He asked if the Board could take action at this meeting.

Mr. Hill said that the program was before the Board for initial acceptance to act upon the program at the next meeting. He said that staff would need documentation for the Board to approve the County taking responsibility for the Town of Appomattox program.

Mr. Garrett provided the Board with the County's letter of acceptance.

MOTION: Mr. Russell moved that the Virginia Soil and Water Conservation Board approve the transfer of the Town of Appomattox's Erosion and Sediment Control Program to Appomattox County.

SECOND: Mr. McNear

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Maitland called for a motion to address the remaining programs.

MOTION: Ms. Hansen moved the following motions:

The Virginia Soil and Water Conservation Board accepts staff recommendations and finds Bedford County's Erosion and Sediment Control Program inconsistent with the Erosion and Sediment Control Law and Regulations and approves the County's CAA with a completion date of September 16, 2008. The Board directs DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

The Virginia Soil and Water Conservation Board accepts staff recommendations and finds Carroll County's Erosion and Sediment Control Program inconsistent with the Erosion and Sediment Control Law and Regulations and approves the County's CAA with a completion date of September 16, 2008. The Board directs DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

The Virginia Soil and Water Conservation Board accepts staff recommendations and finds Northumberland County's Erosion and Sediment Control Program inconsistent with the Erosion and Sediment Control Law and Regulations and approves the County's CAA with a completion date of September 16, 2008. The Board directs DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

The Virginia Soil and Water Conservation Board accepts staff recommendations and finds Pittsylvania County's Erosion and

Sediment Control Program inconsistent with the Erosion and Sediment Control Law and Regulations and approves the County's CAA with a completion date of September 16, 2008. The Board directs DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

The Virginia Soil and Water Conservation Board accepts staff recommendations and finds Warren County's Erosion and Sediment Control Program inconsistent with the Erosion and Sediment Control Law and Regulations and approves the County's CAA with a completion date of September 16, 2008. The Board directs DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

The Virginia Soil and Water Conservation Board accepts staff recommendations and finds Wise County's Erosion and Sediment Control Program inconsistent with the Erosion and Sediment Control Law and Regulations and approves the County's CAA with a completion date of September 16, 2008. The Board directs DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

SECOND: Ms. Packard

DISCUSSION: Mr. Russell asked if any consideration could be given to the request of Carroll County.

Ms. Hansen indicated that she was not sure that the Board needed to take any additional action at this time.

Ms. Packard suggested the minutes reflect that the Board was pleased with the progress without changing the compliance dates.

Ms. Hansen asked if a letter from the Department would serve that purpose. She said that she also was impressed with the presentation and hoped that Carroll County would be a role model for other localities.

Mr. Maroon agreed to write a letter to express the sentiment of the Board.

VOTE: Motion carried unanimously

Mr. Maroon asked if action could be taken on the Appomattox County Alternative Inspection Program.

Mr. Hill said that when the programs are brought before the Board, they have had staff review and approval. The delay in action is for the purpose of allowing the Board additional time for review.

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board approve the Alternative Inspection Program for Appomattox County and that staff be requested to monitor the implementation.

SECOND: Ms. Packard

DISCUSSION: None

VOTE: Motion carried unanimously

Agenda Item: Town of Warrenton Corrective Action Agreement (CAA) Amendment and approval.

Mr. Hill gave the report for the Town of Warrenton.

The Virginia Soil and Water Conservation Board found the Town of Warrenton's Erosion and Sediment Control Program inconsistent with the Erosion and Sediment Control Law and Regulations and approved the Town's CAS at the February 1, 2008 Board meeting. Per a request from the Town of Warrenton, Department of Conservation and Recreation staff reevaluated the local program review and recommended changes the Town's Board approved CAA.

The initial CAS covered all four of the program components - Administration, Plan Review, Inspection, Enforcement. The revised CAA addresses two of the program components - Administration, Inspection.

Mr. Hill said that the DCR staff recommendation was that the Board approve the revised CAA for the Town of Warrenton.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board accept the staff recommendation and approve the revised CAA for the Town of Warrenton. The Board directs DCR staff to monitor the Town's implementation of the revised CAA.

SECOND: Ms. Dalbec

DISCUSSION: None

VOTE: Motion carried unanimously

*Local Programs to be found inconsistent and to extend CAA*

Agenda Item: Follow-up November 2007 Board action - Essex County's CAA Compliance

Mr. Hill gave the update for Essex County.

At the November 15, 2007 meeting the Virginia Soil and Water Conservation Board extended Essex County's Corrective Action Agreement to January 25, 2008. At the direction provided by the Board at the November meeting, DCR staff reviewed Essex County's progress on implementing the CAA. Based on the results of the review, the staff has determined that the County has not achieved compliance with the CAA. Therefore, staff recommends that the Virginia Soil and Water Conservation Board find Essex County's Erosion and Sediment Control Program to be inconsistent with the Virginia Erosion and Sediment Control Law and Regulations. Furthermore, DCR staff recommends that the County be given until July 17, 2008 to comply with the outstanding CAA.

Mr. Bernier, Environmental Code Compliance Officer for Essex County spoke on behalf of the County. He noted that the County has no railroads and did not believe that requirement needed to be addressed. He noted that only one plan has been reviewed in the County.

Mr. Bernier said that the County Administrator has begun to draft an action for the County Board's consideration to repeal their E&S ordinance and to turn the program back over to DCR. He said that the County opinion was that they've addressed what was needed and that the items for which the County had been found inconsistent were minor.

Ms. Hansen clarified that if a locality chooses to give up the program it does not go to DCR, but to the local Soil and Water Conservation District. She noted that she would like Mr. Hill to address the objectivity of the staff review and asked if there was a reason to give an extension, given the County's intentions.

Mr. Hill said that DCR staff had the appropriate training and certification to complete the review. He said that the review process had changed where previously the requirement was to be 100% consistent in all four areas that has been changed to 70%.

Mr. Hill said that the Board could extend the CAA if they felt the County had made progress.

Mr. Bernier said that the County was not asking for an extension.

Ms. Hansen asked if an extension would still be appropriate.

Mr. Hill said that DCR would work with the locality to make sure they had an understanding of what it meant to give up the program. He noted that the law said that

the Soil and Water Conservation District shall adopt the program and that the locality may adopt a program.

Ms. Hansen asked about taking the enforcement to the next step.

Mr. Hill said another review of the CAA might be appropriate.

Mr. Maroon said that might be appropriate if it could be addressed at the next Board meeting. He clarified that since Mr. Bernier was leaving the County, the replacement would be provisionally certified once they have signed up for the necessary class, thus making the County provisionally consistent with that requirement.

Mr. Hill agreed that when the responsible person signs up for the class, the locality is deemed provisionally consistent with that requirement.

Mr. Maroon said this was not just a matter of dealing with the Erosion and Sediment Control Program. He said that under the Stormwater Management Act, the locality will be required to have a Stormwater Management program that is approved by the Board. For that approval, a consistent Erosion and Sediment Control program that is approved by this Board must be operating in the locality. By not having a consistent Erosion and Sediment Control program within the locality, the County would be out of compliance with the Stormwater Management Program.

Mr. Maroon said that his recommendation would be another review of the CAA. He said staff should work with the locality to come to a better resolution. The Board will need to act at a future meeting.

Mr. Bernier said that the County concerns are that the items marked inconsistent were small elements of the program.

Mr. Maroon said the recommendation would be to grant an extension to July 17, 2008. He said that although the County is not asking for an extension there are issues, such as the railroad issue, that may require re-examination. He suggested that the Board adopt the motion as written, extending the review until July 17, 2008 and that staff follow up with a letter that indicates the full implications of rescinding the program.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board accept the staff recommendations and find Essex County's Erosion and Sediment Control Program to be inconsistent with the Erosion and Sediment Control Law and Regulations. In addition, the Board hereby grants the County an extension to July 17, 2008 to fully comply with the outstanding CAA. The Board further request that the DCR send a letter to the County outlining the procedure and what will happen should the program be rescinded and that the Board requests DCR staff to evaluate the County's

compliance with the outstanding CAA and provide a report at the September Board meeting.

SECOND: Mr. Simms

DISCUSSION: Ms. Hansen said that the specifics should be clarified. She said that if the County was not clear on an item, the discussions should provide some specific illustration as to why that score was given.

Ms. Packard accepted that amendment to the motion.

VOTE: Motion carried unanimously

Agenda Item: Follow-up November 2007 Board action - Town of South Hill's CAA Compliance

Mr. Hill gave the report for the Town of South Hill.

The Virginia Soil and Water Conservation Board, at the November 15, 2007 meeting, extended the Town of South Hill's Corrective Action Agreement (CAA) to January 25, 2008. At the direction provided by the Board at the November meeting, Department of Conservation and Recreation staff reviewed the Town of South Hill's progress on implementing the CAA. Mr. Hill said that, based on the results of the review, staff determined that the Town has not achieved compliance with the CAAs, and that it was the recommendation of staff that the Board find the Town of South Hill's Erosion and Sediment Control Program to be inconsistent with the Virginia Erosion and Sediment Control Law. Further, staff recommended that the Town be given until July 17, 2008 to comply with the outstanding CAA.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board accept the staff recommendations and find the Town of South Hill's Erosion and Sediment Control Program to be inconsistent with the Erosion and Sediment Control Law and Regulations. In addition, the Board hereby grants the Town an extension until July 17, 2008 to fully comply with the outstanding CAA. The Board further requests that the Director of DCR and his staff evaluate the Town's compliance with the outstanding CAA and provide a report at the September Board meeting.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

*Lancaster County Update*

Mr. Hill said that while this item was not on the agenda he wanted to bring to the attention of the Board a letter received from Lancaster County. Lancaster County has indicated that they are asking the Board of Supervisors to consider withdrawing from the Erosion and Sediment Control Program.

Mr. Hill said that staff would respond to the letter and outline for the county the consequences of withdrawing from the program.

Mr. Maitland clarified that the letter will indicate that the program will go back to the Northern Neck Soil and Water Conservation District, not to DCR.

Ms. Hansen said that a summary would be helpful to give the Board an overview of the degree of noncompliance.

Mr. Maroon said that staff would work on that option. He said that the process for this has evolved. Mr. Maroon complimented Mr. Hill, Mr. Capps and the regional managers for their work on this issue.

Mr. Russell said that in cases like this it would be appropriate to notify the Soil and Water Conservation District of the possibility that they might be inheriting the program.

Mr. Hill said that currently the only program being run by a Soil and Water Conservation District for a County is in Buchanan County were the Big Sandy SWCD runs the program.

At this time the Board recessed for lunch.

LUNCH

**Dam Safety Flood Prevention and Protection Assistant Fund Applications**

Mr. Brown gave an update on the Dam Safety, Flood Prevention and Protection Assistance Fund.

He said that three dams submitted to DCR applications for funding. Of the three, one was interested in grant funds only. This round of funding is strictly loan based. Based on that, Mr. Brown presented the two applications for funding.

The first program was located in Raphine, which is in Rockbridge County. The project would enlarge the spillway. The current spillway is designed to pass 3% of the PMF for a dam that should pass up to half PMF. The dam does have a current conditional certificate and an alteration permit. The estimated total cost for repairs is approximately

$460,000. Mr. Brown said that the staff recommendation was to award a loan of $300,000, the maximum allowable under this program. The owner is prepared to secure the additional funding required.

The second dam Mr. Brown presented was Lee Lake Dam in Spotsylvania County. This is a Class II dam that would be considered a significant hazard dam under the new regulations. The dam has a conditional certificate and an alteration permit. The cost for repairs is just under $300,000.

Mr. Brown said that it was staff recommendation that these applications be approved for funding. He said the next step would be to go to the VRA for credit review. He noted that DCR approves the application based on the merits of the project, but that VRA does an independent analysis regarding the credit.

Ms. Hansen asked who ensures that the owners can supply any necessary remaining balance.

Mr. Brown said that was part of the VRA review.

With both of these we are going to recommend that we go ahead based on reviews that they be approved for funding. Both are good projects and both significantly advance dam safety.

Mr. Brown said that with the Board's new dam safety regulations potentially becoming effective in July, there is a strong possibility that those regulations will have an impact on those dams.

Mr. Brown said that staff was recommending the Board approve the projects. The approval would be in effect through November 2008. That would allow the dam owners time to review the new regulations and determine if there is any impact on the respective dams. He said that it would also be possible for the Board to extend approval at the November meeting.

MOTION: Mr. Simms moved the following motions:

<u>Koogler Dam</u>

In accordance with its responsibilities pursuant to § 10.1-603.18 of the Code of Virginia, the Board approves the application for funding from the Dam Safety, Flood Prevention and Protection Assistance Fund made on behalf of Koogler Dam, DCR Inventory No. 16305. In addition to other terms by the Virginia Resources Authority, this approval is conditional upon the following:

1. The applicant is approved for funding in an amount not to exceed $300,000, and in no event greater than the actual costs of the project less a minimum 10% match (in actual cost).
2. All construction must be performed in accordance with the requirements of the Virginia Impounding Structure Regulations (4VA50-20-10 et seq.), and all construction paid for using DSFPPAF funds must be necessary in order to render Koogler Dam compliant with the Regulations.
3. Engineering specifications must be provided to the Division of Dam Safety and Floodplain Management demonstrating that the proposed design is adequate to meet the requirements of the Virginia Impounding Structure Regulations.
4. The owner of Koogler Dam must, prior to loan closing, provide an Annual Owner's Inspection as required by 4VAC50-20-180 of the Virginia Impounding Structure Regulations.

DCR Division of Dam Safety and Floodplain Management staff is authorized to communicate this approval to the Virginia Resources Authority (VRA) so that VRA's review of the application may proceed. Staff is also authorized to take any action necessary to provide with the closing and administration of a loan subsequent to VRA's approval of the application. In order to provide time for the consideration of the Board's revised Impounding Structure Regulations, this approval will remain in place until the November meeting of the Board (November 20, 2008). The Board may further extend this date in its discretion and following consultation with VRA.

