

**Joint Meeting**  
**Virginia Soil and Water Conservation Board**  
**and the**  
**Virginia Association of Soil and Water Conservation Districts Board of Directors**  
**Wednesday, December 8, 2004**  
**Hotel Roanoke**  
**Roanoke, Virginia**

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

Granville M. Maitland, Vice Chair  
Linda S. Campbell  
Robert M. Hall  
W.P. Johnson  
Jean R. Packard

Joseph H. Maroon  
Benjamin H. Graham  
Susan Taylor Hansen  
Richard E. McNear  
M. Denise Doetzer

**Virginia Association of Soil and Water Conservation Districts Board of Directors Members Present**

Jim Byrne, President  
Nick Evans, Area 2 Chair  
Greg Evans, Past President  
Robert Dixon, NACD Board Member

Herbert Dunford, Area 3 Chair  
Michael Altizer, Area 4 Chair  
Wilkie W. Chaffin, Secretary/Treasurer  
Ricky Rash, First Vice President

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

David L. Moyer, Chairman

**Staff**

William G. Browning  
Michael R. Fletcher  
Mark B. Meador

David C. Dowling  
Jack E. Frye

**Others**

J.C. Berger  
Donald O. "Spec" Campen  
Daphne Jamison  
Stacy Vargo

David Bulova  
Gary D. Cross  
Stephanie Martin

**JOINT MEETING**

***Call to Order***

Mr. Maitland called the meeting to order at 9:00 a.m. He noted Mr. Moyer was not able to be in attendance. He asked members to introduce themselves.

Mr. Maroon noted that Mr. Bulova serves as a member of the Chesapeake Bay Local Assistance Board and that Mr. Campen serves on the Scenic River Board.

***Report from the Virginia Association of Soil and Water Conservation Districts***

Mr. Jim Byrne, Association President, introduced the Association officers. He noted that the Association office is moving to a new Hanover County location.

Mr. Byrne said that the December meeting is typically the time when the Association brings forward suggested names to replace outgoing members of the Board. The Association is considering four applicants.

Mr. Byrne noted that the Association was hesitant to bring forward the names at this point until interviews could be conducted. He said that he would bring the names to the January meeting.

Additionally, Mr. Byrne noted that the resolutions adopted by the Association would be brought forward to the Board at the January meeting.

***Other Business***

Ms. Packard congratulated Mr. Byrne and Mr. Evans for a successful Association meeting.

***Adjourn***

MOTION:                    There being no further business Mr. Hall moved that the joint meeting be adjourned.

SECOND:                    Ms. Packard.

DISCUSSION:            None.

VOTE:                        Motion carried unanimously.

**VIRGINIA SOIL AND WATER CONSERVATION BOARD**

***Call to Order***

Mr. Maitland called the meeting to order and declared a quorum present.

***Minutes of September 16, 2004 Meeting***

MOTION: Ms. Campbell moved that the minutes of the September 16, 2004 meeting be approved as submitted.

SECOND: Mr. Hall.

DISCUSSION: None.

VOTE: Motion carried unanimously.

***Director's Report***

Mr. Maroon gave the Director's report. He expressed appreciation to the Association. He reviewed items to be covered in the meeting agenda.

Mr. Maroon noted that Mr. Leon App has officially retired from the agency.

Mr. Maroon gave a legislative preview for the upcoming General Assembly session. He distributed the following information regarding "Proposed Legislation to Amend the Stormwater Management Act of 2004."

Purpose: To address a number of important issues that have surfaced since the major re-write of the Stormwater Act took place in the 2004 Session. These issues will administratively and fiscally impact this program if not addressed. The only section from last year's bill that is re-opened is § 10.1-603.4 (for fees).

Exempts Virginia Stormwater Management Permits (VSMP) General Permits from the APA process (Same as for certain DEQ air and water permits and VMRC wetlands permits). Without this provision, the renewal of these General Permits will need to go through a full APA process every five years and may take nearly two years to complete.

In cases where a board or commission meets to render an informal fact-finding decision or a decision on a litigated issue, if no decision is made within thirty days from agency receipt of the notice, the decision shall be deemed to be in favor of the named party. This concept does not apply to case decisions before the State Water Control Board or the Department of Environmental Quality and is not acceptable under the federal Clean Water Act. This change is needed to bring the DCR stormwater program in line with other water quality programs in the state

and is needed to provide the Virginia Soil and Water Conservation Board with sufficient time to render an informed decision

Corrects an oversight from the 2004 legislation by removing the authority for the Board of Conservation and Recreation to promulgate stormwater regulations. (This responsibility was transferred to the Virginia Soil and Water Conservation Board).

