

**Virginia Soil and Water Conservation Board  
Thursday, July 21, 2005  
Natural Resources Conservation Service  
Richmond, Virginia**

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

David L. Moyer, Chairman  
Linda S. Campbell  
Benjamin H. Graham  
W.P. Johnson  
Jean R. Packard

Joseph H. Maroon  
M. Denise Doetzer  
Robert M. Hall  
Granville M. Maitland

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

Susan Taylor Hansen

Richard E. McNear

**DCR Staff Present**

William G. Browning  
Jack E. Frye  
Lee Hill  
Jim Robinson

David C. Dowling  
Michael R. Fletcher  
Mark B. Meador

**Others Present**

John S. Bailey, Lake of the Woods Association  
Barbara Board, Virginia Cooperative Extension  
Neil Buttimer, Lake of the Woods Association  
James G. Byrne, Virginia Association of Soil and Water Conservation Districts  
Steve Calos, Virginia Association of Soil and Water Conservation Districts  
Jen Dehart, Chesapeake Bay Foundation  
Ray Dorsett, Natural Resources Conservation Service  
Lee Frame, Lake of the Woods Association  
James Fulcher, Department of Forestry  
Robin Knepper, The Fredericksburg Free-Lance Star  
Katie Kyger, Virginia Agribusiness Council  
Chris Lawrence, NRCS  
Warren Lee, Culpeper SWCD

**Call to Order**

Chairman Moyer called the meeting to order at 9:33 a.m. He declared a quorum present and welcomed guests.

**Minutes of the May 19, 2005 Meeting**

MOTION: Ms. Packard moved that the minutes of the May 19, 2005 meeting be approved as submitted.

SECOND: Mr. Maitland

DISCUSSION: None

VOTE: Motion carried unanimously

Motion carried unanimously.

**Director's Report**

Mr. Maroon gave the DCR Director's report.

He reviewed a DCR presentation recently given to the HJR-640 Committee. A copy of this presentation is available from DCR.

Mr. Maroon said the committee is looking at long term funding options for Chesapeake Bay cleanup and for southern rivers and other impaired waters that need addressing.

This was an opportunity for staff to brief the committee on nonpoint source pollution reduction strategies and the most cost effective best management practices.

The committee has primarily focused on agricultural concerns for the reduction of nutrients.

Ms. Packard asked if consideration was given to urban runoff.

Mr. Maroon said that the presentation did address urban issues, and that there was a focus on sewage treatment plant updates. He noted that the legislation passed in the previous General Assembly session focused primarily on agricultural sources. The Legislature believes that agriculture contributes the largest amount of phosphorus and the second largest amount of nitrogen to impaired waters.

Mr. Maroon that on the positive side, agriculture methods of nutrient reduction are often the most cost effective.

Mr. Maroon gave quotations from three recent news articles:

***Cattle fenced out of South River:***

“Honestly, It’s a win-win for me. I get better use of my pasture now. No question I’ve got healthier cattle now. If (conservation programs) didn’t benefit me, I’m sure I’d be thinking about the Bay a lot less.

*Stanton News Leader, 2005*

***Installed pit for managing manure:***

“Every day we were having to scrape our barn lots and spread the manure on our fields, even if they were covered in snow. Storing our manure has cut our commercial fertilizer costs by 30 to 50 percent. Now we can spread the manure when we are ready, and we aren’t losing as many nutrients by leaving it on the ground before we actually use it.”

*The Winchester Star, January 31, 2005*

***Virginia Farm Bureau Federation, July 14, 2005***

“Virginia’s agriculture and forestry industry is dependent upon natural resources. Consistent funding of both agricultural cost-share programs and the Reforestation of Timberland program is imperative as Virginia continues to address water quality initiatives.”

Mr. Maroon said the report focused on the following agricultural reductions:

- Long-term substantial and sustained funding for Non-Point Practices and Programs and for increased state/local staffing and private involvement to deliver the programs.
- Focus must be on getting better results: As of July 1, greater focus on cost-effective BMPs and targeting of BMPs to correct impaired streams (TMDLs).
- Change state’s traditional agricultural cost-share program from “education/demonstration” to “implementation.”
- New/expanded strategic Water Quality initiatives (diet and feed management, litter transport, animal waste alternative uses).
- Unprecedented levels of participation requires active outreach to farm community. (47,600 VA farms)

Mr. Maroon said that the cost for implementing the Cost Share Agricultural Best Management Practices (BMPs) in the Chesapeake Bay and Tributaries would be \$580 million.

The cost in the Southern Rivers TMDL to implement BMPs would be \$600 million:

- At least 40% WQIF nonpoint funds directed to Southern Rivers (10.1-2129.A.1)
- 306 TMDLs on list of nonpoint pollution impaired stream segments
- Funding will be needed as detailed TMDL Implementation Plans are completed
- Declining federal funds have provided the primary source of funding for TMDL implementation

Ms. Campbell asked if there was an understanding regarding the importance of funding for Soil and Water Conservation Districts.

Mr. Maroon said that at several points in the presentation he noted that the service delivery system does not exist.

Mr. Maroon reviewed Virginia Priorities with New and Expanded Initiatives:

- Promote and Target Cost-Effective BMPs
- Expand Diet and Feed Management to 100 Dairy Operations (with VA Tech)
- Seek Increase In Poultry Phytase Use By Integrators
- Expand Poultry Litter Transport With Industry
- Alternative Use for Animal Waste
- Pilot Enhanced Nutrient Management (Yield Reserve)
- May Extend Contracts on Proven Cost-Effective Practices
- Employ New and Proven Approaches (“One-Size Will Not Fit All”)
- Improving Outreach to Farmers

Mr. Maroon concluded by reviewing Virginia’s Commitments:

Long Term NPS Goals Involve Several Actions:

- Getting as many conservation practices installed as possible between now and 2010
- NPS implementation and staffing will need significant ramping-up over the next 5 years
- Demonstrate to EPA that the mechanism is in place by 2010
- Completing the work to install practices by 2015
- Keeping the practices installed and effective in-the-field
- Requires on-going state funding beyond 2015
- Continued mix of voluntary incentives and regulatory programs

Mr. Maroon said that staff would see that a copy of the presentation is sent to members.