Lee Lake Dam

In accordance with its responsibilities pursuant to §10.1-603.18 of the Code of Virginia, the Board approves the application for funding from the Dam Safety, Flood Prevention and Protection Assistance Fund made on behalf of Lee Lake Dam, DCR Inventory No. 17710. In addition to other terms and conditions as specified in the 2007 DSFPPAF Loan and Grant Manual and as will be determined by the Virginia Resources Authority, this approval is conditional upon the following:

1. The applicant is approved for funding in an amount not to exceed $300,000, and in no event greater than the actual costs of the project less a minimum 10% match (in actual cost).
2. All construction must be performed in accordance with the requirements of the Virginia Impounding Structure Regulations (4VAC50-20-10 et seq.), and all construction paid for using

DSFPPAF funds must be necessary in order to render Lee Lake Dam compliant with the Regulations.

3. The owner of Lee Lake Dam must, prior to loan closing, provide an Annual Owner's Inspection as required by 4VAC50-20-180 of the Virginia Impounding Structure Regulations.

DCR Division on Dam Safety and Floodplain Management staff is authorized to communicate this approval to the Virginia Resources Authority (VRA) so that VRA's review of the application may proceed. Staff is also authorized to take any action necessary to proceed with the closing and administration of a loan subsequent to VRA's approval of the application. In order to provide time for the consideration of the Board's revised Impounding Structure Regulations, this approval will remain in place until the November meeting of the Board (November 20, 2008). The Board may further extend this date in its discretion and following consultation with VRA.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

**Dam Safety Certificates and Permits**

Mr. Browning presented the Dam Safety Certificates and Permits. He provided Board members with additional information that was not provided in member mailings. That information is reflected in the actions below.

Mr. Browning recognized the Division staff in attendance. Mr. Jim Robinson, Mr. David Conniff and Mr. Rob VanLier. Mr. Browning said that one additional division staff member works out of the Radford office.

*Compliance Issues - Enforcement Actions*

Mr. Browning reviewed the enforcement actions. A copy of the enforcement list is available from DCR.

Mr. Browning said that staff had been working diligently to make progress on these actions and provided updates on the following:

Upper Wallace Dam, #01516 - would be issuing an Administrative Order to Comply.

Fauber Dam #01533 - the dam owner has agreed to meet the conditions to fully breach the dam and making the corrective measures this Spring.

Mellot Dam, #06119 - a letter will be written to a downstream property owner (Mr. Ingran) informing him that he is one of the three dam owners and needs to participate with the repairs.

Lake Arrowhead Dams, #17907 and #17918 - these dams were formerly owned by an Association that is now defunct. Because this situation existed, several years ago Stafford County agreed to perform som engineering analysis, but that work has ceased because of changes in the County Board of Supervisors. Plans are to send the County's letter requesting a written explanation of the County's current position.

Mr. Russell asked who was holding the Emergency Action Plan.

Mr. Browning said that there is no point of contact. The hope had been that the County would assume responsibility. If not, DCR will need to review the issue with the Attorney General's Office.

Mr. Russell suggested all the respective parties be copied on correspondence so they are aware of the situation.

Mr. Browning said that staff has met with the County Administrator and the Office of Public Works.

Mr. Maroon noted that there is a new County Administrator who should be informed of the situation.

Mr. Browning said that the correspondence would be directed to the new County Administrator.

There was no Board action necessary on the Enforcement Actions.

*Compliance Issues - Conditional Certificates*

Mr. Browning presented the following recommendations for Conditional Certificates.

| | | | |
|---|---|---|---|
| 10304 Golden Eagle Dam | LANCASTER | Class III SE | 3/31/2009 |
| 13714 Spring Vale Dam | ORANGE | Class III Regular | 9/30/2008 |
| 16701 Laurel Bed Dam | RUSSELL | Class I Regular | 3/31/2010 |

Mr. Browning noted that Laurel Bed Dam is one of 13 actions owned by the Department of Game and Inland Fisheries on the agenda for this meeting. He said that the Board would hear an update from DGIF later in the meeting.

MOTION: Mr. Russell moved that the Virginia Soil and Water Conservation Board approve the Conditional Operation and Maintenance Certificate Recommendations as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Ms. Packard

DISCUSSION: None

VOTE: Motion carried unanimously

*Regular Operation and Maintenance Certificate Recommendations*

| | | | |
|---|---|---|---|
| 00375 Lickinghole Creek Dam | ALBEMARLE | Class III | 3/31/2014 |
| 00703 Swiss Dixie Farm Dam | AMELIA | Class III | 3/31/2014 |
| 00906 Earley Dam | AMHERST | Class III | 3/31/2014 |
| 06136 Hideaway Hills Dam | FAUQUIER | Class III | 3/31/2014 |
| 07101 Glen Lyn Fly Ash Dam | GILES | Class III | 3/31/2014 |
| 07102 Glen Lyn Bottom Ash Dam | GILES | Class III | 3/31/2014 |
| 08549 Rose Hill SWM Facility Dam | HANOVER | Class III | 3/31/2014 |
| 08913 Smith River Dam | HENRY | Class I | 3/31/2014 |
| 12712 Patriots Landing Pond 1 Dam | NEW KENT | Class II | 3/31/2014 |
| 14741 Bush River Dam #4B | PRINCE EDWARD | Class I | 3/31/2014 |
| 16702 Clinch River Fly Ash Dam #2 | RUSSELL | Class III | 3/31/2014 |
| 16703 Clinch River Fly Ash Dam #1 | RUSSELL | Class III | 3/31/2014 |

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board approve the Regular Operation and Maintenance Certificate Recommendations as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Ms. Packard

DISCUSSION: None

VOTE: Motion carried unanimously

*Construction and Alteration Permits*

Mr. Browning presented the following recommendations for Alteration Permits.

| | | | |
|---|---|---|---|
| 06716 Kennett Dam | FRANKLIN | Class IV Dam Removal | 3/20/08 - |

| | | | |
|---|---|---|---|
| | | | 7/31/08 |
| 10304 Golden Eagle Dam | LANCASTER | Class III SE | 3/20/08 - 3/31/09 |
| 16701 Laurel Bed Dam | RUSSELL | Class I | 3/20/08 - 3/31/10 |

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the Permit Recommendations as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Ms. Dalbec

DISCUSSION: None

VOTE: Motion carried unanimously

*Extensions*

Mr. Browning presented the list of extensions, and said that DGIF had 12 dams are in this category, and there are no staff recommendations for those dams. Mr. Browning said that staff would like to give DGIF the opportunity of giving a presentation regarding the status of where they are with the Board's prior request.

Mr. Maitland recognized Mr. Krisnitski from DGIF. Mr. Krisnitski gave the following presentation.

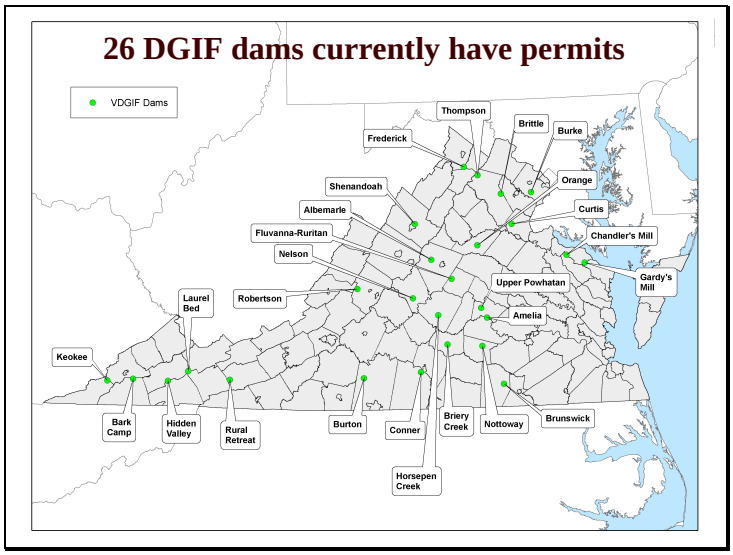
**Virginia Department of Game and Inland Fisheries Dam Safety Program**

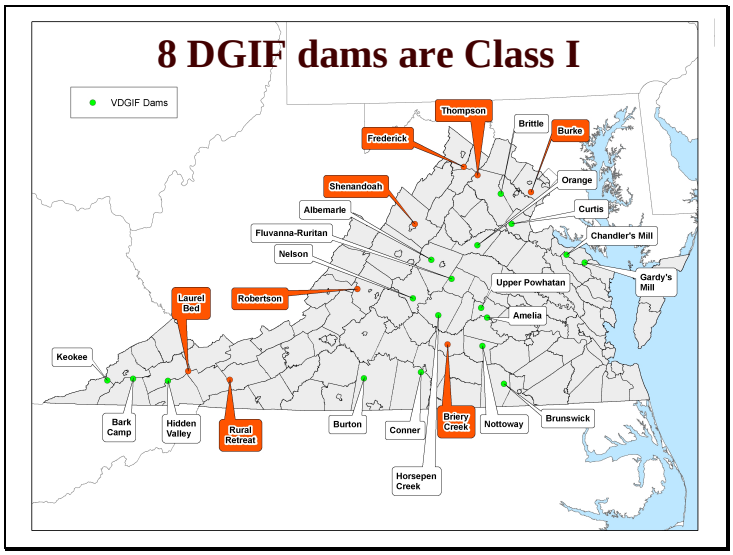
- The Department of Game and Inland Fisheries is the largest single owner of dams in Virginia
- Our current Dam Safety PER study identified 62 total impoundments for which DGIF has responsibility
    - 26 already have operating permits
    - 15 are new definition structures
    - 41 total will require operating permits

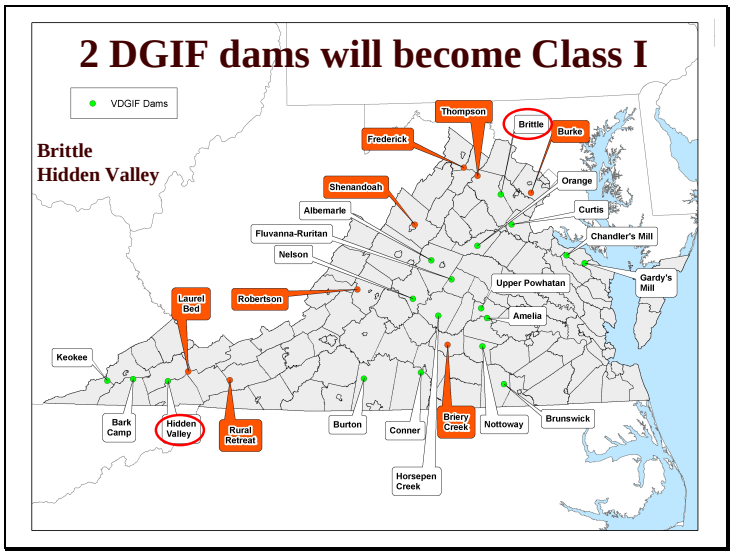
    - 2 are breached (Game Refuge, Pete's Pond)
    - 19 locations are under size to require permits
    - 62 Total impoundments

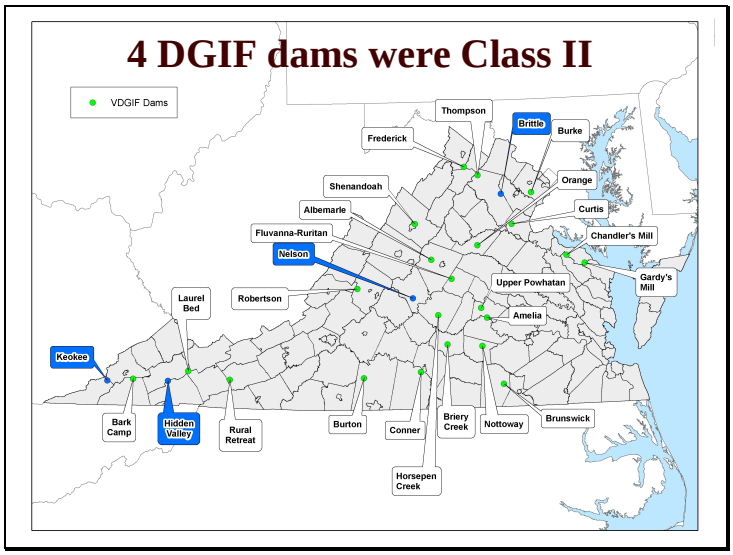
    - 41 dams that require operating permits
    - 2 are breached, Game Refuge, Pete's Pond
    - 19 locations are under size to require permits