Staggers the terms of the Governor's 3 at-large appointments to the Virginia Soil and Water Conservation Board to reduce the loss of continuity within the Board every 4 years (they currently serve a term concurrent with the Governor and their simultaneous removal from the Board which has now been given responsibility for a highly technical state and federal regulatory program would cause problems).

Clearly establishes a local government reporting program under the Department's erosion and sediment control law that will enable the Department to identify land disturbing projects that also require a stormwater management construction permit.

Establishes disclosure restrictions under FOIA for proprietary information ("secret formulae", etc.) that may be discovered from effluent data received by the Department as part of the Department's permitting program. Similar provision exists under the State Water Control Law.

Corrects an oversight from the 2004 legislation by providing clear authority to establish a fee for projects between 2500 sq. ft. and 1 acre (the Attorney General's Office has advised that the current language using the word "may" on line 223 is insufficient authority on which to base such a fee).

Corrects an oversight from the 2004 legislation by providing clear authority to establish a fee schedule for municipal separate storm sewer system permit.

Allows the Stormwater Management Regulations to be amended through an exempt action to remove the out-of-date BMP nutrient removal efficiency information from the regulation and shall add it into the Virginia Stormwater Management Handbook guidance document where it may be more effectively kept up to date for public use. (Otherwise it will take 2 years to update this BMP language that is already out of date).

In other legislation Mr. Maroon noted that as a result of the budget bill the Chesapeake Bay Local Assistance Department was merged into DCR on July 1. Legislation is being prepared that will actually amend the state code to reflect this merger.

Mr. Maroon noted that there was suggested legislation to allow DCR to have access to property where dam safety inspections need to occur. He also noted that there was proposed legislation related to inundation zones.

### ***District Study Update***

Mr. Meador gave the following report on the District Study.

Overview/Charge: Actions by the 2004 General Assembly include two directives contained in the Appropriation Act which require DCR and the VSWCB to perform analysis and study of agricultural programs delivered by the SWCDs. The first directive charges the VSWCB to "...evaluate the quantitative impact of SWCD practices and funding on Virginia's water quality and land conservation goals." Reporting of certain annual statistics accompanies this charge. The second directive charges DCR with reviewing SWCD operations and identifying potential improvements in water quality and soil erosion programs. Based on findings, DCR is requested to propose changes in SWCD practices, staffing and funding. This review must consider cost-effectiveness and efficiencies with various agricultural BMPs as well as the JLARC nutrient management study (conducted according to House Joint Resolution 72). An interim report is due 12/31/04 with a final report due 12/31/05.

### Progress/actions since the last Board update (September 16, 2004):

- A study steering team has been established with representatives from the VASWCD, VSWCB, NRCS and DCR.
  - The first meeting of this group was held on November 1<sup>st</sup> with good representation and participation. Broader discussion narrowed to an initial focus of data to be collected and reported.
  - Next meeting is scheduled December 16, 2004 at NRCS. Representatives from VCE and VDACS have been requested.
  - Future meetings will be scheduled no less than quarterly in 2005.
- Discussion with VCU's (Virginia Commonwealth University) Center for Environmental Studies continues. A meeting with DCR & VCU Center staff is scheduled December 10<sup>th</sup> to explore assistance VCU may provide with this study including data collection/analysis.
- Preparation of the required interim report (due 12/31/04) has begun. In the report will be actions previously shared with this Board including some preliminary Ag BMP efficiency and cost-effectiveness analysis performed by DCR staff; expectations contained within the DCR/SWCD Grant Agreements this fiscal year for district delivery of Cost-Share and NPS programs; and overviews of actions summarized above.

***Blue Ridge SWCD Realignment***

Mr. Meador said that three final actions by the Board were needed to complete the realignment of the Blue Ridge SWCD.

**MOTION:** Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the appointment of John P. Bradshaw, Jr. and Broaddus C. Fitzpatrick; both residents of Roanoke City to serve as directors on the Blue Ridge Soil and Water Conservation District (BRSWCD) board representing Roanoke City. Both individuals must qualify for their positions by fulfilling the Oath of Office requirements (§ 49-1 et seq.) within 30 days (on or before January 7, 2005). However they shall not fulfill the responsibilities of their positions until the district is in receipt of the new certificate of organization issued by the Secretary of the Commonwealth. Both shall serve until January 1, 2008. Thereafter, these director positions shall be filled through the election process provided through established laws.

**SECOND:** Ms. Taylor Hansen.

**DISCUSSION:** None.

**VOTE:** Motion carried unanimously.

**MOTION:** Ms. Packard moved that as required by § 10.1-517 *Code of Virginia*, the Board appoint two BRSWCD directors, Joel Hubert Bowman (elected position) and Darrell E. Jackson (elected position) and authorize them to submit to the Secretary of the Commonwealth an application for a new certificate of organization for the realigned BRSCWD and that DCR staff assist the BRSWCD with completion of this task.