**Agency Recommendations Regarding Ad Hoc Dam Safety Committee Report**

Mr. Maroon noted that the Board accepted the report of the Ad Hoc Dam Safety Committee in May, and asked staff to recommend back to us at this meeting. A full copy of the DCR recommendations is attached as Attachment #1.

Mr. Maroon noted that this was the beginning of the regulatory process. The process begins with a Notice of Intended Regulatory Actions (NOIRA). Once the NOIRA is filed, there is a 30-day public comment period to allow for input into what items should be up for consideration.

Mr. Maroon said that staff intended to ask the Board to move forward with the notice. This will begin an 18-month to 2-year process.

Mr. Dowling reviewed the staff recommendations as follows:

- 1) That the Department seek authorization from the Board to submit a Notice of Intended Regulatory Action (NOIRA) to consider changes and solicit recommendations related to the Board's Virginia Impounding Structures Regulations.
- 2) That the Board Chairman and Department Director assemble a special Board chaired workgroup composed of staff and a subset of the Ad Hoc Dam Safety Study Committee to develop a draft regulatory concepts (strawman) document for consideration by stakeholders and the interested public during the subsequent public review process following the NOIRA public comment period.
- 3) That the Department continue to research strategies employed by other states to regulate dams and to fund their repairs.
- 4) That with the Board's support, that the Department consider the development of a legislative proposal(s) that would 1) develop a funding source for providing loans and grants to dam owners through the existing Flood Prevention and Protection Assistance Fund or other mechanisms, 2) add a greater suite of enforcement tools (such as lowering the pool, authority to cease construction activities on dams, etc.), especially needed to administer Alternative #2 if adopted, and 3) develop penalty measures and due process procedures for non-compliant dam owners to be applied at the Department's recommendation and the Board's approval.
- 5) That with the Board's support, that the Department develop a budget decision package to support additional dam safety engineers that would focus on evaluating and determining the status of those dams that become regulated in July 2002 [as required by Chapter 92 of the 2001 Virginia Acts of Assembly (SB1166)], performing locality outreach on dam break inundation zone

protections, and assisting with regulatory development and implementation of an alternatives analysis necessary under Alternative #2.

- 6) That the Department establish and promote a dam break inundation zone model ordinance for local governments to consider.

Mr. Dowling reviewed the agency's recommendations related to each of the Ad Hoc Committee's report alternatives.

The Board considered the following motion as prepared by staff:

**Motion to authorize and direct the filing of Notice of Intended Regulatory Actions (NOIRA) related to the Board's Virginia Impounding Structures Regulations and other associated actions:**

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 change and solicit recommendations related to the Board's Virginia Impounding Structures Regulations. The changes may include, but not be limited to amendments:

- To address the Ad Hoc Dam Safety Committee's recommendations relative to Classes of Impounding Structures (§ 4 VAC50-20-40), Performance Standards Required for Impounding Structures (§ 4 VAC50-20-50), and the attendant Table 1 established in the 2004 Virginia Impounding Structures Regulations;
- To clarify vague words/wording (e.g. possible, probable, reasonable, appropriate, etc.);
- To make Table 1 more understandable and consistent in application;
- To eliminate the reference to "new" and "existing" dams;
- To establish alteration permit requirements similar to construction permit requirements;
- To remove DCR forms currently contained in the regulations; and
- To make other technical or administrative amendments necessary to improve and clarify the regulations.

As part of this process, the Board further authorizes a public meeting to be held by the Department not less than 30 days after publication of the NOIRA in the Virginia Registrar of Regulations, that a technical committee 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.

This authorization is related to those changes that are subject to the Administrative Process Act and to the Virginia Register Act. The Department

shall follow and conduct actions in accordance with the Administrative Process Act, the Virginia Register Act, the Board's Regulatory Public Participation Procedures, the Governor's Executive Order 21 (2002) on the "Development and Review of Regulations Proposed by State Agencies," and other technical rulemaking protocols.

This authorization extends to, but is not limited to, the drafting and filing of the NOIRA, the holding of public meetings, the development of the draft proposed regulation and other necessary documents and documentation as well as the coordination necessary to gain approvals from the Department of Planning and Budget, the Secretary of Natural Resources, the Governor, the Attorney General, and the Virginia Registrar of Regulations.

The Board requests that the Director or the Regulatory Coordinator report to the Board on these actions at subsequent Board meetings and for the Department to work with the Board's Dam Safety subcommittee during the regulatory process as deemed appropriate.

Motion made by: Linda S. Campbell

Motion seconded by: Jean R. Packard

Action: Motion carried with the following roll call vote:

Yes: Campbell  
Johnson  
Maitland  
Packard  
Hall  
Moyer

No: None

Abstain: Maroon

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board concur with the recommendations as listed in the staff report.

SECOND: Ms. Campbell

DISCUSSION: None

VOTE: Motion carried unanimously

**Dam Safety Certificates and Permits**

Mr. Browning referenced three letters in members' packets regarding the Lake of the Woods. Also included was a previously distributed letter from a resident of Lake of the Woods. Copies of these letters are available from DCR.

Also included for member review was a copy of the certificate provided Lake of the Woods following the Board's last action.