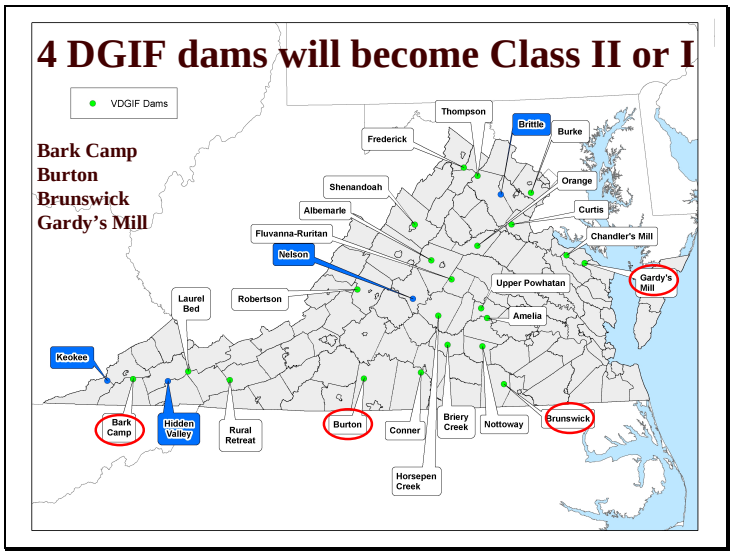
- 62 Total impoundments

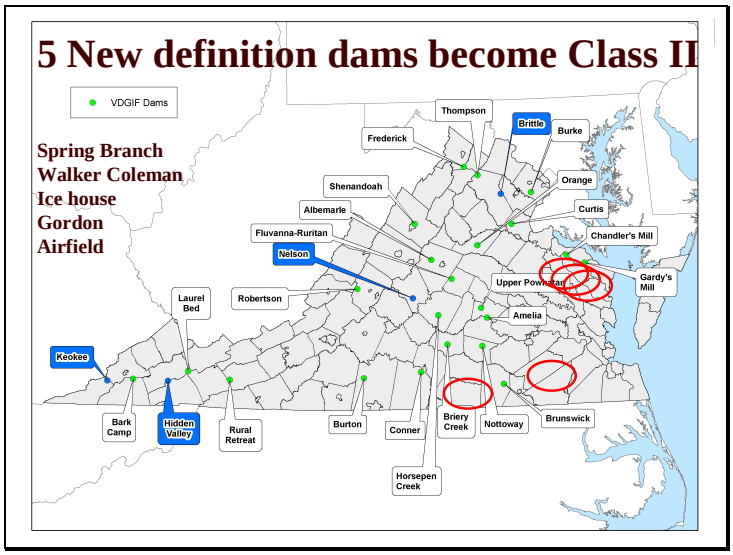


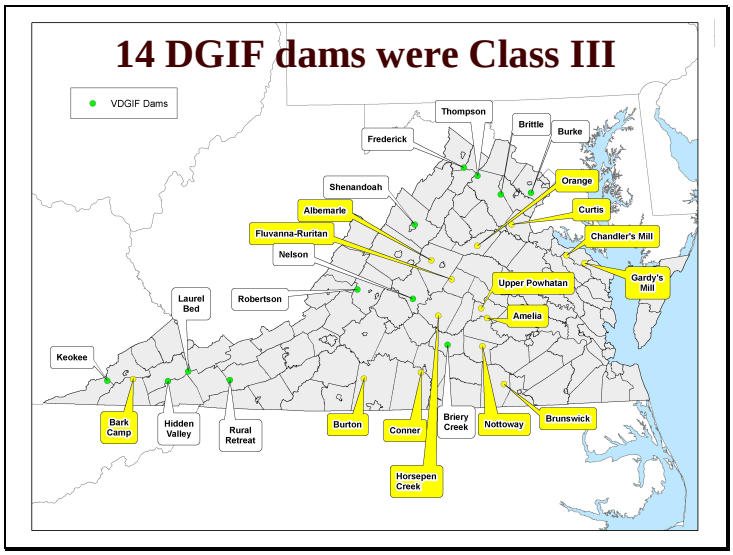



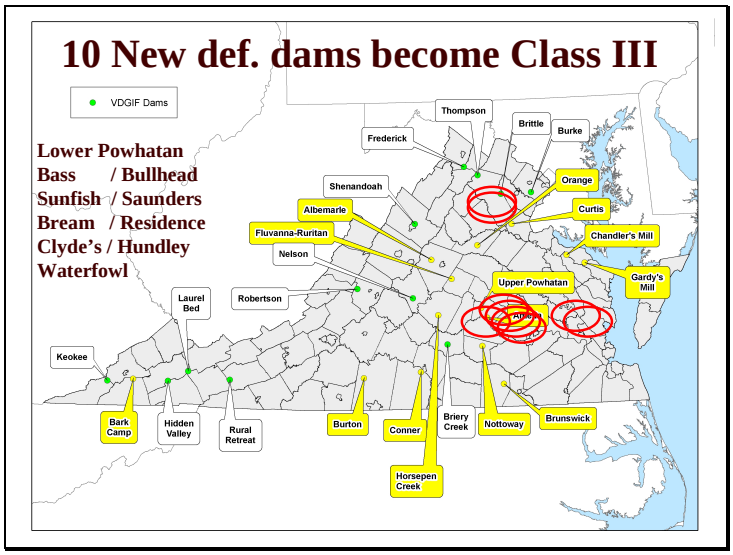

2 DGIF dams will become Class I
VDGIF Dams
Brittle
Hidden Valley
Thompson
Brittle
Burke
Frederick
Shenandoah
Orange
Albemarle
Curtis
Fluvanna-Ruritan
Chandler's Mill
Nelson
Gardy's Mill
Upper Powhatan
Laurel Bed
Robertson
Amelia
Keokee
Bark Camp
Hidden Valley
Rural Retreat
Burton
Conner
Briery Creek
Nottoway
Brunswick
Horsepen Creek


4 DGIF dams were Class II
VDGIF Dams
Thompson
Brittle
Burke
Frederick
Shenandoah
Orange
Albemarle
Curtis
Fluvanna-Ruritan
Chandler's Mill
Nelson
Gardy's Mill
Upper Powhatan
Laurel Bed
Robertson
Amelia
Keokee
Bark Camp
Hidden Valley
Rural Retreat
Burton
Conner
Briery Creek
Nottoway
Brunswick
Horsepen Creek


4 DGIF dams will become Class II or I
VDGIF Dams
Bark Camp
Burton
Brunswick
Gardy's Mill
Thompson
Brittle
Burke
Frederick
Orange
Shenandoah
Curtis
Albemarle
Chandler's Mill
Fluvanna-Ruritan
Nelson
Gardy's Mill
Upper Powhatan
Laurel Bed
Robertson
Amelia
Keokee
Bark Camp
Hidden Valley
Rural Retreat
Burton
Conner
Briery Creek
Nottoway
Brunswick
Horsepen Creek


5 New definition dams become Class II
VDGIF Dams
Spring Branch
Walker Coleman
Ice house
Gordon
Airfield
Thompson
Brittle
Burke
Frederick
Orange
Shenandoah
Curtis
Albemarle
Chandler's Mill
Fluvanna-Ruritan
Nelson
Gardy's Mill
Upper Powhatan
Laurel Bed
Robertson
Amelia
Keokee
Bark Camp
Hidden Valley
Rural Retreat
Burton
Conner
Briery Creek
Nottoway
Brunswick
Horsepen Creek


14 DGIF dams were Class III
VDGIF Dams
Thompson
Brittle
Burke
Frederick
Shenandoah
Orange
Albemarle
Curtis
Fluvanna-Ruritan
Chandler's Mill
Nelson
Gardy's Mill
Upper Powhatan
Laurel Bed
Robertson
Amelia
Keokee
Bark Camp
Hidden Valley
Rural Retreat
Burton
Conner
Briery Creek
Nottoway
Brunswick
Horsepen Creek


10 New def. dams become Class III
VDGIF Dams
Lower Powhatan
Bass / Bullhead
Sunfish / Saunders
Bream / Residence
Clyde's / Hundley
Waterfowl
Thompson
Brittle
Burke
Frederick
Shenandoah
Orange
Albemarle
Curtis
Fluvanna-Ruritan
Chandler's Mill
Nelson
Gardy's Mill
Upper Powhatan
Laurel Bed
Robertson
Keokee
Bark Camp
Hidden Valley
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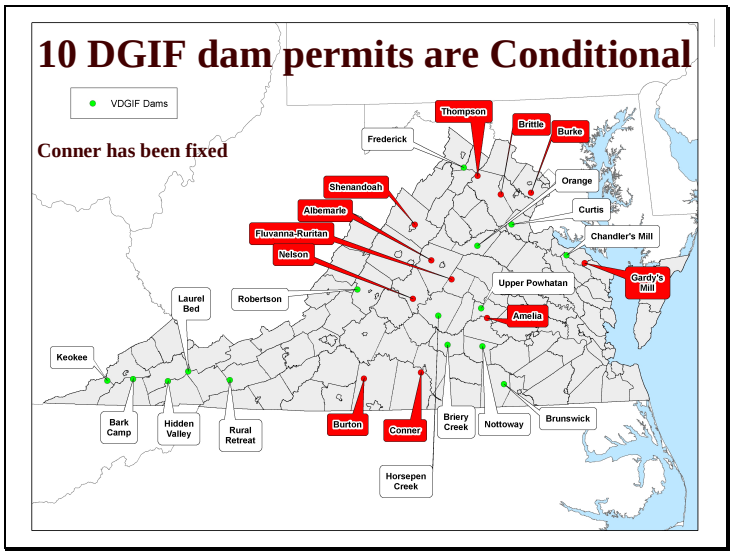
Burton
Conner
Briery Creek
Nottoway
Brunswick
Horsepen Creek


10 DGIF dam permits are Conditional
VDGIF Dams
Conner has been fixed
Thompson
Brittle
Burke
Frederick
Orange
Shenandoah
Albemarle
Curtis
Fluvanna-Ruritan
Chandler's Mill
Nelson
Gardy's Mill
Upper Powhatan
Laurel Bed
Robertson
Amelia
Keokee
Bark Camp
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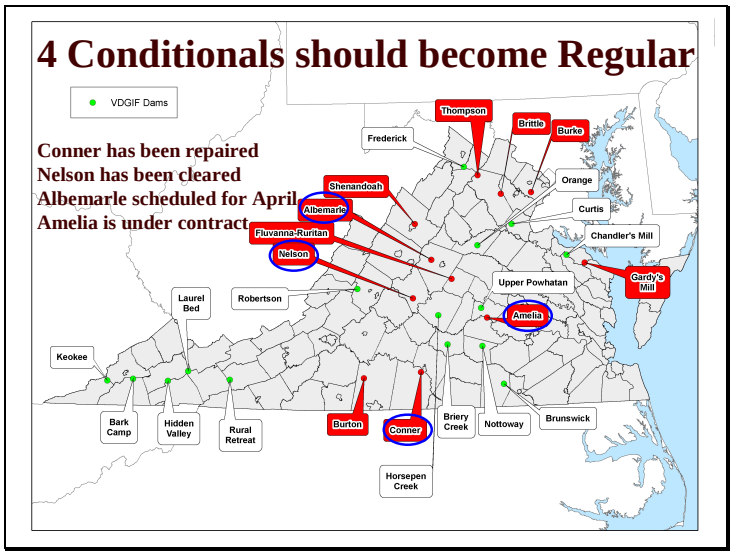
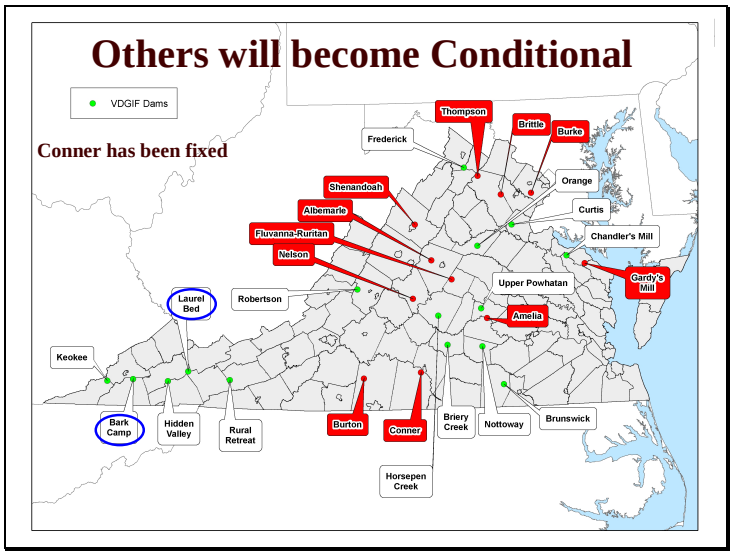
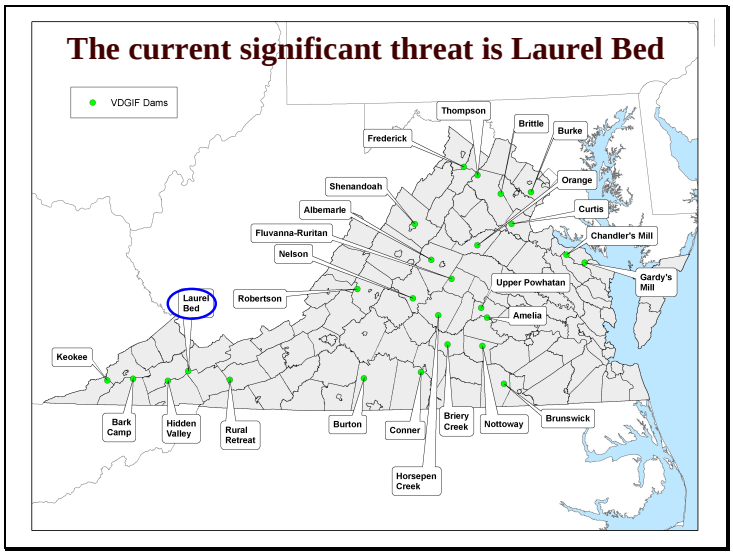
Burton
Conner
Briery Creek
Nottoway
Brunswick
Horsepen Creek


4 Conditionals should become Regular
VDGIF Dams
Conner has been repaired
Nelson has been cleared
Albemarle scheduled for April
Amelia is under contract
Thompson
Brittle
Burke
Frederick
Orange
Shenandoah
Albemarle
Curtis
Fluvanna-Ruritan
Chandler's Mill
Nelson
Gardy's Mill
Upper Powhatan
Laurel Bed
Robertson
Amelia
Keokee
Bark Camp
Hidden Valley
Rural Retreat
Burton
Conner
Briery Creek
Nottoway
Brunswick
Horsepen Creek




**Proactive Efforts**

**At Laurel Bed Dam for safety reasons**

- Extensive speepage analysis was performed
- Subsequent design is nearly complete
- Emergency procurements is sought to maintain lowered pool

**At Rural Retreat Dam for permitting**

- Engineering study and repair at the Principle discharge pipe
- Tree clearing proceeding

**Class Increases**

- As shown earlier DGIF has many dams that will require an increase is Hazard Class
- 2 Increase to Class I
- 4 Increase to Class II or possibly Class I
- 5 New Definition to Class II
- 10 New Definition to Class III

**Compliance**

- DGIF wants safe dams as much as anyone
- The Department has been proactively addressing safety items first
- DGIF has been opportunistic in finding solutions to less critical items

**Staffing**

- DGIF has been cutting positions agency wide so in Dam Safety there is still only one person working on the Dam Safety Program

**Consultants**

- We do have term contracts with A/E firms specifically for dam safety projects
- At the request of the SWCB we contracted with the F&R Engineers to do a PER on the entire DGIF system of dams
- In that study, F&R has identified all of our potential impoundments, evaluated each dam, developed a priority list and total estimate
- DGIF would like to meet with DCR Dam Safety in the 2nd week of April to create a program for the design and upgrades to the DGIF Dam System

**Progress**

- Conner Dam construction was completed
- Powhatan Dam reconstruction will finish this month
- Tree removal on several dams is proceeding
- Dam Safety PER study is nearly complete
- Design for repair at Laurel Bed is nearly complete

**Breaching**

- Breaching a dam is the least desirable option
- We've done it once in recent years and don't want to have to do it on others
- Without additional funding, it may become necessary to breach others

**Current Needs**

- The current F&R estimate from the study for all DGIF dams is nearly $15M.
- The Department if pursuing additional funding for Dam Safety projects

**Future Plans**

- Higher risk needs (i.e. structural) are already being addressed in the interest of public safety
- Maintenance work to address Conditional Permit requirements at DGIF dams is progressing and each dam will be correct as soon as funds and opportunity are available

DGIF is managing its dams with a program level mindset. We have been prioritizing projects based on that concept.