**SECOND:** Ms. Campbell.

**DISCUSSION:** None.

**VOTE:** Motion carried unanimously.

**MOTION:** Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the draft Certified Statement by the Virginia Soil and Water Conservation Board (prescribed by § 10.1-517 *Code of Virginia*) conveying that the BRSWCD realignment satisfies

requirements of state law and directs the Board Secretary to endorse the Statement.

The Statement reads as follows:

In the matter of the inclusion of Roanoke City into Blue Ridge Soil and Water Conservation District (SWCD or district) thereby realigning the boundaries of said district.

TO ALL TO WHOM THESE PRESENTS SHALL COME,  
GREETINGS:

Be it known that on the 23<sup>rd</sup> of January, 2004, a petition for the inclusion of Roanoke City into the Blue Ridge Soil and Water Conservation District thereby realigning the boundaries of said district, submitted in accordance with State Law, was approved by the Virginia Soil and Water Conservation Board; and

Subsequently, notices of hearings were given and such hearings were held on April 13<sup>th</sup> and 14<sup>th</sup>, 2004, in the geographical area described in the petition as required by law; and

That on the 26<sup>th</sup> day of May, 2004, the Virginia Soil and Water Conservation Board, in accordance with the provisions of state law, Title 10.1, Chapter 5, as amended, determined there is need in the interest of public health, safety, and welfare for the inclusion of Roanoke City into the Blue Ridge SWCD and for said district to function in the proposed territory and did define the boundaries thereof; and

That the Virginia Soil and Water Conservation Board did determine that the operation of the said Blue Ridge SWCD is administratively practicable and feasible; and

That the boundaries of the said Blue Ridge SWCD were defined by the Virginia Soil and Water Conservation Board as follows; Lands lying within the boundaries of Roanoke City and the counties of Henry, Franklin and Roanoke, including the incorporated towns therein.

And that the U.S. Department of Justice Civil Rights Division conveyed through correspondence dated November 2, 2004 to the Virginia Office of the Attorney General that the U.S. "Attorney

General does not interpose and objection to the specified changes”  
pertaining to the inclusion of Roanoke City into the BRSWCD.

In witness thereof the Virginia Soil and Water Conservation Board  
has caused these presents to be executed by its secretary this 8<sup>th</sup>  
day of December, 2004.

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Secretary, Virginia Soil and Water Conservation Board  
Richmond, Virginia

SECOND: Mr. McNear.

DISCUSSION: Mr. Maitland recognized Daphne Jamison chair of the Blue Ridge  
SWCD.

Ms. Jamison asked if it were still a policy of the Board to require  
an entity to provide a certain amount of funding. She noted that  
she did not see a reference to the \$500 per director for travel  
purposes. She also asked if the directors were required to take the  
oath of office by January 7<sup>th</sup>, even if there was no approval from  
the Secretary of the Commonwealth.

Mr. Meador stated that he new directors would be qualifying for  
the position, but that they could not serve until the realignment was  
complete. He noted that the requirement for financial input from a  
new entity was a Board policy and noted that the City of Roanoke  
had indicated a willingness to participate financially.

Ms. Jamison noted that it would be helpful to have further  
guidance.

VOTE: Motion carried unanimously.

***J.R. Horsley SWCD Name Change Request***

Mr. Meador said that the J.R. Horsley district had submitted a resolution and a request to  
change the district name to the Chowan Basin Soil and Water Conservation District. He  
provided members with a copy of the resolution. A copy of that resolution is available  
from the DCR office.

MOTION: Ms. Campbell moved that as provided by § 10.1-518 *Code of  
Virginia*, the Virginia Soil and Water Conservation Board approve

the resolution presented by the J.R. Horsley SWCD requesting the name of the district be changed to the Chowan Basin Soil and Water Conservation District.

SECOND: Mr. Graham.

DISCUSSION: Ms. Campbell asked about the requirement for public notice.

Mr. Meador said the only requirements were listed in the section of the code provided that states:

**§ 10.1-518 Action of Secretary on the application and statement; change of name of district.**

“...The name of any district may be changed if a petition for such change is subscribed by twenty-five or more landowners from each county of city comprising the district and adopted by resolution of the district directors at any regular meeting. The district directors shall submit a copy of the resolution to the Board and, if the Board concurs, it shall present the resolution, together with a certified statement that it concurs, to the Secretary of the Commonwealth who shall file the resolution and issue a new or amended certificate of organization.”

Mr. Johnson asked why the district was requesting the change.

Mr. Cross, district chair said that the district questions the source of the original name. He said that the district felt it was important to let the public know that the water drains to the Chowan River Basin.

VOTE: Motion carried unanimously.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the draft Certified Statement by the Board conveying concurrence with the name change and that the Board Secretary be directed to endorse the Statement. Further that DCR staff shall assist the district with submission of these documents to the Secretary of the Commonwealth for the necessary certificate of organization.