President Buttimer's July 8, 2005 letter from requested that the Board rescind the following paragraph from the May 1, 2005 Conditional Operations and Maintenance Certificate:

- 3.B. Provide notarized affidavits from every upstream property owner impacted, stipulating they understand the alternation being made to the dam, they agree to LOWA implementing the alteration and they agree to accept any changed condition(s) to their property that is a direct result of the alterations being made to this dam. Furthermore, the affidavits must be legally recorded in the Orange County Clerk of the Court Office, with the deed for each individual property.

Mr. Browning recommended that the Board allow staff time to research the appropriate wording for item 3.B. and report back to the Board at the September meeting.

Mr. Moyer recognized Neil Buttimer, President of the Lake of the Woods Association.

Mr. Buttimer said the Association was concerned that this requirement would be establishing a precedent. He said that anytime an owner wished to build a berm or a floodwall this requirement would delay the process.

Mr. Maroon noted that staff was trying to be flexible in developing a workable option. Staff and the Board are concerned that upstream owners understand the risks they are being subjected to.

Mr. Browning said that he would like to review the appropriate language with the Office of the Attorney General.

Mr. Frame of the Lake of the Woods Association said that the Association would prefer the way the certificate was originally worded. He noted that the Association was not considering the alternative as offered by staff.

MOTION: Mr. Maitland moved that the Virginia Soil and Water Conservation Board delay any further action with regard to Lake of the Woods until the September meeting and that staff be directed to bring to the Board recommended revisions to the Conditional Operations and Maintenance issued for Lake of the Woods Dam, Inventory #13701.

SECOND: Ms. Packard

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Maroon noted that if changes to the regulations move forward, there will be a significant impact to the program. He noted that actions relating to certain dams may fall into categories under consideration for change. He said that staff was attempting to develop a reasonable approach for the next two-year period.

Mr. Maroon said it would be the intent of staff to bring such dams to the Board on a case-by-case basis.

Mr. Browning noted that if a construction delay is requested, the Board would have the authority to consider to direct the owner to proceed regardless of potential changes in the regulations.

Ms. Campbell said that was a reasonable approach as dams are taken on a case-by-case basis already.

#### *Certificates and Permits*

Mr. Browning distributed a letter concerning Mellot Dam, Inventory #06119. The letter was a notice to the owner that the case will be referred to the Attorney General for appropriate action. A copy of the letter is available from DCR.

Mr. Browning said that he expected this matter to be filed in Fauquier County Court.

At this time, Mr. Maroon left for another commitment. He designated Mr. Frye as his proxy for the remainder of the meeting.

Mr. Browning presented the out of compliance list of 11 dams. A copy of the full list of out of compliance dams is available from DCR.

MOTION: Mr. Maitland moved that the Virginia Soil and Water Conservation Board authorize DCR staff to work with the Attorney General's Office on drafting a certified letter informing the dam owner of

Mattawan Dam, Inventory Number 08539, that they no longer have a certificate to operate their dam and that Operation and Maintenance Certificate application documents must be submitted.

SECOND: Ms. Campbell

DISCUSSION: None

VOTE: Motion carried unanimously.

*Operation and Maintenance Certificates*

Mr. Browning presented the list of Operation and Maintenance Certificate Recommendations.

00307	Chris Greene	ALBEMARLE	Class III Regular 7/31/11
00309	Miller School	ALBEMARLE	Class III Regular 7/31/11
00355	Lake Reynovia	ALBEMARLE	Class III Regular 7/31/11
01905	Bedford Lake	BEDFORD	Class II Conditional 7/31/07
01906	Springhill Lake	BEDFORD	Class II Conditional 7/31/06
02301	Carvin Cove	BOTETOURT	Class I Regular 7/31/11
03331	Lake Devolia	CAROLINE	Class II Conditional 7/31/07
03332	Lake Heritage	CAROLINE	Class I Conditional 7/31/07
03333	Lake Dover	CAROLINE	Class II Conditional 7/31/07
05104	White Oak Creek	DICKERSON	Class II Conditional 7/31/06
07523	Bowles	GOOCHLAND	Class III Regular 7/31/11
09528	Western Pond	JAMES CITY	Class III Conditional 7/31/07
10922	Izac Lake	LOUISA	Class III Regular 7/31/11
10923	Gordonsville	LOUISA	Class III Conditional 7/31/07
12703	Diascund	NEW KENT	Class I Conditional 7/31/07
14318	White Oak Mountain	PITTSYLVANIA	Class III Conditional 7/31/06
14533	Sheller	POWHATAN	Class III Conditional 7/31/07
17301	Hungry Mother	SMYTH	Class I Regular 7/31/11
18712	Loch Linden	WARREN	Class II Conditional 7/31/06

MOTION: Ms. Campbell moved that the Virginia Soil and Water Conservation Board approve the Operations and Maintenance Certificate Recommendations as presented by DCR staff, with the exception of Inventory #17301 Hungry Mother, Inventory# 07523 Bowles Dam and Inventory #19314 Red Oak Dam, and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Mr. Maitland

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Ms. Campbell moved that the Virginia Soil and Water Conservation Board approve the Operation and Maintenance Certificate Recommendation for Inventory #17301, Hungry Mother, as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owner.

SECOND: Mr. Maitland

DISCUSSION: None

VOTE: Motion carried unanimously with Mr. Frye abstaining.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board issue a six year (07/21/2005 – 07/31/2011) Regular Class III, Operation and Maintenance Certificate for Bowles Dam Inventory #07523 with an allowable ~~deviation~~ exception from the Department of Conservation and Recreation Dam Ownership Fact Sheet dated 01/05 and entitled: “Vegetation and Erosion Control on Earthfill Dams.” The ~~deviation~~ exception is based on the critical assessment of the dam owner’s professional engineer, indicating that the trees located on the downstream slope of the dam do not weaken the structure nor pose any threat to dam deterioration because: 1) the crest of the dam is 137 feet wide and 2) the reservoir is capable of containing the Probable Maximum Flood.