Mr. Simms asked if any of the funds from the sale of fishing and hunting licenses could be directed towards dam maintenance.

Mr. Martel said that most of the money used is a combination of license money and federal aid money. DGIF is using all of the funding available.

Mr. Russell asked if DGIF had a comfort level on how to handle these dams.

Mr. Martel said that the study has brought the agency along in the planning stage. He said that after the agency meets with DCR staff, some of the priorities on the list might shift.

Mr. Maroon said that it appeared that DGIF had about $9 million that would be needed to address the concerns of the Class I and Class II dams.

Mr. Martel said that the budget outlook for DGIF and other agencies was not good.

Mr. Maitland thanked Mr. Krisnitski and Mr. Martel for their presentation.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board issue the Department of Game and Inland Fisheries (DGIF) a four-month extension for the eleven dams contained in Agenda Item #6 d. in order for DGIFs' contractor to complete the Board's requested study and meet with DCR Dam Safety Staff to develop a risk-based list of the DGIF owned dams that will be followed to bring the dams into compliance with Virginia Code and the Virginia Impounding Structure Regulations.

Those DGIF dams recommended for extensions are:

| | | | |
|---|---|---|---|
| 00305 Albemarle Dam | ALBEMARLE | Class III Conditional | 7/31/08 |

| | | | |
|---|---|---|---|
| 05902 Burke Lake Dam | FAIRFAX | Class I Conditional | 7/31/08 |
| 06107 Thompson Dam | FAUQUIER | Class I Conditional | 7/31/08 |
| 06122 Lake Brittle Dam | FAUQUIER | Class II Conditional | 7/31/08 |
| 06502 Fluvanna Ruritan Dam | FLUVANNA | Class III Conditional | 7/31/08 |
| 12501 Nelson Dam | NELSON | Class II Conditional | 7/31/08 |
| 14304 Burton Dam | PITTSYLVANIA | Class III Conditional | 7/31/08 |
| 16505 Lake Shenandoah Dam | ROCKINGHAM | Class I Conditional | 7/31/08 |
| 16901 Bark Camp Dam | SCOTT | Class III Regular | 7/31/08 |
| 19308 Gardy's Millpond Dam | WESTMORELAND | Class III Conditional | 7/31/08 |
| 19701 Rural Retreat Dam | WYTHE | Class I Regular | 7/31/08 |

SECOND: Mr. Simms

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Browning presented the remaining list of extensions.

| | | | |
|---|---|---|---|
| 00351 Peacock Hill Dam | ALBEMARLE | Class III Conditional | 7/31/08 |
| 00387 Broadmoor Lake Dam | ALBEMARLE | Class II Conditional | 9/30/08 |
| 01506 Upper North River Dam | AUGUSTA | Class I Regular | 5/31/08 |
| 01509 South River Dam #23 | AUGUSTA | Class I Conditional | 3/31/10 |
| 01702 John Lawrence Dam | BLAND | Class II Regular | 7/31/08 |
| 01703 Bath Alum Farm Dam | BLAND | Class II Regular | 7/31/08 |
| 01927 Falwell, Jr. Dam | BEDFORD | Class III Regular | 7/31/08 |
| 02304 Blue Ridge Estates Dam | BOTETOURT | Class I Conditional | 7/31/09 |
| 03331 Lake Devolia Dam | CAROLINE | Class II Conditional | 7/31/08 |
| 03332 Lake Heritage Dam | CAROLINE | Class I Conditional | 7/31/08 |
| 03333 Lake Dover Dam | CAROLINE | Class II Conditional | 7/31/08 |
| 04117 Tates Dam | CHESTERFIELD | Class III Regular | 7/31/08 |
| 04129 Woodland Pond Dam | CHESTERFIELD | Class I Regular | 7/31/08 |
| 04501 Johns Creek Dam #2 | CRAIG | Class I Conditional | 3/31/10 |
| 04504 Johns Creek Dam #4 | CRAIG | Class I Conditional | 3/31/10 |
| 05104 White Oak Creek Dam | DICKENSON | Class II Conditional | 9/30/08 |
| 05106 Laurel Lake Dam | DICKENSON | Class III Conditional | 7/31/08 |
| 06101 Warrenton Dam | FAUQUIER | Class II Regular | 9/30/08 |
| 06109 Kinlock Farm Dam | FAUQUIER | Class I Conditional | 9/30/08 |
| 06701 Upper Blackwater River Dam #6 | FRANKLIN | Class III Regular | 7/31/08 |
| 06914 Summit Dam | FREDERICK | Class I Conditional | 3/31/10 |
| 07706 Hidden Valley Estates Dam | GRAYSON | Class II Conditional | 9/30/08 |

| | | | |
|---|---|---|---|
| 08539 Mattawan Association Dam | HANOVER | Class II Conditional | 9/30/08 |
| 08902 Leatherwood Creek Dam #5 | HENRY | Class II Conditional | 3/31/10 |
| 08904 Leatherwood Creek Dam #3 | HENRY | Class II Conditional | 3/31/10 |
| 08907 Leatherwood Creek Dam #6 | HENRY | Class II Conditional | 3/31/10 |
| 09903 Lake Jefferson Dam | KING GEORGE | Class III Regular | 7/31/08 |
| 09906 Lake Monroe Dam | KING GEORGE | Class I Conditional | 5/31/09 |
| 10126 Central Crossing Dam | KING WILLIAM | Class III Conditional | 9/30/08 |
| 10733 Lawrence Dam | LOUDOUN | Class III Conditional | 7/31/08 |
| 10923 Gordonsville Dam | LOUISA | Class III Conditional | 9/30/08 |
| 11315 Deep Run Dam | MADISON | Class III Conditional | 1/31/10 |
| 12714 Patriot Landing Pond 3 Dam | NEW KENT | Class II Conditional | 5/31/09 |
| 12715 Patriot Landing Pond 4 Dam | NEW KENT | Class II Conditional | 11/30/08 |
| 13901 Dry Run Dam #102 | PAGE | Class I Conditional | 7/31/08 |
| 14104 Squall Creek Dam | PATRICK | Class III Conditional | 9/30/08 |
| 14117 Ararat River Dam #28 | PATRICK | Class I Regular | 7/31/08 |
| 14515 Moyer Pond Dam | POWHATAN | Class III Regular | 7/31/08 |
| 14534 Avery Dam | POWHATAN | Class III Conditional | 7/31/08 |
| 15302 T. Nelson Elliott Dam | PRINCE WILLIAM | Class I Conditional | 9/30/08 |
| 15504 Hogan Dam | PULASKI | Class I Conditional | 9/30/08 |
| 16307 Cold Sulpher Springs Dam | ROCKBRIDGE | Class II Regular | 7/31/08 |
| 70001 Lee Hall Reservoir Lower Dam | NEWPORT NEWS | Class II Conditional | 9/30/08 |
| 70006 Lee Hall Upper Dam | NEWPORT NEWS | Class II Conditional | 9/30/08 |

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board approve the extension recommendations as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Ms. Packard

DISCUSSION: None

VOTE: Motion carried unanimously

*Lake of the Woods*

Mr. Browning gave an update regarding Lake of the Woods. He noted that there were members of the Association and the community present wishing to address the Board.

Mr. Browning noted that the Board had not discussed Lake of the Woods since the September 2007 meeting. He said at that point he had given an overview of where the Association was in terms of meeting the requirements to deal with the alternative spillway design.

Mr. Browning reminded members that in 2005 the Board accepted a plan that had a gated spillway with roller compacted concrete. Following that approval, the Association chose to move to a different type of design.

At that time the Association was given until January 2008 to submit an alternative spillway plan. In February 2008, DCR staff contacted the General Manager as the information had not yet been received.

On March 10, 2008 DCR received the design and staff was informed that the Association did not wish to pursue the new design. The Association has indicated that they wish to return to partial use of the design submitted in 2005. Staff asked that the request be put in writing outlining the parameters of the new plan.

Mr. Browning distributed a handout that addressed staff recommendations:

**Lake of the Woods Dam, Inventory Number 13701**
**DCR Dam Safety Staff Recommended Actions**
**3/20/08 VSWCB Meeting**

Recommends the Board issue LOWA a four-month extension (3/20/08 - 7/17/08) to the two-year (3/16/2006 - 3/31/2008) Class I Conditional Operation and Maintenance Certificate for the purposes of:

1. LOWA submitting a letter to the Dam Safety Division Director stating that there is no need for the Staff to review the A. Morton Thomas and Associates Inc. alternative spillway design submitted to Staff on March 10, 2008 because LOWA wants to revert to the installation of a gate in the existing spillway by March 31, 2008.
2. LOWA submitting the hydrology and hydraulics (1st step) that determines the required size of the spillway by April 7, 2008.
3. LOWA submitting the hydrology and hydraulics (2nd step) for the incremental analysis that would determine the required final size of the spillway by May 1, 2008.
4. LOWA submitting the final bid-ready design, plans and specifications, an Alteration Permit Application, project schedule through construction completion, and any affects to floodwall and embankment for the gate (and its associated appurtenances) installation by June 30, 2008.
5. Providing Dam Safety staff time to review and approve the item #4 submission by July 10, 2008.
6. Providing the Board an opportunity at its July 17, 2008 meeting to issue LOWA and eleven month Alteration Permit to fulfill Conditions of the two-year Class I Conditional Operation and Maintenance Certificate issued on March 16, 2006.

Mr. Maitland recognized Mr. Bailey, General Manager of Lake of the Woods Association who gave the following presentation:

**Brief History of Improvements Accomplished or Underway to Date**

- Depressurized the Low Level Drain
- Built a Floodwall
- Eliminated over 100 buildable lots from the inundation zone in the Wilderness Shores subdivision
- Ensured that language preventing building in inundation zones has been included in the draft Comprehensive Plan and in proposed zoning ordinances
- Filed the Inundation zone mapping with the County Planner
- Met with developers of inundation zone property to ensure that new homes were not built in the area below the dam
- Met with real estate agents to inform them of the inundation zone
- Bought empty downstream lots as they have become available
- Met with emergency service providers - including the Sheriff's Department, Fire & Rescue, and State Police (also with VDOT)
- Established the ability to utilize Reverse 911 for all properties in the inundation zone
- Upgrading EAP to meet new regulations and FEMA standards
- Have notified all property owners in the inundation zone and updated contact information
- Reviewed watershed calculations
- Revised hydrology calculations
- Accomplished significant spillway design work
- Conducting Incremental Damage Analysis

**Old Regulations**

- Classification
  - Class I
    - Spillway Design Flood requirement = 1.0 PMF
      - Full PMF equals 38" of rain in a 24-hour period
    - Sunny Day break issue can cause a dam to be Class I and therefore have to pass the full PMF

**New Regulations**

- Classification
  - High
  - Default for Spillway Design Flood = 1.0 PMF
  - However, SDF can be mitigated downward to no less than .50 PMF
  - This can be done through the application of an Incremental Damage Analysis
  - The importance of site specific criteria is also to be considered

**SDF Progression**

- Prior to floodwall, could pass 37% of PMF
- Designed and installed floodwall for $190,000. This increases SDF capacity to 50% of PMF. 50% (of HMR - 52 PMF) = 20" of rain in 24 hours. Storm recurrence interval: approx 4,000 years
- Revised hydrology = 57%
  Cost: $98,000
  57% (of NRCS Revised PMF) = 22" of rain in 24 hours
  Storm recurrence interval: approx 6,000 years

**SDF Progression - Part 2**

- Install gate system in the existing spillway
- Increases SDF to 2/3 PMF
  Estimated Cost: $2,500,00
  2/3/ PMF = 26" of rain in 25 hours
  Storm recurrence level: approx 13,000 years

**Incremental Damage Analysis**

- The Rule of 7 does not provide much relief
- Language provides for consideration of site-specific criteria

**Site Specific Issues**

- Existing spillway can pass 50% of HMR-52 PMF of 20" of rain in 24 hours (equates to 7 feet of water in the spillway before overtopping were to occur)
- VDOT culverts under Route 3 designed to handle 100+ year storm events or approximately 8.5" of rain in 24 hours
- 72 properties exist in the inundation zone
- 30 of those have occupied dwellings
- 14 of the 30 are on Lakeview Parkway
- 16 of the 30 are below Route 3 (9 in LOWA)
- Engineer documentation stipulates that when the spillway has three feet of water in it (25% of its discharge capacity) then Route 3 would become in danger of overtopping
- This would necessitate evacuation of the inundation zone

**What does this mean?**

It means that activation of the Emergency Action Plan must take place much earlier than standard application.

Constant monitoring of the water level in the spillway is required when its level equals 1 foot.

Notification to residents of a potential problem would take place when the water level in the spillway reaches 1.5 feet.

Evacuation is required when the water level in the spillway reaches 2.5 feet.
This is due to topographic issues; those in the inundation zone (below Route 3) will not be able to easily evacuate once Route 3 is overtopped.

All of the site-specific considerations reduce the probability of loss and life and justify the reduction of the SDF to 2/3 of the PMF.

And we still have 4.5 feet of rise available in the existing spillway prior to overtopping.