SECOND: Ms. Taylor Hansen

DISCUSSION: None.

VOTE: Motion carried unanimously.

***Dam Safety Certificates and Permits***

Mr. Browning referred members to a packet of letters transmitted to dam owners with Board Actions. These letters reflected the actions of the July and September meetings.

Mr. Browning presented the following list of Out of Compliance dams.

01516 Upper Wallace	AUGUSTA	Class III Regular
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MOTION: Ms. Taylor Hansen moved that the Virginia Soil and Water Conservation Board authorize DCR staff to work with the Attorney General's Office on a drafting a certified letter informing the dam owner of Upper Wallace Dam, Inventory Number 01516, that they no longer have a certificate to operate their dam and that the Operation and Maintenance Certificate application documents must be submitted, otherwise breach/remove the dam.

SECOND: Ms. Campbell.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Mr. Browning noted that no action was needed on the remaining Out of Compliance dams.

Mr. Browning presented the following list of Operation and Maintenance Certificate recommendations.

02303 Rainbow Forest	BOTETOURT	Class I Conditional 12/31/05
02501 Brunswick County	BRUNSWICK	Class III Regular 12/31/10
04502 Johns Creek #1	CRAIG	Class I Conditional 12/31/06
04503 Johns Creek #3	CRAIG	Class I Conditional 12/31/06
09256 Massie Farm Pond	JAMES CITY	Class III Regular 12/31/10
15506 Lake Powhatan	PULASKI	Class II Conditional 12/31/05
72001 Lower Norton Reservoir	CITY OF NORTON	Class I Regular 12/31/10

MOTION: Ms. Campbell moved that the Virginia Soil and Water Conservation Board approve the Operation and Maintenance Certification Recommendations as presented by DCR staff and that

staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Ms. Taylor Hansen.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Mr. Browning presented the following Permit Recommendation:

03351 Pendleton Irrigation Lake I	CAROLINE	Construction Permit 12/8/04 – 12/31/06
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MOTION: Ms. Taylor Hansen moved that the Virginia Soil and Water Conservation Board approve the Permit Recommendation as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owner.

SECOND: Ms. Campbell.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Mr. Browning presented the following 17 Extension Recommendations.

01905 Bedford Lake	BEDFORD	Class I Regular 3/31/05
01908 Springlake	BEDFORD	Class III Regular 3/31/05
04146 First Branch	CHESTERFIELD	Class III Regular 1/31/05
05104 White Oak Creek	DICKENSON	Class II Regular 3/31/05
06903 Lake St. Clair	FREDERICK	Class II Conditional 3/31/05
06914 Summit	FREDERICK	Class I Conditional 3/31/05
09906 Lake Monroe	KING GEORGE	Class I Regular 5/31/05
10932 South Anna #4	LOUISA	Class II Regular 1/31/05
10933 South Anna #6B	LOUISA	Class II Regular 1/31/05
14104 Squall Creek	PATRICK	Class III Regular 5/31/05
14319 Elkhorn	PITTSYLVANIA	Class III Regular 3/31/05
14513 Recreation Pond	POWHATAN	Class III Regular 5/31/05
15509 Gatewood	PULASKI	Class I Regular 3/31/05
16301 Goshen (Lake Merriweather)	ROCKBRIDGE	Class I Conditional 5/31/05
77001 Windsor Lake	ROANOKE CITY	Class II Regular 5/31/05

80003 Lake Burnt Mills	SUFFOLK	Class I Conditional 5/31/05
80011 Western Branch	SUFFOLK	Class I Conditional 5/31/05

MOTION: Ms. Packard 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. Taylor Hansen.

DISCUSSION: None.

VOTE: Motion carried unanimously.

### ***Urban Programs Report***

Mr. Frye referred members to several items in their packet requiring Board action. He noted that there were individual motions for five jurisdictions that have been found to be consistent.

Those localities are Caroline County, Gloucester County, Spotsylvania County, the City of Roanoke, and the Town of Rocky Mount.

MOTION: Ms. Taylor Hansen moved that the Virginia Soil and Water Conservation Board commend Caroline County, Gloucester County, Spotsylvania County, the City of Roanoke, and the Town of Rocky Mount for successfully improving their respective Erosion and Sediment Control Programs 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.

SECOND: Ms. Campbell.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Mr. Frye said that four counties, Augusta, Loudoun, Warren and Wise had submitted alternate inspection programs for review. He said that staff was requesting the Board to receive the proposals for review and for action at a later Board meeting.

**MOTION:** Mr. McNear moved that the Virginia Soil and Water Conservation Board receive the staff update and recommendation regarding the proposed Alternative Inspection for Augusta, Loudoun, Warren and Wise Counties and accepts the proposals for review and future action at the next Board meeting.