SECOND: Mr. Maitland

DISCUSSION: Mr. Graham said that he would prefer to change the word “deviation” to “exception.”

Ms. Packard and Mr. Maitland agreed to the change.

Ms. Doetzer asked why the owners were reluctant to remove the trees from the dam.

Mr. Browning said that the trees provide a noise barrier. He noted that there are no trees on the top or the front side of the dam.

Mr. Frye asked what the staff position would be if the trees were removed from the dam.

Mr. Browning said that would have to be determined at the time, but the recommendation for approval was based on current conditions.

VOTE: Motion carried.

*Permit Recommendations*

Mr. Browning presented the list of permit recommendations:

09528 Western Pond	JAMES CITY	Class III Alteration	7/21/05-7/31/07
13507 Nottoway	NOTTOWAY	Class III Alteration	7/21/05-1/31/06

MOTION: Ms. Campbell moved that the Virginia Soil and Water Conservation Board approve the Permit Recommendations as presented by DCR staff and directs staff to communicate the Board actions to the affected dam owner.

SECOND: Mr. Johnson

DISCUSSION: None

VOTE: Motion carried unanimously

*Extension Recommendations*

Mr. Browning presented the list of extension recommendations.

00304 Lower Ragged Mtn.	ALBEMARLE	Class I Conditional	9/30/05
00356 Upper Ragged Mtn.	ALBEMARLE	Class I Conditional	9/30/05
00702 Anderson	AMELIA	Class III Regular	11/30/05
01903 Beaverdam Creek	BEDFORD	Class II Conditional	11/31/05
01908 Springlake	BEDFORD	Class III Regular	9/30/05
01910 Falling Creek Resv.	BEDFORD	Class II Regular	11/30/05
03109 Jones	CAMPBELL	Class III Regular	9/30/05
07518 Westview	GOOCHLAND	Class III Regular	9/30/05
08302 Conner	HALIFAX	Class III Conditional	9/30/05
08909 Horsepasture Dam #2	HENRY	Class II Regular	9/30/05
08910 Lanier	HENRY	Class II Conditional	9/30/05
10716 Oliver	LOUDOUN	Class II Conditional	11/30/05
14319 Elkhorn	PITTSYLVANIA	Class III Regular	9/30/05

14513	Recreation Pond	POWHATAN	Class III Regular	9/30/05
19314	Red Oak	WESTMORELAND	Class II Regular	9/30/05
70001	Lee Hall Reservoir	NEWPORT NEWS	Class II Conditional	9/30/06
70006	Lee Hall Upper Dam Outlet	NEWPORT NEWS	Class II Conditional	9/30/05

MOTION: Mr. Maitland 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: Mr. Graham

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Browning said that additional action was needed on Red Oak Dam in Bedford County.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board issue a four month (05/19/05 – 09/30/05) extension to the existing Regular Class II, Operation and Maintenance Certificate for Red Oak Dam, Inventory Number 19314, to give the owner time to complete the application requirements for renewal of a six year Regular Operation and Maintenance Certificate.

SECOND: Mr. Hall

DISCUSSION: Mr. Graham asked why the extension was dated May 19, and not May 31.

Mr. Browning explained that the action should have been taken at the May Board meeting.

VOTE: Motion carried unanimously.

### **Comments from Virginia Cooperative Extension**

Chairman Moyer noted that Dr. Board with the Virginia Cooperative Extension needed to leave for another commitment and recognized her for comments.

Dr. Board said that she was delighted to be representing Dr. Patricia M. Sobrero, Director of Virginia Cooperative Extension. She noted that VCE had recently completed an analysis on educational solutions. A key issue identified was water quality.

VCE will be looking at educational programs to best address the issue of water quality.

Dr. Board said that VCE has an opening for an agriculture position in Powhatan County. She discussed several other openings with VCE.

### **HB2290: Water and Soil Quality Improvement**

#### *Outreach Relating to BMPs*

Mr. Frye said that in the 2005 session of the General Assembly Delegate Lingamfelter sponsored HB2290 that would have established a Commission on Soil Quality Improvement. The Soil and Water Board took action in January that resulted in the bill being withdrawn. Delegate Lingamfelter's interest was with regard to targeting BMPs towards specific conservation issues and in advancing farmer outreach opportunities.

Mr. Frye reviewed a handout entitled: *Enhanced Outreach to Virginia Farmers Using Bay Tax Check-Off Funds*

Get started with \$300,000 available in FY06

(none currently available for Southern Rivers)

- Aim is to reach substantially more farmers to act voluntarily and with state support
- Plan targeted outreach campaign (may be patterned after successful "Chesapeake Club" campaign aimed at Northern Virginia Homeowners)
- May involve farmer focus groups/surveys
- Target media (print ads/TV/radio)
- Will measure results and make course corrections

Mr. Hall asked when the WQIA funds would be available.

Mr. Meador said that the contracts have been sent to districts and should be received shortly.

#### *NRCS Presentation on Soil Quality*

Ms. Doetzer introduced Chris Lawrence, State Agronomist who gave a presentation on Soil Quality issues. A copy of the full presentation is available from NRCS.