**Why not argue classification then?**

- If the only consideration was the ability to pass rainfall, then one could probably present this case for supporting a reclassification to a Significant Hazard Dam.
- Unfortunately, the issue of a sunny day break remains.
- The sunny day break issue, however, has no correlation to spillway capacity.
- That's one of the benefits of the new regulations. Previously, sunny day break concerns made many dams Class I almost by default. However, the new regs., while acknowledging that the sunny day break issue may lead to a High Hazard classification, provide a mechanism to mitigate downward the spillway capacity requirement.

**Benefits of New Gate System**

- Enhances public safety - downstream and upstream
- Residents upstream of the dam would be afforded protection form rises in the lake due to truly probably storm events
- Increases spillway capacity 2/3 PMF
  Spillway can then pass 26" of rain in 24 hours or the equivalent of a 1 in 13,000 year storm
- Reduces costs of upgrade by $4-5 million
  - Increasing spillway capacity to pass the full PMF does not necessarily reduce risk to public safety
  - Therefore the cost to increase spillway capacity from 2/3 PMF to Full PMF does not appear justified

**Summary**

- LOWA Main Dam could be considered a High Hazard Dam, especially due to the sunny day break concern
- The dam has certain site-specific issues that support a reduced SDF
- LOWA has scientific engineering data regarding hydrology and gate design that support a reduced SDF
- LOWA has a proposal that will enhance public safety and reduce risk to a point that FEMA states is "As Low As Reasonably Practical"

**The Solution**

- The SWCB grant LOWA a two-year extension to the current Conditional Operating Certificate, effective March 31, 2008 and expiring March 31, 2010.

**Conditions**

- Complete an Incremental Damage Analysis and a dynamic flooding analysis
- Provide hydrology and hydraulic information
- Revised gate design and seek approval of an alteration permit
- Incorporate as requirements site-specific measures in the Emergency Action Plan and in the Operating and Maintenance protocols.
- Install a water control gate in the existing spillway and bring the SDF to a minimum 2/3 PMF within the next two years.
- Document/certify on a yearly basis that there have been no significant changes made in or planned for the inundation zone.
- Document that the dam can pass at a minimum 2/3 PMF and that this proposal presents a final determination of the SDF requirement.
- Once the Division of Dam Safety certifies that the above conditions have been met, the Virginia Soil and Water Conservation Board shall receive the recommendation that Lake of the Woods, Association, Inc. be issued a Regular Six Year Operating and Maintenance Certificate.

**The Solution = Good Public Policy**

- The State enhances public safety
- The State ensures adherence to regulations
- The State has a logical, practical solution to a complex situation
- LOWA enhances public safety
- LOWA protects the value of its member's property
- LOWA member funds are used wisely

Mr. Maitland asked Mr. Browning for comment.

Mr. Browning said that the expiration date on the existing certificate is June 30, 2009. He said that it has always been the intent of the Board for the work to be done by that date.

Ms. Hansen said that it was an overstatement to say that the Board had been patient.

Mr. Bailey said that the engineer has indicated the work cannot be completed by that date.

Mr. Browning said that the Association had made the commitment of the June 30, 2009 date to the Board. He noted that the Association has had numerous extensions.

Mr. Bailey said that the date was predicated upon the regulatory process.

Mr. Browning said that the existing regulations do not disallow the Association to further delay.

Ms. Hansen said that the time crunch is a self-created problem in that the Association changed its mind. She said that there have been continual delays and postponements.

Mr. Bailey said that the engineer had said the work could not be completed by June 30, 2009.

Mr. Browning said that the engineer is being paid by the Association to meet the requirements.

Ms. Packard said that she would prefer to stick with the original timeframe.

Mr. Maitland recognized Mr. William E. Nowers, Lake of the Woods Resident. Mr. Nowers read the following comments:

> My name is William Nowers, a property owner at Lake of the Woods for nearly forty years, and a full time resident for the past nine years.
>
> I first became involved in the current dam situation through a document titled "…Dam Safety issues and Justification, Soil and Water board Meeting." dated September 20, 2001. This document stated the LOW dams were upgraded from Class II to Class I due to the high traffic volumes on Route 3 and Route 20. LOW was given a two year conditional certificate.
>
> I questioned the logic, in essentially requiring a larger spillway, because of the completely unrelated traffic on Routes 3 and 20 below the dams. On November 13, 2001, I wrote to Mr. Phillippe Director, Division of Dam Safety, and under the Virginia Freedom of Information Act, I requested any documentation on record to justify the LOW dams being changed to Class I.

I received an answer in a letter dated December 12, 2001, from the Department of Conservation and Recreation, VA DCR Division of Dam Safety, signed by Dianna Sheesley stating "The hazard classification was changed for both dams due to high traffic volumes on Route 3 and Route 20. A sunny day failure of either dam will probably result in loss of life…" Up to this time, to my knowledge, the term "sunny day break" had never appeared in any document by the Dam Safety people. All of the dam regulations were concerned only with dam failure due to high water.

I could not believe that anyone could use this extremely remote possibility of a sunny day break, as justification for a multi-million dollar expansion of the spillway. This sounds suspiciously like a fraud, a trick or device, to force LOW to expand their spillway by eight times capacity, in the name of safety, while knowing full well that expanding the size of the spillway, is not related to a sunny day break in any possible way. A sunny day break was the ONLY reason given in changing the classification of both dams to Class I.

I will not insult the intelligence of anyone here by thinking you would actually believe there is any link between a sunny day break and a larger spillway.

Recent rainfall and inundation zone studies that have been required by the Dam Safety people are essentially irrelevant. All traffic would cease and Route 3 would be flooded when the existing spillway has reached only 20% of its capacity. It would take another six feet of rise in the lake level to top the dam. All persons would have long since been gone. Legitimate concern for a sunny day break would only involve proper monitoring of the dam for seepage. LOW has been doing this for years.

The LOW management and members of the LOW community, have been jerked around for the past several years to the tune of over one half million dollars, in one useless study after another that has no relation whatsoever to a sunny day break, the only reason given in 2001 for the reclassification of the dam to Class I.

Following the meeting of the State Soil and Water Conservation Board in July 2007, the Fredericksburg Free-Lance Star reported that members of the Board were getting tired of hearing excuses from the LOW officials. One of the Board members had stated the Board could refer the matter to the Attorney General's Office. I would say great. I can't imagine any Attorney General accepting the ridiculous logic that millions of dollars, and an eight fold increase in spillway capacity could have any relation to a sunny day break. The two are completely unrelated.

There is, I believe, a concept in law, that says any law that is shown to be unconstitutional or is arrived at through fraudulent or misleading evidence, is no law at all, and all results of that law are cancelled. The dam safety personnel and engineers knew, or should have known, that the reclassification of both dams at

LOW was based on fraud or misleading evidence. Should this get to the courts, and the decision listing the dams as Class I be declared invalid, then the invalidity dates from the time of its enactment, not from the date it was declared invalid. There is a real possibility that the State of Virginia could be held liable and required to reimburse LOW for all of the expenses they incurred while trying to satisfy the false dam safety requirements.

You can end this travesty now. I would strongly propose that this Department correct a great miscarriage of justice, logic and common sense, and return the two dams at LOW to the proper Class II designation. According to the Dam Safety Regulations, that is where they properly belong.

Mr. McNear asked if there was a relationship between the spillway design and the sunny day break.

Mr. Robinson said that a sunny day failure is the dam failing under sunny day conditions and did not relate to water level storm indeed dam failure.

Mr. Maitland recognized Mr. Ralph Hollm.

Mr. Hollm said that he was the coordinator for the petition signed by the 20 families in the inundation zone. He said that members should have received a copy of his letter by mail. He asked if the dam would be disturbed.

Mr. Hollm said that he felt encouraged by what he had heard. He asked for clarification that the plan would be to go ahead without disturbing the dam to increase the existing spillway. He said that the concern of the petitioners had been the disturbance of the spillway.

Mr. Bailey said that the spillway design gate goes into the existing spillway.

Mr. Hollm said the concern was that information would address the concerns of the petitioners.

Mr. Maroon said to clarify that the issue at hand was due to LOWA changing their design plan and not a DCR action.

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board issue LOWA a four-month extension (3/20/08 – 7/17/08) to the two-year (3/16/2006 – 3/31/2008) Class I Conditional Operation and Maintenance Certificate for the purposes of:

1. LOWA submitting a letter by March 31, 2008 to the Dam Safety Division Director stating that there is no need for the Staff to review the A. Morton Thomas and Associates, Inc.

alternative spillway design submitted to Staff on March 10, 2008 because LOWA wants to revert to the installation of a gate in the existing spillway.

2. LOWA submitting the hydrology and hydraulics (1st step) that determines the required size of the spillway by April 7, 2008.
3. LOWA submitting the hydrology and hydraulics (2nd step) for the incremental analysis that would determine the required final size of the spillway by May 1, 2008.
4. LOWA submitting the final bid-ready design, plans and specifications, an Alteration Permit Application, project schedule through construction completion, and any affects to floodwall and embankment for the gate (and it's associated appurtenances) installation by June 30, 2008.
5. Providing Dam Safety Staff time to review and approve the item #4 submission by July 10, 2008.
6. Providing the Board an opportunity at its July 17, 2008 meeting to issue LOWA a eleven month Alteration Permit (construct by June 30, 2006) to meet the approved spillway design flood.

SECOND: Ms. Packard

DISCUSSION: Mr. Robinson noted that the exact PMF had not been determined by the engineers. Their approximate requirement is 2/3 PMF and it is anticipated that their proposed design will be close to that.

Mr. Maroon said that the two remaining decisions are the incremental design and whether or not the dam can meet the requirements with the new gate.

VOTE: Motion carried unanimously.

**Lake Barcroft Watershed Improvement District Budget Approval**

Mr. Meador presented the Lake Barcroft Watershed Improvement District Budget approval request. A copy of this request and the proposed budget is available from DCR.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the Lake Barcroft Watershed Improvement District Budget for Fiscal Year 2009 as submitted.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

**District Resignations and Appointments**

Mr. Meador presented the recommended District resignations and appointments.

*Big Walker*

Resignation of Joseph W. Massey, Wythe County, effective 10/12/07, appointed Extension Agent director position (term of office expires 1/1/09).

Recommendation of James Atwell, Bland County, to fill unexpired appointed Extension Agent term of Joseph W. Massey (term of office to begin on or before 4/19/08 - 1/1/09).

*Holston River*

Recommendation of Aaron Scyphers, Washington County, to fill unexpired elected term of Phil D. Lineberry (deceased) (term of office to begin on or before 4/19/08 - 1/1/12).

*Shenandoah Valley*

Resignation of John Welsh, Rockingham County, effective 3/20/08, appointed Extension Agent director position (term of office expires 1/1/09).

Recommendation of Amber Vallotton, Rockingham County, to fill unexpired appointed Extension Agent terms of John Welsh (term of office to begin on or before 4/19/08 - 1/1/09).

Recommendation of Charles Newton, Page County, to fill unexpired elected term of Martha Atwood (deceased) (term of office to begin on or before 4/19/08 - 1/1/12).

*Tazewell*

Resignation of Michael Harris, Tazewell County, effective 2/29/08, appointed Extension Agent director position (term of office expires 1/1/09).

Recommendation of John Blankenship, Tazewell County, to fill unexpired appointed Extension Agent term of Michael Harris (term of office to begin on or before 4/19/08 - 1/1/09).

MOTION: Ms. Packard move that the Virginia Soil and Water Conservation Board approve the list of District Resignations and Appointments as presented by staff.

SECOND: Mr. Simms

DISCUSSION: None

VOTE: Motion carried unanimously

**Possible Changes to the Policy for Financial Assistance for SWCDs**

Mr. Meador noted that Board Policy requires the Board to review the formula for financial assistance to Districts on an annual basis and to take any desired action at the May meeting. Mr. Meador distributed a copy of the policy and noted that staff had no recommended changes.

There was no required action at this meeting.

**Possible Changes to the FY08 Performance Deliverables for SWCD Operational Funding Issued by DCR**

Mr. Meador reminded Board members that their policy states that the Board will review the Grant Agreement Deliverables for Districts on an annual basis. He provided members with the document with recommended staff changes. A copy of this handout is included as Attachment #3.

There was no required action at this meeting.

**Public Comment**

Mr. Scott Cahill commended the Board and staff for the progress concerning the dam safety regulations. He said that the process has been very fair and equitable. He said that Board would be faced with difficult choices in the future.

**Partner Agency Reports**

*Natural Resources Conservation Service*

Mr. Carter gave the report for the Natural Resources Conservation Service. A copy of that report is included as Attachment #4.

*Department of Conservation and Recreation*

Mr. Frye gave the report for the Department of Conservation and Recreation. A copy is included as Attachment #5.

**Next Meeting**

The next meeting of the Virginia Soil and Water Conservation Board will be Thursday, May 15, 2008 at the Virginia Department of Forestry in Charlottesville.

**Other Business**

There was no additional business.

**Adjourn**

As there was no other business the meeting was adjourned.

Respectfully submitted,

| | |
|---|---|
| Linda S. Campbell | Joseph H. Maroon |
| Chair | Director |

Attachment #1

BUDGET AMENDMENT SUMMARY
2008 General Assembly Session
Final Legislative Amendments to Governor Kaine's Introduced Budget
As of March 13, 2008

**DCR Operating Budget Overview**

| | Total | GF | NGF | FTE |
|---|---|---|---|---|
| FY 08 (current yr) | $77M | $50M | $27M | 534 |
| FY 09* | $120M | $49M | $71M | 551 |
| FY 10* | $99M | $49M | $50M | 556 |

(* As proposed in Legislative Budget; Does Not include capital budget items such as land conservation, dam repair bonds, park development and construction.)

**Land Conservation**

- GOVERNOR'S BUDGET: $ 50 M bonds for land acquisition by DCR, Historic Resources, Forestry and Virginia Outdoors Foundation.
    - Legislative budget reduces bonds for land acquisition to $30 M; at least $ 5 M for civil war battlefields.

- GOVERNOR'S BUDGET: adds $ 950,000 each year for Virginia Outdoors Foundation operational support
    - Legislative budget provides that the increase for operational support will be $225,000 annually for a total of $1,525,000 each year.