**SECOND:** Ms. Packard.

**DISCUSSION:** None.

**VOTE:** Motion carried unanimously.

Mr. Frye presented the a motion for Approval for Standards and Specifications for Utility Companies

**MOTION:** Ms. Packard moved that the Virginia Soil and Water Conservation Board receive the staff update concerning the review of the 2005 annual standards and specifications for electric, natural gas, telecommunications and railroad companies. The Board concurs with staff recommendations for conditional approvals of the 2005 specifications for the utility companies listed below in accordance with the Erosion and Sediment Control Law. And further that the Board request the Director to have staff notify said companies 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 2005 must be submitted by February 1, 2005. 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 February 1, 2005 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](mailto: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](mailto: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.

Company recommended for conditional approval with the above 4 conditions is:

Gas: Roanoke Gas Company

SECOND: Ms. Campbell

DISCUSSION: None.

VOTE: Motion carried unanimously.

### ***District Director Resignations and Appointments***

Mr. Meador presented the following list of District Director Resignations and Appointments.

#### ***Holston River***

Recommendation of David C. Johnson (Incumbent), Washington County, to fill two-year appointed position (term of office to begin 1/1/05-1/1/07).

#### ***J.R. Horsley***

Recommendation of Walter W. Robinson, Jr., Greensville County, to fill two-year appointed position (term of office to begin 1/1/05 – 1/1/07)

#### ***James River***

Resignation of Richard M. Brigman, Prince George County, effective 10/5/04, elected director position (term of office expires 1/1/08).

Recommendation of Charles F. Skalsky, Prince George County, to fill unexpired elected term of Richard M. Brigman (term of office to begin on or before 1/7/05 – 1/1/08).

*Lonesome Pine*

Recommendation of Glenn F. Graham, Dickenson County, to fill a two-year appointed position (term of office to begin 1/1/05 – 1/1/07).

*Lord Fairfax*

Recommendation of Robert A. Clark\*, Shenandoah County, to fill four-year Extension Agent position (term of office to begin 1/1/05 – 1/1/09).

*Loudoun*

Resignation of James J. Boland, Loudoun County, effective 9/1/04, elected director position (term of office expires 1/1/08).

Recommendation of Michael A. Megeath, Loudoun County, to fill unexpired elected term of James J. Boland (term of office to begin on or before 1/7/05 – 1/1/08).

*Skyline*

Recommendation of Barry Robinson, Montgomery County, to fill four-year Extension Agent position (term of office to begin 1/1/05 – 1/1/09).

*Tidewater*

Recommendation of Carl Thiel-Goin, Mathews County, to fill unexpired elected term of Dianne P. Jordan (term of office to begin on or before 1/7/05 – 1/1/09).

*Virginia Dare*

Recommendation of Watson Lawrence, Jr.\*, City of Chesapeake, to fill four-year Extension Agent position (term of office to begin 1/1/05 – 1/1/09).

\* Incumbent.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the resignation and appointment actions as presented by DCR staff and that staff be directed to communicate the Board actions to the affected individuals and their SWCDs.

SECOND: Ms. Campbell.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Mr. Meador presented a request from the Eastern Shore SWCD for approval.

The Eastern Shore SWCD has requested approval

**MOTION:** Ms. Packard moved that the Virginia Soil and Water Conservation Board, as requested by the Eastern Shore Soil and Water Conservation District (ESSWCD) and through the authority provided in § 10.1-532 *Code of Virginia*, approve Carmie Duer, Administrative Secretary for the ESSWCD to serve that district as Secretary-Treasurer effective on this date.

**SECOND:P** Mr. McNear.

**DISCUSSION:** None.

**VOTE:** Motion carried unanimously.

#### ***Dam Safety Ad Hoc Committee Update***

Mr. Browning provided an update about the progress of the dam safety ad hoc committee.

DCR has hired the Institute for Environmental Negotiation to facilitate the meetings. He noted that Chairman Moyer and former Chairman Charles Horn were members of the committee.

The committee will deal with classes of impounding structures as well as standards that go with the sizing of emergency spillways, storm events, etc.

Three additional meetings are scheduled for January 19, February 16 and March 23. All meetings will be held in Richmond.

The committee will meet their charge by the March meeting.

#### ***Stormwater Management Update and Potential Action***

Mr. Frye gave a presentation regarding Stormwater Management. A copy of the presentation is available from the DCR office.

**The Virginia Stormwater Management Program: Delegation for DCR to carry out the program**

Virginia Acts of Assembly – 2004 Session  
Chapter 372 (HB 1177)

The Virginia Soil and Water Conservation Board  
(permit, regulate & control stormwater runoff)

The Board may delegate...