### **The Soil Quality Improvement Approach**

At the March 17, 2005 SWCB Meeting the Board said:

*“the VSWCB shall evaluate the degree to which various approaches to improve soil quality will enable Virginia to cost-effectively meet water quality goals while improving the overall competitiveness of agriculture and the agribusiness in the Commonwealth...”*

<b>FIELD A: HI-TILL</b>		<b>FIELD B: NO-TILL</b>
<ul style="list-style-type: none"> <li>▪ At least 30 years conventional tillage</li> <li>▪ Two-year rotation:                             <ul style="list-style-type: none"> <li>○ Corn &amp; peanuts</li> <li>○ <u>Intensive tillage</u> (plow &amp; disk) ahead of peanuts</li> <li>○ Normally, winter cover crop after peanuts (did not get it in last year)</li> </ul> </li> <li>▪ No manure</li> </ul>		<ul style="list-style-type: none"> <li>▪ Approx. 30 years continuous <u>no-till</u></li> <li>▪ Two-year rotation:                             <ul style="list-style-type: none"> <li>○ Corn &amp; soybeans</li> <li>○ Cover crop most winters from years 1 to 20; no cover crops last 10 years</li> </ul> </li> <li>▪ No manure</li> </ul>

The Soil Quality Improvement Approach

- To enhancing crop productivity...
- To enhancing ag profitability...
- To enhancing water quality...
- To selling conservation!

What’s New About This? Nothing New!

1. Back to basics of sound land management...
2. Familiar practices & BMPs...

Shift in Emphasis

1. Focus on building soil organic matter
2. A package of practices
3. Positive, farmer-oriented message

Comprehensive Soil Quality Farming Systems

- Maximize Biomass Production & Return
- Minimize Tillage
- Eliminate Erosion

### What Appeals to Farmers

1. Improving the land
2. Maximizing biomass
  - Yield is good
3. Short term efficiencies:
  - No till=time, fuel, labor savings
4. Long-term efficiencies:
  - Cascade of benefits
    - Sell tillage equipment
    - Sell high horsepower tractors
    - Soil structure = fit for traffic soon after rain
    - Better soils, better yields

### CONCLUSIONS/REVIEW

1. Win-win for ag and environment.
2. Needed most on land in annual crops.
3. Back to basics of sound land management.
4. Easy for all our clients to understand.
5. Focus on building soil organic matter.
6. Implement package of practices in coordinated, long-term system.
7. Positive, farmer-oriented sales pitch!

At this time the Board recessed for lunch.

### **Stormwater Management Program Update**

#### *Review of Notice of Intended Regulatory Actions (NOIRAs)*

Mr. Dowling gave a review of the Notice of Intended Regulatory Action (NOIRA). At the May 19 the Board authorized the Director to prepare and submit a NOIRA or NOIRAs to consider changes to the Virginia Stormwater Management Permit regulations.

Staff determined the need to develop two NOIRAs. One is related to fees associated with the program. The second with regard to what a local Stormwater program would look like.

Mr. Dowling said that the staff intention is to file these within the next several weeks.

Mr. Dowling said that one technical issue for the Board's attention was with regard to HB1177. The first step was to name DCR to administer the program. The second phase is how DCR passes the program down to localities.

Mr. Dowling said that staff would keep the Board informed of the process.

*Board Action on MS4 Reporting Deadline Extension*

Mr. Hill said that staff had intended to request Board action on the MS4 reporting deadline. However, he said that after further review, action taken by the Board at the December meeting allows staff to have administrative, programmatic, and legal authorities to implement the program.

The December motion read as follows:

*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.*

*Set Date for Subcommittee Meeting*

Mr. Hill will work with subcommittee members, Mr. Graham, Ms. Campbell and Ms. Hansen to schedule a meeting of the subcommittee.

**Actions Related to Erosion and Sediment Control Laws**

*Request for Board Approval for Department to Handle Specifications*

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board delegate to the Department of Conservation and Recreation the authority to review and approve annual standards and specifications submitted per Section 10.1-563 of the Erosion and Sediment Control Law when the Board will not be able to take action on the submitted annual standards and specifications within the 60 day review and approval deadline specified in the reference section of the Erosion and Sediment Control Law.

SECOND: Mr. Maitland

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Dowling stressed the importance of quorums at meetings particularly with the federal requirements associated with stormwater.

*Rappahannock County Alternative Inspection Program*

MOTION: Ms. Campbell moved that the Virginia Soil and Water Conservation Board approve the proposed Alternative Inspection Program for Rappahannock County as being consistent with the requirements of the Erosion and Sediment Control Law and Regulations and that the Board request that DCR staff monitor the implementation of the alternative inspection program by the County to ensure compliance.

SECOND: Ms. Packard

DISCUSSION: None

VOTE: Motion carried unanimously

*Linear Project: Annual Standards and Specifications – Colonial Pipeline*

MOTION: Mr. Maitland moved that the Virginia Soil and Water Conservation Board receive the staff update concerning the review of the 2005 annual standards and specifications for Colonial Pipeline. The Board concurs with staff recommendations for the conditional approval of the 2005 standards and specifications in accordance with the Erosion and Sediment Control Law.

The four items for conditional approval are:

1. A list of all proposed projects planned for construction in 2005 must be submitted by August 12, 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 August 12, 2005 must be provided to DCR two (2) weeks in advance of land disturbing activities by e-mail at the following address [linearprojects@dcr.state.va.us](mailto:linearprojects@dcr.state.va.us)
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.state.va.us](mailto:linearprojects@dcr.state.va.us). 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. Johnson

DISCUSSION: None

VOTE: Motion carried unanimously

*Approval of Program Review Schedule for FY06*

MOTION: Ms. Campbell moved that the Virginia Soil and Water Conservation Board receive the staff update regarding the review of local erosion and sediment control programs and that the Board concur with the staff recommendations on which local programs to review for FY06 and approve the proposed list of localities for completion of up to 32 reviews for FY06. The following is the proposed list:

Local Program	Type	Watershed Office
Accomack	County	Albemarle, Chowan & Coastal
Arlington	County	Potomac
Bedford	City	Roanoke
Buchanan	County	Upper Tennessee & Big Sandy
Buckingham	County	James
Buena Vista	City	Shenandoah
Cape Charles	County	Albemarle, Chowan & Coastal
Charles City	County	Rappahannock/York
Colonial Heights	City	James

Culpeper	Town	Rappahannock/York
Danville	City	Roanoke
Dublin	Town	New River
Essex	County	Rappahannock/York
Galax	City	New River
Giles	County	New River
Greene	County	Rappahannock/York
Lee	County	Upper Tennessee & Big Sandy
Manassas	City	Potomac
Manassas Park	City	Potomac
Martinsville	City	Roanoke
Nelson	County	James
Newport News	City	Albemarle, Chowan & Coastal
Northampton	County	Albemarle, Chowan & Coastal
Occoquan	Town	Potomac
Page	County	Shenandoah
Pulaski	County	New River
Richmond	City	James
Russell	County	Upper Tennessee & Big Sandy
Shenandoah	County	Shenandoah
Smyth	County	Upper Tennessee & Big Sandy
South Hill	County	Upper Tennessee & Big Sandy
Waynesboro	City	Shenandoah

SECOND: Ms. Packard

DISCUSSION: None

VOTE: Motion carried unanimously

### **District Study Update**

Mr. Meador presented a District Study Update.

### **Virginia Soil & Water Conservation Board; July 21, 2005; Agenda item 9**

#### **“District Study Update”**

Budgetary language included in the 2004 Appropriation Act:
--

[Item 382 #1c] “I. In conjunction with other reporting requirements included in this item, the Soil and Water Conservation Board shall prepare annual statistics, by District, that include the number of farmers, the number of acres in farms and in agricultural production (by product type), the number of farmers participating in District programs by program, the number of acres by product under each type of agricultural best management practice, the budgeted and expended funds for each agricultural best management practice, and other information needed by the Department of Conservation and Recreation to evaluate the quantitative impact of Soil and Water Conservation District practices and funding on Virginia’s water quality and land conservation goals. This information shall be provided to the Director of the Department of Conservation and Recreation in a timely manner for the Department to complete its annual reporting requirements under this item.”

[Item 382 #4c] “...The Department shall review Soil and Water Conservation District (SWCD) operations and identify potential improvements in water quality and soil erosion programs. The review shall consider the relative needs of the various Districts, practices that offer the most cost-effective use of nonpoint source funding, and practices that are most appropriate given the characteristics of the various districts. The review shall incorporate the most recent findings on best management practice effectiveness. Based on the findings of the review, the Department shall propose changes in SWCD practices, staffing and funding, including the potential for performance-based funding, to improve the Commonwealth’s nonpoint source programs. The Department shall coordinate this review with the requirements of House Joint Resolution 72 of the 2004 Session and any planned reviews of its nutrient management regulations. Copies of an interim report shall be provided to the Chairmen of the House Committees on Appropriations, and Agriculture, Chesapeake and Natural Resources, and the Senate Committees on Finance, and Agriculture, Conservation and Natural Resources by December 31, 2004. The final report including the recommendations for SWCD practices and funding shall be provided by December 31, 2005.”

**Dissecting key components...**

**Charge 1:**

“...the Soil and Water Conservation Board shall prepare annual statistics, by District, that include the number of farmers, the number of acres in farms and in agricultural production (by product type), the number of farmers participating in District programs by program...”

**DCR Approach to address:**

County by county information will be provided to SWCDs which shares numbers of farms by size (acres). Districts will be asked to specify the quantity of farms that have received SWCD assistance through various programs during the past fiscal year. Information and guidance will be provided to all SWCDs this summer with a requested deadline for completion. See example.

**During FY05 Received SWCD Assistance through:**Jurisdiction **[EXAMPLE]**

ACCOMACK

	C-S Program Participant #Farms	Asst. Fed. Programs #Farms	Tax Credit Assist. #Farms	Education Contact #Farms	Voluntary Tech. Assist. #Farms	Other #Farms
Total number of farms: 318						
Farms 1 to 9 acres: 53						
Farms 10 to 49 acres: 96						
Farms 50 to 179 acres: 77						
Farms 180 to 499 acres: 46						
Farms 500 to 999 acres: 15						
Farms greater than 1000 acres: 31						
Total :						

**Charge 2:**

“...the number of acres by product under each type of agricultural best management practice, the budgeted and expended funds for each agricultural best management practice, and other information needed by the Department of Conservation and Recreation...”

**DCR Approach to address:**

Within the SWCDs that exist wholly or partially in the Chesapeake Bay basin, county by county “Input Decks” reflect targeted BMP goals (ag and urban) to achieve desired implementation by 2010. Accounting for progress reported to date, remaining needs for ag and urban BMPs are summarized. Delivery of this information is planned during coming weeks.

**Charge 3:**

“...The Department shall review Soil and Water Conservation District (SWCD) operations and identify potential improvements in water quality and soil erosion programs. The review shall consider the relative needs of the various Districts, practices that offer the most cost-effective use of nonpoint source funding, and practices that are most appropriate given the characteristics of the various districts. The review shall incorporate the most recent findings on best management practice effectiveness. Based on the findings of the review, the Department shall propose changes in SWCD practices, staffing and funding, including the potential for performance-based funding, to improve the Commonwealth’s nonpoint source programs. The Department shall coordinate this review with the requirements of House Joint Resolution 72...”