- GOVERNOR'S BUDGET: Continued $ 3 M per year for VLCF grants.
    - Legislative budget reduces the $ 3 M to $ 2 M each year.

**Dam Safety**

- GOVERNOR'S BUDGET: $ 20 M bonds for repairs to district and DCR dams;
    - Legislative budget increases total to $30 M (to include $ 5 M for T. Nelson Elliott Dam (Manassas) and $ 5 M for Stoney Creek Reservoir Dam (Bedford.)

- GOVERNOR'S BUDGET: $ 2.7 M for loan program

- Legislative budget reduces by $750,000 leaving $ 1.2 M ($600,000 each year).

- GOVERNOR'S BUDGET: 2 FTE dam engineers (no funds needed); Included in legislative budget.

**Stormwater Management**

- GOVERNOR'S BUDGET: 10 Stormwater positions (paid from permit fees). Included in legislative budget.

**Water Quality Improvement Fund**

- GOVERNOR'S BUDGET: $ 20 M Nonpoint (FY 2009) WQIF (includes $ 6 M new GF; $ 5 M reserve; $ 9 M point source interest earnings)
  - Legislative budget leaves total funding amount of $ 20M for FY 2009, but replaces $6 M of general funds with interest from DEQ WQIF. Funds to be deposited into and dispersed from the Virginia Natural Resources Commitment Fund for agricultural BMPs and 5% for soil and water districts implementation.

**Soil and Water Conservation Districts**

**Districts' 5 % reduction ($ 386,500) was not restored; districts will receive $7,347,940 in state support after the reduction for FY 09 and FY 10. Includes operating support and dam repair and maintenance funding.**

**State Parks Operating Support**

- GOVERNOR'S BUDGET: $ 1.5 Million and 15 FTE (FY 10)
  - Legislative budget changed to $250,000 and 5 FTEs in FY 2009 and an additional $ 250,000 and 5 more FTEs (for a total of 10 FTEs and $500,000) in FY 2010. (It is expected that 2 of the positions will be used for High Bridge with remainder going to address continued re-benchmarking.)

*Chippokes Farm and Forestry Foundation*

- GOVERNOR'S BUDGET: Merger and transfer 2 FTE from Chippokes.
  - Legislative budget provides that Chippokes will remain a separate agency .

**Grand Caverns (possible new state park)**

- Legislative budget includes language requiring progress report on Grand Caverns transfer to DCR by September 1.

**State Parks Capital Budget – TO BE DETERMINED BY APRIL 23 RECONVENED SESSION**

- GOVERNOR'S BUDGET: $ 3 M Powhatan State Park; High Bridge $ 4.5 M
- Powhatan State Park first-time funding: Outcome to be determined.
- High Bridge State Park continued funding: Outcome to be determined.
- Mayo River first-time funding: Outcome to be determined.
- Shenandoah River State Park additional cabins and campgrounds: Outcome to be determined.

**Maintenance Reserve**

- GOVERNOR'S BUDGET: Provides for increase and funding in FY 2008. Legislative budget moves increase to upcoming biennium. Provides $609,000 in FY 2009 and $643,000 in FY 2010.

**Non-General Fund Interest**

- Legislative budget keeps interest earned on various special funds in 2008 and 2008-2010. (Natural Area Preservation Fund; Chesapeake Bay Restoration Fund; Virginia Stormwater Management Fund; Flood Prevention and Protection Assistance Fund; Virginia Land Conservation Fund – Unrestricted; Virginia Water Quality Improvement Fund; Virginia Water Quality Improvement Fund Reserve)

**Additional Reduction Plan**

- Legislative budget requires an additional $ 17.5 M in cuts across state government for FY 2009 and FY 2010 that are yet to be determined. Agencies are expected to receive targets soon. DCR's share is unknown at this time.

**State Employee Compensation**

- Legislative budget includes 2% increase in November 2008 and 2% in November 2009.

**Miscellaneous**

- Aquia Creek Dredging: Legislative budget adds $250,000 to DCR budget for dredging Aquia Creek, Stafford County
- LEED Standards: Legislative budget includes language requiring all new and renovated state buildings over 5000 square feet to be built to at least meet LEED standards (i.e., using energy and environmental designs).
- Energy Star rated Appliances and Equipment: State agencies and institutions are required to purchase these when available.
- Daniel Boone Visitor's Center: The $100,000 annual grant proposed by the Governor was eliminated in legislative budget.
- Non-profit language: The amendment that would have permitted non-profit organizations to conduct revenue generating activities in state parks to benefit department programs was not added to the legislative budget.

Attachment #2

**GENERAL ASSEMBLY REPORT**
**March 20, 2008 – Virginia Soil and Water Conservation Board**

**Natural Resources Funding/Nonpoint Funding**

**HB1335 NR funding for Ag BMPs; allocates revenue generated by sales and use tax. (Companion to SB511)**
*Patrons:* Landes, Armstrong, Barlow, Bouchard, Brink, Carrico, Dance, Gilbert, Ingram, Lewis, Lingamfelter, Lohr, Marshall, D.W., May, Moran, Morgan, Nutter, Peace, Plum, Pogge, Poindexter, Saxman, Scott, E.T., Shannon, Sherwood, Sickles, Valentine, Ware, O., Ware, R.L. and Wright; Senators: Blevins, Deeds, Edwards, Hurt, Lucas, Puckett, Quayle, Reynolds, Ticer and Vogel
Approved by Governor (Chapter 643)

**SB511 NR funding; revenue generated by sales and use tax to fund agricultural practices. (Companion to HB1335)**
*Patrons:* Whipple, Blevins, Deeds, Edwards, Hurt, Lucas, Northam, Obenshain, Puckett, Quayle, Reynolds, Ticer and Vogel; Delegates: Armstrong, Barlow, Bouchard, Brink, Dance, Ingram, Lewis, Lingamfelter, Moran, Morgan, Plum, Scott, E.T., Shannon, Sherwood, Sickles, Valentine and Wright
Passed House and Senate

As introduced, the legislation allocated annually 10 percent of the revenue generated by a one percent sales and use tax, not to exceed $100 million, to fund agricultural best management practices. The sales tax allocation would have been deposited into the newly established Virginia Natural Resources Commitment Fund and distributed to the Department of Conservation and Recreation's Agricultural Best Management Practices Cost-Share Program for the implementation of agricultural best management practices (BMP).

As passed, the bill establishes the Virginia Natural Resources Commitment Fund but the sales tax provision was removed. The Fund would be capitalized with appropriated funds and moneys from public and private sources. Beginning July 1, 2008, and for the next 10 years, moneys in the Fund would be distributed to the Department of Conservation and Recreation's Agricultural Best Management Practices Cost-Share Program for the implementation of agricultural best management practices (BMP). Fifty-seven percent of the moneys are to used for matching grants to implement BMPs on agricultural lands exclusively in the Chesapeake Bay watershed and 38 percent of the moneys would be used for all other lands in the Commonwealth. Five percent of the moneys would be allocated to soil and water conservation districts.

**HB727 NR funding; allocates annually percentage of revenue generated by sales & use tax to Ag BMPs and local PDR programs; includes a phase-in.**
*Patron:* Scott, E.T.

Allocates annually to natural resources funding a percentage of the revenue generated by a one percent sales and use tax. The allocations would be as follows: (i) 5 percent of the revenue generated by a one percent sales and use tax for the 2008-2009 fiscal year; (ii) 7.5 percent for the 2009-2010 fiscal year; (iii) 10 percent for the 2010-2011 fiscal year; and (iv) 12.5 percent for the month of July 2011 and for each month thereafter but ending for the month of June 2018. The allocation for any fiscal year would not exceed $175 million.
One-third would be used to provide matching grants to the local purchase of development rights programs and two-thirds would be distributed to the Ag BMPs.
Left in House Appropriations

**SB470 NR funding; uses recordation tax and unused land preservation tax credits; would fund PDR, VLCF, Ag BMPs.**
*Patron:* Hanger
Provides annual funding for natural resources from (i) 20 percent of the remaining revenues of state recordation taxes that are not currently allocated and (ii) unallocated land preservation tax credits in each calendar year. Of the revenues allocated to natural resources, 17 percent would be used to provide matching grants to local purchase of development rights programs, 16 percent would be distributed to the Virginia Land Conservation Fund, and 67 percent would be distributed to the Agricultural Best Management Practices Cost-Share Program for agricultural best management practices.
Continued to 2009 in Senate Finance

**SB513 and HB360 Nonpoint source pollution reduction; Clarifies that the Governor & General Assembly can provide direct funding to DCR for WQIF. (AGENCY BILLS)**
*SB513 Patron:* Hanger
*HB360 Patrons:* Bulova and Plum
Authorizes the Governor and General Assembly to provide additional funding in excess of the amount deposited in the Water Quality Improvement Fund from a budget surplus to fund nonpoint source pollution reduction activities.
SB513 Approved by Governor (Chapter 278)
HB360 Approved by Governor (Chapter 500)

**<u>Water Quality</u>**

**HB392 Stormwater ordinances; authorizes localities classified as MS4 to enact.**
*Patron:* Bulova
Authorizes localities classified as MS4 stormwater localities to enact ordinances to enforce stormwater permits. The bill would give these localities the authority to seek civil charges and injunctive relief, and impose civil penalties. Any person who willingly or knowingly violated the ordinance would be subject to a criminal penalty of a Class 1 misdemeanor.
Approved by Governor (Chapter 14)

**HB962 and SB454 Residential Property Disclosure Act; disclosure of stormwater detention facilities.**
*HB962 Patron:* Shannon
*SB454 Patrons:* Petersen; Delegate: Eisenberg
Requires the owner to disclose to the purchaser prior to settlement the presence of any storm water detention facilities on the property.
HB962: Left in General Laws
SB454: Continued to 2009 in Senate Courts of Justice; Subject matter referred by letter to Housing Commission pursuant to Senate Rule 20 (L)

**HB976 and SB457 Single lot development; developers to provide stormwater management.**
*HB976 Patron:* Shannon
*SB457 Patrons:* Petersen; Delegate: Eisenberg
Provides that the developer of a single lot shall provide storm water management where substantial redevelopment of such lot is proposed. Substantial redevelopment" shall be deemed to occur when land-disturbing activities occur on more than 15 percent of the square footage of any single lot.
HB976: Stricken from docket by Counties, Cities and Towns
SB457: Stricken at request of Patron in Committee on Local Government

**HB1552 E&S plan; file specifications for stream restoration banks annually.**
*Patron:* Lingamfelter
Allows any person creating and operating stream restoration banks in more than one jurisdiction to file general erosion and sediment control specifications for stream restoration banks annually with the Virginia Soil and Water Conservation Board.
Approved by Governor (Chapter 23)

**HB1567 Nutrient management training; voluntary program for commercial providers of lawn care, etc.**
*Patron:* Marsden
Expands an existing training program for nutrient management training to include a voluntary program for commercial providers of lawn care or landscaping services to reduce nonpoint source pollution.
Continued to 2009 in House Agriculture, Chesapeake and Natural Resources

**SB135 Fertilizers; commercial applicator to obtain soil analysis of property.**
*Patron:* Stuart
Requires the Board of Agriculture and Consumer Services to adopt regulations to certify the competence of contractor-applicators and licensees who apply any regulated product to nonagricultural lands. The regulations shall establish (i) training requirements and (ii) proper nutrient management practices in accordance with § 10.1-104.2, and including soil analysis techniques, equipment calibration, and the timing of the application. The Board is to consult with the Department of Conservation and Recreation and a committee of stakeholders in the development of the regulations. Any contractor applicator who applies the regulated product without first obtaining training required by the regulation is

subject to up to a $250 civil penalty. Specifies that contractor-applicators and licensees who apply any regulated product to nonagricultural lands shall comply with the regulations within 12 months of the effective date of the regulations.
Passed Senate and House

**SB378 Soil & Water Conservation Board to promote reuse and reclamation of stormwater.**
*Patron:* Stuart
This amended legislation in the nature of a substitute provides the Department of Conservation and Recreation's Virginia Soil and Water Conservation Board authorization to adopt regulations that promote the reclamation and reuse of stormwater in order to protect state waters and the public health and to minimize the direct discharge of pollutants into state waters.
Approved by Governor (Chapter 405)

**Soil and Water Conservation Districts**

**HB119 Attorney General to represent soil and water conservation districts.**
*Patron:* Landes
Requires the Attorney General to represent Soil and Water Conservation Districts in any suits or actions brought by the districts or district directors. Currently, attorneys for the Commonwealth are charged with the responsibility of representing districts and district directors.
Approved by Governor (Chapter 577)

**State Parks**
**HB109 Firearms; regulation thereof by state entities.**
*Patron:* Cole
Prohibits a state agency, council, commission, or other entity from adopting any rules, regulations, or policies governing the purchase, possession, transfer, ownership, carrying, storage, or transporting of firearms, ammunition, or components or combinations thereof, unless expressly authorized by statute. The prohibition does not apply to state, local, and regional correctional facilities or mental health facilities, nor is it to be construed to prohibit a law-enforcement officer from acting within the scope of his duties. Any rule, regulation, or policy adopted prior to July 1, 2007, except for those specifically authorized by statute, will be invalid.
Left in House Militia, Police and Public Safety

**HB378 Golden Age Card Program; DCR to establish.**
*Patrons:* Marshall, D.W., Athey, Carrico, Cole, Cosgrove, Crockett-Stark, Massie, Merricks, Morgan and Sherwood
Provides for DCR to establish a Virginia Golden Age Card authorizing citizens of the Commonwealth who are 60 years of age or older to enter the camping facilities of Virginia's state parks at a 50% discount for a maximum of 14 days in any calendar year.
Continued to 2009 in House Agriculture, Chesapeake and Natural Resources

**HB1448 State park employee housing; DCR authority to lease private residential property.**
**(AGENCY BILL)**
*Patron:* Plum
Authorizes the Director of DCR to lease private residential properties that are near state parks and then subsequently sublease these properties to state park employees.
Approved by Governor (Chapter 22)

**SB261 Law Officers' Retirement System; adds conservation officers as member.**
*Patron:* Deeds
Adds conservation officers of DCR as members of VALORS.
Continued to 2009 in Senate Finance

**SB303 Lake Anna State Park; authorizes right-of-way easement.**
**(AGENCY BILL)**
*Patron:* Houck
Authorizes DCR to grant a 30-foot-wide easement across a portion of Lake Anna State Park in exchange for the extinguishment of an existing right-of-way easement.
Approved by Governor (Chapter 271)

**SB254 Staunton River State Park; authorizes 20-foot wide easement across portion.**
**(AGENCY BILL)**
*Patron:* Ruff
Authorizes DCR to grant a 20-foot wide easement across a portion of the Staunton River State Park in exchange for the extinguishment of an existing right-of-way easement.
Approved by Governor (Chapter 270)

**Dam Safety**

**HB837 Dam break inundation zones; localities with authority to address development. (AGENCY BILL)**
*Patrons:* Sherwood, Eisenberg, Landes, Nichols, Plum, Scott, E.T., Shuler and Ware, R.L.; Senators: Deeds, Hanger, Puckett and Ticer
Provides localities with the authority to address development in dam break inundation zones. The bill directs developers to assist dam owner with required upgrades and requires additional disclosure and notification procedures for dam owners. The bill contains an enactment clause that specifies that the bill's provisions do not affect site plans or subdivision plans submitted prior to the effective date of the act.
Passed House and Senate with Governor’s recommendations; Enacted Chapter 491

**SB594 Exempts dam owners of those not dangerous & historically significant from correcting deficiencies.**
*Patrons:* Norment and McDougle; Delegates: Barlow, Hamilton and Pogge
Exempts the owners of historically significant dams that do not present an imminent danger from having to correct deficiencies identified in a dam safety inspection conducted by DCR.