*Today*            Department of Conservation and Recreation

*Future*            Approved Locality

Powers and Duties of the Virginia Soil and Water Conservation Board  
(§10.1-603.2:1)

*In addition to other powers and duties conferred upon the Board, it shall permit, regulate and control stormwater runoff in the Commonwealth.*

*The Board has:*

- Permitting Authority
- Regulatory Authority
- Review Authority
- Enforcement Authority

**Permitting Authority**

*Issue, deny, revoke, terminate, or amend stormwater permits (construction activity & MS4)*

**Regulatory Authority**

*Adopt regulations, rules, procedures and guidance*

**Review Authority**

*Approve and periodically review local stormwater management programs and management programs developed in conjunction with a municipal separate storm sewer permit*

**Enforcement Authority**

*Take administrative and legal actions to ensure compliance by permittees and those localities with approved programs and programs developed by MS4s.*

*And otherwise to act to ensure the general health safety and welfare of the citizens of the Commonwealth as well as protect the quality and quantity of state waters from the potential harm of unmanaged stormwater.*

***The Board may:***

*Delegate to the Department or to an approved locality any of the powers and duties vested in it by this article except the adoption and promulgation of regulations. **Delegation shall not remove from the Board authority to enforce the provisions of this article.** (§10.1-603.2:1.2)*

***Duties of the Department***  
(§10.1-603.6)

- A. ...provide technical assistance, training, research, coordination...to local governments.
- B. ...review interjurisdictional projects upon request of involved localities within 90 days...
- C. The Department shall be responsible for the implementation of this article.

***Key delegated areas and Department responsibilities:***

- Permits*** - handle issuance, denial, amendment, revocation and termination and enforcement of permits; bring to Board for action as appropriate.
- Compliance & Enforcement*** – take administrative and legal actions to ensure compliance by permittees and permitted local programs; bring to Board for action as appropriate.
- Local Stormwater Management Programs*** - responsible for administering the local program where not mandated (mandated for Bay Act and MS4) or approved by Board, develop a model ordinance; Board shall approve local programs to receive delegation.
- Regulations*** - Board authorized to adopt regulations; DCR support the Board in developing regulations and following the Administrative Process Act; specify technical criteria, standards and procedures, local program delegation standards and procedures, work with Board to establish statewide permit fee schedule to support program
- Monitoring, Reports, Investigations and Inspections*** – DCR responsible; provide status reports to Board

•**Department to Review Local and State Agency Programs** - DCR to review and determine compliance of Board delegated programs no less than every five years. DCR report to Board on evaluation; Board delegates the issuance of corrective actions to DCR; bring to Board for action as appropriate

•**Hearings**—Board to hold hearings for permit applicant or permittee aggrieved by action of Board, DCR or local program taken without a formal hearing or by their inaction

•**Appeals**—Law provides for judicial review under APA for permit or enforcement decisions of permit authority or Board

Mr. Frye presented the following motion for consideration:

**Motion to delegate Stormwater Management Administrative, Programmatic, and Legal Authorities to the Department:**

Contingent upon authorization by the U. S. Environmental Protection Agency of Virginia’s consolidated Stormwater Management Program as set forth in Chapter 372 of the 2004 Acts of Assembly, the Virginia Soil and Water Conservation Board does hereby delegate to the Department of Conservation and Recreation, all administrative, programmatic and legal authorities prescribed under Chapter 372 of the 2004 Acts of Assembly to implement the Virginia Stormwater Management Act, excluding the authority for the adoption and promulgation of regulations, which shall remain solely with the Board. It is understood that delegation to DCR does not remove from the Board authority to enforce the provisions of the Act.

MOTION made by: Linda S. Campbell.

MOTION seconded by: Jean R. Packard.

ACTION: Motion carried unanimously.

***Partner Agency Reports***

*Natural Resources Conservation Service*

Ms. Doetzer noted that President Bush had nominated Nebraska Governor Mike Johanns to be the next Secretary of Agriculture.

Ms. Doetzer gave the report for the Natural Resources Conservation Service. A copy of that report is attached as Attachment # 1.

*Department of Conservation and Recreation*

Mr. Frye gave the report for the Department of Conservation and Recreation. A copy of that report is attached as Attachment # 2.

***Other Business***

There was no other business.

***Public Comment***

There was no public comment.

***Next Meeting Date***

Friday, January 21, Richmond.  
Natural Resource Conservation Service  
11:00 a.m. – 3:00 p.m.

***Adjourn***

MOTION: Ms. Packard moved that the meeting be adjourned.

SECOND: Mr. Hall.

VOTE: The motion carried and the meeting was adjourned.