Left in Senate Agriculture, Conservation and Natural Resources

**Outdoor Recreation**

**HB260 Abandoned railroad corridors; allows DCR to acquire.**
*Patron:* Fralin
Allows the Department to acquire abandoned railroad corridors for use as greenways, linear parks, or potential transportation corridors.
Tabled in House Agriculture, Chesapeake and Natural Resources

**HB1142 Delays reversion of Virginia Explore Park to Commonwealth.**
*Patron:* Fralin
Delays the reversion of title to real property from the Virginia Recreational Facilities Authority to the Commonwealth, in the event that the Authority ceases to operate a project, until July 1, 2009. This bill contains an emergency clause.
Passed House and Senate

**HB1496 and SB740 Establishes Southwest Regional Recreation Authority.**
*HB1496 Patron:* Bowling
*SB740 Patron:* Puckett
Establishes an authority for Southwest Virginia to create a multi-purpose regional recreational area similar to, and potentially adjoining, such areas in West VA and KY. The recreational area might consist of various trails and other amenities on private open-space lands where members of the public could, for example, hunt, fish, boat, camp, ride motorcycles or all-terrain vehicles, ride mountain bikes, or ride horses. The SW Regional Recreation Authority would have various powers to manage the area by raising funds, employing staff, and adopting rules punishable by civil penalties. Landowners participating in the recreation area would be afforded a limited liability for persons engaging in recreational activities on their property.
HB1496: Passed House and Senate with Governor's recommendations; Enacted Chapter 645
SB740: Passed House and Senate with Governor's recommendations; Enacted Chapter 648

**HJ100 Study by DCR of privatizing hospitality-related services at state parks.**
*Patron:* Poisson
Provides for DCR to study the privatization of hospitality-related services and functions at Virginia's state parks.
Stricken from the docket by House Rules

**Scenic River**

**HB455 and SB40 Designates portions of North and South Mayo Rivers in Henry County as State scenic rivers.**
*HB455 Patrons:* Merricks, Armstrong and Marshall, D.W.; Senator: Reynolds
*SB40 Patrons:* Reynolds and Hurt; Delegate: Eisenberg
HB455: Approved by Governor (Chapter 14)
SB40: Approved by Governor (Chapter 336)

**Bay Preservation Act**

**SB386 Chesapeake Bay Preservation Act; redefines localities that are under jurisdiction.**

*Patron:* Martin

Redefines the localities that are under the jurisdiction of the Chesapeake Bay Preservation Act (CBPA). The bill changes the definition of which localities constitute Tidewater Virginia to include only those localities wholly east of Interstate 95.

Stricken at request of Patron in Senate Agriculture, Conservation and Natural Resources

**HB528 Chesapeake Bay Preservation Act; ordinance appeals.**

*Patron:* Pogge

Allows localities subject to the Chesapeake Bay Preservation Act to adopt an ordinance that establishes a time limit of at least 30 days for an aggrieved party to appeal a decision of the local board to the circuit court.

Approved by Governor (Chapter 15)

**Land Conservation**

**HB662 Land preservation tax credit program; confidentiality of taxpayer information. (AGENCY BILL)**

*Patron:* Lewis

Includes as a confidential tax document any document that is required to be filed with the DCR under the land preservation tax credit program.

Passed House and Senate; Tax privacy issue to be discussed in Senate Finance subcommittee

**HB1283 Land preservation tax credit; elimination of verification of conservation value.**

*Patrons:* Athey, Carrico, Cole, Lohr, Merricks, Scott, E.T. and Sherwood

Eliminates DCR verification of conservation value of land donations that will result in $1 million or more in land preservation tax credits. Currently, as a condition of the issuance of a land preservation tax credit, the Department must verify the conservation value of donations that will result in $1 million or more in tax credits. The bill also would establish a review and administrative appeal process in which proposed conveyances of donations would be reviewed by the Department of Taxation for purposes of determining whether the proposed donation would qualify for a land preservation tax credit. The review process would eliminate the current requirement that the taxpayer execute or record the land donation prior to applying for a land preservation tax credit.

Left in House Finance

**SB259 Land preservation tax credit; elimination of verification of conservation value.**

*Patrons:* Deeds and Houck; Delegate: Scott, E.T.

Eliminates DCR verification of conservation value of land donations resulting in $1 million or more in tax credits if the grantee for the donation is the Virginia Outdoors Foundation.

Continued to 2009 in Senate Finance

**SB641 Land pres. tax credit; conveyance for public parks, recreational areas, or trails.**
*Patron:* Ticer
Increases the land preservation tax credit to 60 % of fair market value of any land that is conveyed for the purpose of a public park, public recreational facility, or public trail access easement. The board of supervisors of the county or the council of the city in which such land is located would be required to pass a duly adopted resolution.
Continued to 2009 in Senate Finance

**SB744 Land preservation tax credit; establishes process where properties are registered with Dept. of Tax.**
*Patron:* Hanger
Establishes a process by which properties are to be registered with the Dept. of Taxation prior to any tax credit being allowed for a donation. Requires a written certification by a licensed reviewer certifying that the property, or interest therein, is in compliance with pre-registration standards established by the Department. Includes standards for the public benefit derived from the donation and standards for the use of the property by the donee. The Tax Dept. would be authorized to license qualified applicants to perform the review for certification; be allowed to levy and collect fees for licensure to cover the direct expenses for the program. The substitute retains DCR's review of tax credits of $1 million or greater.
A substitute was introduced and the bill was continued to 2009 in Senate Finance

**State Capital Process**

**HB1547 Creates the 21st Century Capital Improvement Program.**
*Patrons:* Putney, Abbitt, Albo, BaCote, Bowling, Brink, Cox, Dance, Frederick, Hamilton, Hogan, Howell, A.T., Howell, W.J., Hugo, Hull, Ingram, Joannou, Jones, S.C., Landes, Lingamfelter, May, Morgan, O'Bannon, Phillips, Rust, Scott, J.M., Shannon, Sherwood, Tata and Ware, O.

Creates the 21st Century Capital Improvement Program for the orderly and systematic programming and financing of capital projects throughout the Commonwealth that will be revised annually for the acquisition, development, enhancement, planning, or replacement of public facilities over a multiyear period. In addition, the bill provides an initial list of the Program's projects; a list of projects to be constructed by bonds issued by the Virginia College Building Authority and the Virginia Public Building Authority, and a list of projects whose planning costs will be appropriated in the Budget Bill.
Failed to pass; Will be reintroduced and taken up in a special Session

**SB795 College Building Authority; certain projects financed thereby.**
*Patrons:* Charles J. Colgan

Authorizes the issuance of bonds under the Virginia Public Building Authority in a principal amount not to exceed $1,103,600,000, and under the Virginia College Building Authority with the principal amount of bonds issued for all such projects not to exceed $1,353,729,000. The bill also authorizes the State Treasurer to advance treasury loans in an amount not to exceed the costs of planning for certain capital projects with the total amount of treasury loans advanced for the costs of planning of all such projects not to exceed $95,570,000.
Failed to pass; Will be reintroduced and taken up in a special Session

Attachment #3

**DRAFT** DCR/SWCD Grant Agreement No. «AgreementN» **ATTACHMENT A**

**Soil & Water Conservation District (district)**
**FY ~~2007-2008~~ 2008-2009Performance "Deliverables"**
**For Acceptance of DCR Funds to Carry Out This Agreement**
**and for Operating Expenses to the Extent That Funding Permits**

- Administer and provide technical assistance with nonpoint source pollution reduction and related natural resource conservation efforts including support and/or implementation of the following:

  The Virginia Agricultural BMP Cost-Share program
  The Virginia Agricultural BMPs Tax Credit Program
  Virginia Water Quality Improvement Act
  Conservation Reserve Enhancement Program
  Voluntary BMP installation by property owners/managers
  TMDL (Total Maximum Daily Load) development and implementation processes
  Agricultural Stewardship Act
  BMP Revolving Loan Program
  Small Business Environmental Assistance Fund Loan Program
  Support the Governor's 400,000 acre land conservation initiative

- Wherever applicable, actively participate in the local development and implementation of:
  - **Chesapeake Bay and Virginia Waters Clean-Up Plan (**§62.1-44.117**) actions**
  - ~~Tributary Strategies~~
  - Small Watershed Management plan development
  - Sound land use planning approaches
  - Environmental Education programs
  - ~~Chesapeake 2000 Agreement goal~~s
  - Nutrient management plans

- ~~Deliver local natural resource conservation programs with consideration to resource needs and issues affecting watersheds within the district, and watersheds that flow beyond the district boundaries.~~
- Support and foster partnerships **to deliver natural resource conservation programs** with local governments, the agricultural community, agencies, organizations, councils, roundtables and others to protect soil resources, ~~to~~ improve water quality, and further natural resource conservation**; giving consideration to watersheds within the district, and watersheds that flow beyond district boundaries.**
- Hold monthly meetings with a quorum of district board members present.
- Develop and maintain a longer term plan that enhances district capabilities, on a 4 year cycle consistent with the election cycle of district directors, through a facilitated process with participation by district stakeholders. Review of the plan is expected at least annually during a scheduled meeting of the district board. ~~Plans should include watershed priorities.~~
- Prepare and follow an annual plan of work that connects to the district's longer term plan.
- Submit meeting minutes from all routine and special meetings of the district board and a copy of district publications (including an annual plan of work, an annual report, the longer term 4 year plan) to the district's assigned Conservation District Coordinator (CDC).

- Submit quarterly financial reports to request funding drawdowns from DCR to the district's assigned CDC.
- Maintain employee position descriptions, performance expectations and the district personnel policy; conduct timely employee evaluations. Provide the district's assigned CDC with a copy of employee position descriptions and the district personnel policy once updated documents are resolved.
- Provide data, and other information needed for preparation of legislated studies and reports that pertain to programs and services delivered by SWCDs, as requested by DCR to support nonpoint source pollution reduction initiatives that improve water quality.
- Ensure staff implementing the Virginia Agricultural BMP Cost-Share Program, and other agricultural related programs, seek and maintain needed conservation planning certification and job approval authority for appropriate BMPs within the service area of the district.
- Complete and submit an annual report in a format provided by DCR, reflecting local participation in the agricultural programs and services implemented by the district.
- In the interest of local community public health, safety and water quality, assist DCR by notifying DCR of any dams that the district may have identified that could threaten life or property**.** ~~and dams that were formerly non-regulated prior to the July 1, 2002 change in the Code of Virginia which pertains to the definition of impounding structures.~~

*Adopted by the Virginia Soil and Water Conservation Board* *May 26, 2004*
*Revised and continued* *May 17, 2007*

Attachment #4

**NRCS REPORT**
**VA Soil & Water Conservation Board Meeting**
**March 20, 2008**
**Patrick Henry Building**
**Richmond, VA**

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## BUDGET UPDATE

Virginia and NRCS as a whole are in tight budget times. Over the past 2 years, Virginia's budget has been cut $2 million. To date, we have taken a million dollar cut in CRP alone.

We are using detailed employees to cover key positions instead of filling vacancies. We have 13 vacancies we cannot fill at this time. We have restricted purchasing and travel to only essential and emergency needs.

## COMPUTER IT UPDATE

USDA organized the Office of Chief Information Officer (OCIO) to manage and maintain all USDA computers. OCIO is funded by assessments to NRCS, FSA, and RD. The assessment charge to NRCS is $3,000 per computer to pay for all software licenses, Internet access, and on-site assistance.

To control costs, beginning in FY-09, the NRCS national headquarters (NHQ) is assigning an allotted number of computers per state that they will financially support. $3,000 per computer will be charged for every computer on the USDA network exceeding the NHQ allotment. VA NRCS will pass this cost to the district for every computer the SWCD chooses to keep on the USDA network above their allotted number. A letter was sent to each SWCD requesting a response by March 30 asking how their computers are used and the number they request to stay on the USDA network. Each SWCD will be notified by May 1 of their number of computers NRCS will financially support on the USDA network.

## FARM BILL PROGRAMS REPORT

The current Farm Bill has been temporarily extended for a second time. The new expiration date is April 18, 2008.

### Environmental Quality Incentive Program (EQIP)

As of March 13, EQIP funds are 93% obligated. An additional 35 signed applications are waiting processing. Field staff has done an excellent job of developing 481 contracts and obligating the $10.5 million originally allocated to Virginia for EQIP. Virginia received an additional $510,000 to fund more EQIP applications on March 11. We have an application backlog of $2.8 million which could not be funded during FY'08. The backlog will be addressed under the new Farm Bill and the FY '09 allocations.

**Wildlife Habitat Incentive Program (WHIP)**

NRCS has approved 44 WHIP contracts totaling $513,000 for 2008. WHIP funds have been crucial to addressing many different resource concerns in Virginia such as:

- A $112,000 contract with Virginia Marine Resources Commission in partnership with the Chesapeake Bay Foundation. The funds will be used to demonstrate new technology for establishing oyster reefs using "oyster spat" on shells. More than 300 species of aquatic organisms depend on this ecosystem for survival.

- NRCS obligated more funds for wildlife habitat improvement than any prior year. $600,000 funded under EQIP brought the total obligations to nearly 1.2 million.

- The VA Department of Game and Inland Fisheries completed a restoration project of planting Atlantic Cedars on 70 acres under the WHIP Restoration and Management of Rare and Declining Habitats, on their Cavalier Wildlife Management Area site.

**Conservation Reserve Program (CRP)**

Four State Acres for Wildlife Enhancement (SAFE) proposals were approved under CRP to restore habitat for at risk species. Proposals include restoring grasslands in the Culpeper basin, expanding longleaf pine restoration in Southeast Virginia, statewide use of 700 foot buffers for forest interior nesting birds, and establishing trees and shrubs for migratory birds on Virginia's Eastern Shore.

## WATERSHED PLANNING AND SURVEYS

NRCS has completed the watershed plan for the North Fork Powell River Watershed in Lee County. The final plan is a land treatment project that will address water quality issues associated with abandoned mines and acid mine drainage. The project sponsors are the Daniel Boone SWCD, Lee County, and the Virginia Department of Mines, Minerals, and Energy. The Plan has been submitted to Chief Arlen Lancaster for authorization. However, we have been

notified that all new watershed plan authorization requests are being deferred at this time. If approved and funded, the project will provide 65% cost-share for the installation of needed measures in this watershed. The estimated construction cost is $963,000.

## DAM REHABILITATION

**South River Site 23 (Robinson Hollow) in Augusta County** – Construction has been completed on the rehabilitation of the Robinson Hollow Dam. This was a joint project between NRCS, DCR – DSWC, Headwaters SWCD, Augusta County, and the City of Waynesboro. The total project cost was $1,514,101. The NRCS cost was $984,166. The project was recognized by the Virginia Lakes and Watershed Association (VLWA) as the best rehabilitation project in Virginia for 2007. The Headwaters SWCD was presented a plaque at the VLWA Annual Meeting on March 11, 2008.

**South River Site 26 (Inch Branch) in Augusta County** – Construction has begun on the rehabilitation of the Inch Branch dam. The project is being constructed by Hammond – Mitchell, Inc. of Covington, Virginia at a contract price of $640,035. The auxiliary spillway will be widened by 50 feet, the riser will be replaced, a new access road built, and all disturbed areas will be seeded and mulched. Construction is scheduled to be completed in June 2008.

**South River Site 25 (Toms Branch) in Augusta County** – NRCS has initiated the final design process of Toms Branch dam rehabilitation. An outside consultant has been hired to complete the final design. The design should be completed by June and a construction contract awarded by September 2008. Construction is scheduled for FY-09.

**Pohick Creek Site 4 (Royal Lake) in Fairfax County –** Fairfax County has opened bids for the rehabilitation of Royal Lake but are still evaluating the seven companies that submitted bids. Bids ranged from $1.5 - $2.27 million. A local contract will be administered by Fairfax County for construction that begins in April or May 2008.

The cultural resources work has been completed on the recovery of archaeological materials at this dam. The prehistoric materials date back almost 4,000 years. The artifacts are at the curator and will be on display at the Fairfax County Museum. NRCS is developing a training video from the work.

**Pohick Creek Site 3 (Woodglen Lake) in Fairfax County** – NRCS has completed a draft plan for rehabilitation of Woodglen Lake. The comment period closes on March 17, 2008. A final plan should be completed by May 2008.

**Pohick Creek Site 2 (Lake Barton) in Fairfax County** – NRCS is developing a draft plan for rehabilitation of Lake Barton. The draft plan should be complete by June and a final plan by September 2008.
**Moratorium Placed on New Assessments of Dams** – The Chief of NRCS has placed a moratorium on assessments of new dams in FY-08. In FY-07, NRCS received 4 new requests for planning assistance under the Dam Rehabilitation Program. These sites need to be assessed and a risk analysis completed for each of them. The four sites are South River Watershed in Augusta County Site 7 - Lake Wilda; South River Watershed in Augusta County Site 19 - Waynesboro Nursery Lake; Upper North River Watershed in Augusta County Site 10 - Todd Lake; and Johns Creek in Craig County - Site 3.

## WATERSHED OPERATIONS

**Buena Vista Flood Control Project –** A construction contract is ongoing to replace two undersized bridges in Buena Vista. The contract for $860,165 will be paid 100% by PL-566 watershed funds. The contract should be completed in May 2008.

In FY-08, NRCS received funds to acquire and demolish one home that is located in the floodplain on the Chalk Mine Run tributary in Buena Vista. The total cost is estimated at $41,000.

## RAPID WATERSHED ASSESSMENT

**South Fork Shenandoah River** – The Virginia Department of Conservation and Recreation has completed a Rapid Watershed Assessment (RWA) on the South Fork of the Shenandoah River. NRCS administered a cooperative agreement with DCR which became effective July 1, 2006 and provided nearly $38,000 in Cooperative Conservation Partnership Initiative funds to collect and analyze data, and to develop a watershed profile.

**North Fork Shenandoah River** – NRCS is developing a Rapid Watershed Assessment on the North Fork of the Shenandoah River. This is a multi-state project between West Virginia and Virginia. The assessment will be completed by NRCS staff by the end of June 2008.

## ENGINEERING TRAINING TO DISTRICT EMPLOYEES

State Conservation Engineer Mat Lyons and his staff are providing training on engineering basics to more than 50 new district employees at three locations across the state during March and April. This training is part of an agreement with DCR for NRCS engineering assistance. This is not a one time event. It is a training process which can be used in the long term to provide a sound technical foundation for SWCD employees. The estimated cost of this training, if provided commercially, would exceed $50,000.

## USDA OUTREACH CONFERENCE

On March 13, 2008, USDA held a conference at Virginia State University to inform small farmers and community based organizations of services available from USDA. Approximately 250 people attended the session which covered such topics as loans and grant opportunities, programs for managing forest lands and farmlands, and tips and tools for improving farm management. USDA Chief of Staff Dale Moore provided an update on the 2007 Farm Bill. Twelve federal agencies, the Virginia Department of Forestry and Virginia State University collaborated on the conference.

## SOIL SURVEY

The field mapping for Bedford and Fredericksburg Cities has been completed and approved. Buckingham and Patrick Counties' soil survey maps have been sent to be scanned and edited for the digital product for eventual placement on the NRCS Web Soil Survey. Brunswick County soil survey manuscript has been sent to the English editor. Half of the counties in Virginia have been released for National Resource Inventory (NRI) 2006 local data collection.

## OFFICE CONSOLIDATIONS

- Orange Service Center consolidated with the Culpeper Service Center in October, 2007.
- Clintwood Service Center consolidated with the Lebanon Service Center in January, 2008
- Suffolk Service Center consolidated with the Smithfield Service in February, 2008

Attachment #5

**Department of Conservation and Recreation**
Report to the Virginia Soil & Water Conservation Board
March 20, 2008

**1. Conservation Partner Employee Development**
The conservation partners continue to work through the "JED" –Joint Employee Development system which relies on 4 regional teams (coordinated through a separate state level JED team) to address training and development of SWCD and other partner agency field staff. The state level JED team meets no less than quarterly through face to face meetings or through conference calls. The group last met on January 16th, 2008 at the DOF state office in Charlottesville and will hold their next meeting as a conference call on April 30, 2008.

The state level JED team continues to focus on delivery of 3 "core courses". The short course "Conservation Selling Skills" was delivered on November 7th and 8th , 2007 at the Dorey Park facility east of Richmond. NRCS is supporting delivery of the EP&I (Effective Presentation and Instruction) short course with an initial focus of training course instructors that will deliver the course through the 4 regional JED teams. The third "core course" –Conservation Orientation for New Employees is delivered regionally when sufficient need exists to justify the sessions. Broader training needs are being addressed regionally through the 4 regional JED teams.

**2. Orientation Training for Newly Elected SWCD Directors**
From the November, 2007 elections, 57 of the 239 elected directors that took office January 1st, 2008 are new to their office (non-incumbents). Arrangements for 3 regional programs are being finalized for delivery in mid-April. Program locations are Wytheville (April 7), Charlottesville (April 9) and Richmond (April 11) An announcement flyer with program details has been issued to SWCDs and is available through DCR's CDCs. Until these April sessions are delivered, the CDCs continue to provide training for new directors in smaller group settings and share information that pertains to the Virginia Freedom of Information Act, the organizational structure of SWCDs, personnel and fiscal information and director responsibilities.

**3. SWCD Dams:**
The SWCD dam owner work group comprised of representatives from the 12 SWCDs that own dams, DCR, NRCS and others, are now meeting approximately every 3 months (a quarterly annual schedule) now that most of the major training needs of the group have been addressed. Of the roughly 4 meetings per year, one will address Emergency Action Plans, another will address routine annual maintenance of district dams and the remaining two meetings will address priority topics identified by the group. The group last met on January 24th in Charlottesville had over 30 in attendance. The focus of that meeting was annual dam maintenance. The group will meet again on April 24th and the primary topic will be emergency action planning.

**4. Agricultural BMP Cost-Share Program:**
The reallocation of unspent 2007 cost-share funds has been finalized with twenty-six Soil and Water Conservation Districts receiving some additional cost-share funds to be utilized in program year 2008. Third quarter disbursements have been authorized and are being received by districts. Conservation District Coordinators are currently discussing transferring contracted practice allocations between districts to best utilize these funds. The Agricultural BMP Cost-Share Program Technical Advisory committee met February 28th. Next meeting is April (16th) for closure on recommendations of changes to the program that will begin July 1, 2008.

On January 31st DCR staff along with representatives from SWCDs and NRCS heard the independent contractor (CXI's) presentation of their assessment and recommended alternatives for modernization of the Ag BMP tracking program. A subset of the group has been formed by DCR to serve as a steering committee that will determine what improvements to the tracking program need to be initiated and what improvements need to wait for additional funding. The steering committee is seeking a VITA (Virginia Information Technology Agency) project manager to assist with guiding the actions to be taken.

**5. Conservation Reserve Enhancement Program (CREP):**
The federal Farm Bill has received attention several times in recent weeks with the desired outcome of moving the bill forward and out of the stalled conference committee. At present, no resolution has been reached. In the meantime the Consolidated Appropriations Act, 2008, signed into law on 12/26/07, provides a continuation of CRP authority until March 15, 2008. Local FSA offices are still accepting CRP-1 contracts until that time, it is hoped that the Farm Bill will be authorized by the March 15th extension. If not, another extension of the 2002 Farm Bill may be considered. USDA and Virginia have signed an addendum to the Southern Rivers and Chesapeake Bay CREP Agreements that eliminate a specific ending date and will allow CREP enrollment in Virginia so long as the Conservation Reserve Program (CRP) is authorized.

**6. Marketing Agricultural Conservation Messages:**
DCR is winding down a contract with Open Door Communications (ODC, formerly McFadden-Clay Marketing Group) that began over two years ago with special funding from Virginia Income Tax Checkoff contributions for Chesapeake Bay restoration. Market research about Virginia farmers was conducted to understand how to best reach farmers with conservation messages and how they perceive staff of conservation partner agencies as technical resources for conservation. The research and outreach materials were tested in the Shenandoah Valley during 2007.

ODC in collaboration with DCR will hold 3 regional programs (March 19 in Culpeper, March 25 in Norge, March 27 in Farmville) to share their research, marketing products and the final materials still under development, for the benefit of SWCDs, NRCS, VCE and others that have interest in this work. A flyer that provides details for attendance has been issued to the conservation partner agencies. DCR's Conservation District Coordinators may be contacted for any questions.

**7. Erosion and Sediment Control Program**
The Virginia Soil and Water Conservation Board and DCR have established a goal of 90% of 165 locality adopted erosion and sediment control programs to be consistent with the Erosion and Sediment Control Law and Regulations by July 2010. To meet this goal, DCR staff implemented a 5-year local program review cycle in FY2005. DCR staff has completed 104 reviews and 72 programs (69%) have been determined to be consistent with the law and regulations. The program reviews for the remaining 61 localities will be completed in 2009.

**8. Stormwater Management Program**
The Virginia Soil and Water Conservation Board and DCR have two regulatory actions underway regarding the stormwater management program: (1) involves revisions to Part II: Stormwater Management Program Technical Criteria and Part III: Local Programs, (2) involves revisions to Part XIII: Fees. Information regarding the draft proposed regulations for both regulatory actions may be found on the DCR webpage at www.dcr.virginia.gov/lawregs.

**9. Nutrient related actions with Virginia's poultry industry**

The Commonwealth is currently implementing a series of strategies to better manage poultry waste as identified in the Chesapeake Bay and Virginia Waters Clean-Up Plan prepared by the Secretary of Natural Resources in January, 2007.

- Phosphorus feed management agreements have been signed between DCR and all six major poultry integrators. These agreements seek a 30% reduction in phosphorus in poultry litter by December 31, 2010 by optimizing use of feeds enzyme additives and require annual monitoring by DCR.
- The Virginia poultry litter transport incentive project has been launched in partnership with Virginia Poultry Federation, funded by $300,000 from WQIF and $300,000 by poultry companies. The DCR managed project will move litter out of Rockingham and Page counties and will encourage litter transport beyond the area where poultry litter already typically travels.
- The State Water Control Board issued a Notice of Intended Regulatory Action to consider amending Virginia Pollution Abatement poultry regulations to place some additional requirements on transfers of poultry litter to end-users. More than 80% of poultry waste is currently transferred from permitted poultry farms to end-users and is not covered by the current regulation.