Respectfully submitted,

David L. Moyer  
Chairman

Joseph H. Maroon  
Recording Secretary

### **NRCS Report**

**Joint Meeting – Virginia Association of Soil & Water Conservation Districts Board of Directors and  
the Virginia Soil & Water Conservation Board**

**December 8, 2004**

**Hotel Roanoke & Conference Center, Roanoke, VA**

#### **Partnership Effort**

Our exhibit featuring soils won the Director's Choice Award at the State Fair of Virginia. This was a joint effort between NRCS and the Virginia Assoc. of Professional Soil Scientists, and the Virginia Association of Soil & Water Conservation Districts. The exhibit increased agency visibility among over 40,000 fairgoers. Educational materials were distributed to more than 600 schools; and over 6,000 students explored the newly created soil tunnel.

#### **Farm Bill Programs**

Initial funding allocations have been received. Final figures are expected in the next several weeks. The initial allocations are down approximately 2 to 30% by program over final figures from last year.

- Environmental Quality Incentives Program (EQIP) – Preliminary funding allocation for Virginia is approximately \$9.6 million. Resource concerns for this year will be animal waste, grazing lands, cropland, and forestry activities. The pilots for irrigation water management and poultry litter transport will be continued at \$250,000 each. This year the EQIP funding will be distributed between four regions rather than one statewide pool. Funding is distributed to each region based on resource needs from available data (acres of cropland, acres of pastureland, total number of animals in confinement). The State Technical Committee has reviewed and endorsed this method.
- Farm and Ranch Lands Protection Program (FRPP) – Initial allocation is for \$1.1 million to purchase easements in Virginia. We are awaiting the release of a national request for proposals (RFP) to be issued in the Federal Register. Cost share rates will be at 50% with eligible state, local or private groups that purchase easements.
- Wildlife Habitat Incentives Program (WHIP) – Funding will be approximately \$400,000 with all going to on-farm assistance. No project activity is planned unless there are surplus funds available. Staff is still working with VDGIF on alternative methods to obtain additional technical assistance with this program.
- Grassland Reserve Program (GRP) – Funding of approximately \$475,000 to be used for both perpetual easement and long-term agreements to prevent grassland from being converted to other uses such as cropland or urban land.
- Conservation Security Program (CSP) – On November 9 & 10, media events were held to announce that three Virginia watersheds were selected for participation in

FY 2005. They are the South Fork of the Shenandoah, Mattaponi River, and lower Rappahannock River. The events were held on Charles Drumbheller's farm in Swoope and Todd Henley's farm in Walkerton. Staff is currently working to develop eligibility criteria for each watershed.

### **Dam Rehabilitation Planning**

- South River Watershed in Augusta County – The planning process for dam rehabilitation is ongoing for three dams. The draft plan should be completed by June 2005.
- Pohick Creek Watershed in Fairfax County – NRCS has initiated planning on Site 4 (Lake Royal). A draft plan for Site 4 will be completed in FY-05. The first public meeting will be held in January or February.

### **Watershed Planning and Implementation**

- Naked Creek and Germany River Watersheds in Rockingham and Page Counties – In November, NRCS specialists from Fort Worth, TX and Greensboro, NC visited these watersheds to assess the amount of rock, sediment and woody debris movement. This information will be used to design debris catchment basins which will be installed using Emergency Watershed Protection Program funds. The first demonstration site will be done in Page County if local sponsors agree to the project.
- Emergency Watershed Protection (EWP) Program – In November, NRCS received \$2,110,800 which will be used to assist localities recover from flood damages sustained during 2003 and 2004. NRCS staff are currently assessing sites and determining eligibility, and working with local jurisdictions to obligate funds. The cost-share rate is 75% federal and 25% local. Most of the work will be removing rock and woody debris from stream channels that were impaired during the recent hurricanes. These projects will be completed by June 2005.

### **Personnel Update**

The four new Assistant State Conservationists (Field Operations) have been appointed:

Dwight Towler, ASTC(FO) in Smithfield  
Alvin Phelps, ASTC(FO) in Christiansburg  
Becky Ross, ASTC(FO) in Harrisonburg  
Noah Mullins, ASTC(FO) in Farmville

John Myers, Environmental Specialist, is Acting State Resource Conservationist

Reassignments include:

Philip Rippe, from Civil Engineer in Farmville to Design Engineer in Richmond.

Williard Moss, from Soil Conservationist in Dinwiddie to District Conservationist in Roanoke.

Barry Harris, from Supervisory DC in Fredericksburg to Resource Conservationist in Richmond.

New Appointments:

Tivis Jesse, Soil Conservation Technician in Lebanon

Lorraine Cormier, Secretary, Shenandoah RC&D Office in Verona

Kevin Johnson, Soil Conservation Technician in Christiansburg

**Department of Conservation and Recreation**  
Report to: VASWCD Board on December 5, 2004  
and the VSWC Board on December 8, 2004

**DCR/SWCD Grant Agreements for FY05 Operational Funding:**

DCR is returning to a quarterly schedule for Operational and agricultural BMP program financial disbursements to SWCDs. During November districts were issued allocations for the months of November and December. In January '05 districts will receive funds for January, February and March. The final disbursement will occur in April for the remaining 3 months of the fiscal year.

Every SWCD has signed/returned their grant agreement with DCR for FY05 Operational Funding. This fiscal year (FY05), total operational funding for all districts is \$4,052,240, which reflects a slight increase above FY04 operational funding that totaled \$3,932,240. However, FY05 funding is still roughly 6% less than the peak funding level experienced by districts in FY01 (\$4,301,000).

**Agricultural BMP Cost-Share Program:**

Districts continue to approve BMP applications as they move towards issuance of 90% of their available BMP funding this fiscal year. In recent weeks DCR staff addressed several program issues and met with the Agricultural BMP Technical Advisory Committee on November 4<sup>th</sup>.

DCR staff has begun a dialogue with the Virginia Department of Taxation to report tax credits certified by SWCDs for farmers seeking credits for their installation of certain agricultural BMPs. Taxation is developing an automated database to monitor authorized tax credits. Details for the collection of information and reporting to Taxation will be coordinated and communicated to SWCDs in coming weeks/months.

**Conservation Reserve Enhancement Program (CREP):**

Extensive discussions with the USDA Conservation and Environmental Programs Division (CEPD) have produced a Southern Rivers Addendum authorizing an additional 5,000 acres of CREP enrollment. The Deputy Division Administrator for USDA has agreed to sign the addendum, which will be effective upon Virginia's Secretary of Natural Resources endorsement of the document. The document has not been received by SNR for signature to date.

SWCDs within the Chesapeake Bay basin have received information and guidance for receiving an incentive to enroll and service CREP participants. The funds originate from the contributions of taxpayers willing to support Chesapeake Bay Restoration activities. A total of \$230,000 is available to SWCDs. (\$50 per enrolled participant recruited by an SWCD and \$10 per acre for planning and technical assistance)

Procedures for administratively managing landowner incentive bonuses for CREP buffers 100' or wider (Chesapeake Bay basin only), and wetlands restoration (statewide) are being developed for automated access and participation "on line". Automated signup by program participants and guidance for partner agencies is planned early in 2005.

**SWCD Audit Services:**

The accounting firm of Robinson, Farmer, Cox Associates (RFCA) has completed audits on 26 SWCDs. A closeout discussion between the auditors and DCR staff is scheduled for Friday, December 10<sup>th</sup>. District audit reports and a summary of findings will be provided to districts in coming weeks.

DCR intends to continue a two-year audit cycle for all SWCDs. Previously the audit schedule provided a three-year cycle of audits. The two-year cycle will better protect districts and identify any problems in a more timely manner.

**Stormwater Management:**

DCR presented the revised Stormwater Management (SWM) regulations to the Virginia Soil and Water Conservation Board (Board) and received approval during the Board's September 16, 2004 meeting. The regulations were one of the necessary steps to be completed in DCR's efforts for EPA to approve the transfer of the SWM permitting program from DEQ to DCR. The program authorization package was submitted to EPA and their authorization is anticipated in the next several weeks. Program implementation becomes effective 30 days following EPA authorization. Still to come is a full public participation process to develop the regulations governing local program authorization. In addition, the SWM Program Manager continues to recruit and fill approved positions for this program.

**Nutrient Management Training & Certification Program Regulatory Actions:**

DCR recently completed 4 meetings with the Technical Advisory Committee (TAC) that provided input on potential amendments to the nutrient management training and certification regulations. The department is completing development of a formal regulatory proposal for submittal this month to the Administration and the Department of Planning and Budget for consideration. Major areas of change being considered include criteria for addressing phosphorus in nutrient management planning and revisions to recommendations for timing of nitrogen applications. The outcome will be to treat more equally all organic nutrient sources in terms of managing nutrients via nutrient management plans and to better protect Virginia water quality.

**Miscellaneous Topics of Interest:**

- An SWCD Dam Owner workshop was held in Charlottesville on November 8<sup>th</sup>, 2004. Attendance was very good with one or more representatives from each of the 12 districts that own dams as well as other representatives from agency partners. The one day program was predominantly rated "very good" by attendees. The 12 SWCDs

agreed to identify 1 representative from each district to periodically meet with DCR staff to address topics of concern and interest.

- The J.R. Horsley SWCD is proceeding to change the name of that district to the Chowan Basin Soil and Water Conservation District.
- The City of Charlottesville is actively seeking to become a part of the Thomas Jefferson SWCD. A petition is expected to be submitted to the Virginia Soil and Water Conservation Board in coming weeks.