**DCR Approach to address:**

Evolving needs and opportunities are rapidly driving actions that are in step with this directive and in some respects, advance this charge perhaps beyond intended outcomes. For example:

- WQIF provides over \$20 million over this fiscal year and next, that will address agricultural nonpoint source pollution. Each year \$10 million is dedicated to the

- Ag BMP Cost-Share program with \$6 million in the Chesapeake Bay and \$4 million in the southern rivers.
- Cost-Share agreements with SWCDs specify that certain cost-effective, priority BMPs are to be given emphasis in the Bay --cover crops, continuous no-till and implementation of nutrient management plans. These BMPs are 3 of the 5 priority agricultural BMPs contained within the “*Cost-Effective Strategies For the Bay*” as recommended by the Chesapeake Bay Commission.
  - In the southern rivers, Cost-Share program emphasis is placed on addressing farm operations that are contributing to impaired “TMDL” waters.
  - During this Cost-Share program year, plans are under development to establish multi-year contracts with farmers to further goals of maintaining priority BMPs on the landscape. A new approach to contractually working with farmers is less than a year away.
  - SWCDs will need more highly trained technical staff to implement program priorities, their expertise will likely include nutrient management planning certification and job approval authority for priority BMPs within their SWCD.
  - The legislated group established through an action of the 2005 General Assembly (HJR 640) is exploring longer term funding needs and sources to better support Virginia’s natural resource conservation goals in coming years, addressing agricultural nonpoint source pollution is an important component of that task.

**In summary:**

Work continues to address the “study” language and its underlying goals of effectively using appropriated dollars to achieve the greatest reductions in agricultural nonpoint source pollution. In many respects, needs and opportunities with addressing agricultural nonpoint source pollution (in the Bay and in the southern rivers) is rapidly advancing “charges” contained within the language of the study.

The next meeting of the study steering team will be held August 8 at NRCS from 11 a.m. to 2:30 p.m. Preparation of the contents of the final report will begin in coming weeks. The report is due December 31, 2005.

**District Director Resignations and Appointments**

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

*Colonial*

Resignation of Billy S. Scruggs, Jr. City of Williamsburg, effective 6/30/05, elected director position (term of office expires 1/1/08)

*New River*

Resignation of G. Leroy McGrady, Carroll County, effective 6/20/05, appointed director position (term of office expires 1/1/07).

Recommendation of Betty Whittaker, Carroll County, to fill unexpired appointed term of G. Leroy McGrady (term of office to begin on or before 8/20/05 – 1/1/07).

*Tidewater*

Resignation of Rollin E. Woolley, Gloucester County, effective 6/30/05, elected director position (term of office expires 1/1/08).

MOTION: Mr. Maitland moved that the list of District Director Resignations and Appointments be approved as submitted.

SECOND: Mr. Johnson

DISCUSSION: None

VOTE: Motion carried unanimously

**Partner Agency Reports**

*Natural Resources Conservation Service*

Mr. Dorsett gave the report for the Natural Resources Conservation Service.

A copy of the NRCS report is attached as Attachment # 2

*Department of Forestry*

James Fulcher gave the report for the Department of Forestry. A copy of the report is attached as Attachment #3.

Mr. Fulcher is the new Chesapeake Bay Coordinator for the Department of Forestry.

*Department of Conservation and Recreation*

Mr. Frye gave the report for the Department of Conservation and Recreation.

A copy of the report is attached as Attachment #4.

Mr. Frye thanked Mr. Dowling and Mr. Hill for the tremendous effort in the consolidation of the Stormwater Management programs and regulations.

Mr. Frye gave an overview of the funding of district operational grants. A copy of this update is attached as Attachment #5.

Mr. Frye gave an overview of the DCR Nonpoint Source Reduction Strategies.

### **Public Comment**

Mr. Byrne of the Association of Soil and Water Conservation District Directors introduced Steve Calos, the new Executive Director for the Association.

Mr. Byrne said that the Association is still concerned with the funding formula. He said the tension lies with the funding structure and the determination of base funding. He said single entity districts are concerned about the possibility of funding based on workload.

Mr. Byrne said that an additional \$3 million in funding is needed for the Districts and that it would be important to have that amount included in the Governor's budget currently being developed.

Mr. Byrne noted that Virginia is 36<sup>th</sup> in funding levels of the Federal Farm Bill. Members of the Association have discussed this with the Virginia Congressional Delegation.

### **Future Meetings**

The next meeting of the Virginia Soil and Water Conservation Board will be held on Thursday, September 15, 2005, beginning at 9:30 a.m. at the Department of Forestry in Charlottesville.

As noted, the Board will not meet at the Virginia Association of Soil and Water Conservation Districts Annual Meeting in December but instead will meet on Friday, November 18 at 9:30 a.m. The location will be determined at a later date.

**Adjourn**

There being no further business, the meeting was adjourned.

Respectfully submitted,

---

David L. Moyer  
Chairman

---

Joseph H. Maroon  
Recording Secretary

Attachment #1

**DEPARTMENT OF CONSERVATION AND RECREATION  
RECOMMENDATIONS TO THE VIRGINIA SOIL AND WATER  
CONSERVATION BOARD IN RESPONSE TO THE APRIL 30, 2005 AD HOC  
DAM SAFETY REPORT  
Thursday, July 21, 2005  
Soil and Water Conservation Board Meeting  
Richmond, Virginia**

*Preliminary Dam Safety Regulatory Amendment Discussion Document*

At the May 19, 2005 meeting of the Virginia Soil and Water Conservation Board, the Board unanimously passed a motion that accepted the report of the Ad Hoc Dam Safety Study Committee and directed staff to provide further information regarding Alternatives #1 and #2 at the July meeting. Pursuant to that directive, the Department offers the following general recommendations:

- 1) That the Department seek authorization from the Board to submit a Notice of Intended Regulatory Action (NOIRA) to consider changes and solicit recommendations related to the Board's Virginia Impounding Structures Regulations.
- 2) That the Board Chairman and Department Director assemble a special Board chaired workgroup composed of staff and a subset of the Ad Hoc Dam Safety Study Committee to develop a draft regulatory concepts (strawman) document for consideration by stakeholders and the interested public during the subsequent public review process following the NOIRA public comment period.
- 3) That the Department continue to research strategies employed by other states to regulate dams and to fund their repairs.
- 4) That with the Board's support, that the Department consider the development of a legislative proposal(s) that would 1) develop a funding source for providing loans and grants to dam owners through the existing Flood Prevention and Protection Assistance Fund or other mechanism, 2) add a greater suite of enforcement tools (such as lowering the pool, authority to cease construction activities on dams, etc.), especially needed to administer Alternative #2 if adopted, and 3) develop penalty measures and due process procedures for non-compliant dam owners to be applied at the Department's recommendation and the Board's approval.
- 5) That with the Board's support, that the Department develop a budget decision package to support additional dam safety engineers that would focus on evaluating and determining the status of those dams that became regulated in July 2002 [as required by Chapter 92 of the 2001 Virginia Acts of Assembly

(SB1166)], performing locality outreach on dam break inundation zone protections, and assisting with regulatory development and implementation of an alternatives analysis necessary under Alternative # 2.

- 6) That the Department establish and promote a dam break inundation zone model ordinance for local governments to consider.

**SPECIFIC RECOMMENDATIONS IN RESPONSE TO THE AD HOC  
COMMITTEE REPORT**

<b>1. Ad Hoc Committee report: The first Ad Hoc Committee recommended alternative is to “Treat New &amp; Existing Dams Alike – Formalize Current Practice”.</b>
---

The committee discussion included 3 points for the Board’s consideration:

A. “First, Section 50 of the regulations states that Table 1 applies to new dams (“For new impounding structures, the spillway[s] capacity shall perform at a minimum to safely pass the appropriate spillway design flood as determined in Table I”). Alternative 1 would require that this regulatory language be changed to refer to all dams.”

- **THE DEPARTMENT AGREES AND RECOMMENDS THAT THE REGULATIONS BE AMENDED SO THAT ALL DAMS WILL BE TREATED PER TABLE 1 UNLESS OTHERWISE SPECIFIED.**

B. “Second, Sections 130 and 140 of the regulations refer to existing dams constructed either before July 1, 1982 (section 130) or having a construction permit issued after July 1, 1982 (section 140). Alternative 1 would change the regulations to drop this date distinction and simply refer to all dams.”

- **THE DEPARTMENT AGREES AND RECOMMENDS THAT TERMINOLOGIES SUCH AS EXISTING AND NEW SHOULD BE REMOVED FROM THE ACT AND REFERENCES TO DATES BE ELIMINATED.**

C. “Third, Sections 130 A. and 140, as they currently exist, would be repealed. The provisions of 130B would be applicable to all existing dams. This would have the effect of affirming the current practice of requiring those existing dams that don’t qualify for a reduced spillway design flood based on an incremental analysis to meet the requirements of Table I.”

- **THE DEPARTMENT AGREES AND RECOMMENDS THAT SECTIONS 130A AND 140 SHOULD BE REPEALED. FURTHER, THE DEPARTMENT RECOMMENDS THAT LANGUAGE CURRENTLY IN SECTION 130A BE AMENDED AND INCLUDED IN SECTION 4 VAC50-20-50 TO APPLY TO ALL DAMS AND THAT THE PROVISIONS OF SECTION 130B ALSO BE MADE APPLICABLE TO ALL DAMS [INCREMENTAL ANALYSIS].**

D. Additionally, the Committee noted that “the current regulations are difficult to interpret - words such as ‘significantly’ and ‘reasonable’ as well as the threshold at which ‘probable’ becomes ‘possible’ are not defined”.

- **THE DEPARTMENT RECOMMENDS THAT THIS ISSUE BE INCLUDED IN THE NOTICE OF INTENDED REGULATORY**

**ACTION (NOIRA) FOR INPUT FROM THE INTERESTED PUBLIC.**

**2. Ad Hoc Committee report: The second Ad Hoc Committee recommended alternative is to “Provide an Alternate Procedure for Existing Dams” which allows spillway design floods (SDF) less than the PMF in cases where there would be no significant increase in downstream hazard.**

In addition to those recommendations that existed in Alternative 1, the committee discussion included the following points for the Board’s consideration:

A. “Dams that qualified for a reduced spillway capacity under Section 130 B’s allowance for incremental damage assessment analysis would be expected to explore that possibility before proceeding with the process described below [alternative procedures].”

- **THE DEPARTMENT AGREES AND RECOMMENDS THAT A DECISION MATRIX BE DEVELOPED AS PART OF THE STATE REGULATORY PROCESS THAT WOULD MOVE AN APPLICANT THROUGH:**
  - **THE BASIC PROGRAM PROVISIONS IN SECTION 4 VAC50-20-50 AND TABLE 1,**
  - **AN INCREMENTAL ANALYSIS, AND**
  - **FOR CLASS 1 AND 2 HIGH HAZARD DAMS, OWNERS MAY ALSO INVESTIGATE THE POSSIBILITY OF LOWERING THE SDF FROM TABLE 1, UP TO A CUMULATIVE MAXIMUM OF 25 PERCENT, BUT NO LOWER THAN ½ PMF UTILIZING AN ALTERNATIVES PROCEDURES PROCESS.**

B. “Alternative 2 would require that the default spillway design flood for both new and existing dams would be as specified in Table I. However, for existing dams, there would also be an alternate procedure available. A SDF less than the PMF could be allowed in cases where there would be no unreasonable hazard to life and property.”

- **THE DEPARTMENT AGREES AND RECOMMENDS THAT A REGULATORY PROCESS BEGIN TO DEVELOP FOR CLASS 1 AND 2 HIGH HAZARD DAMS, AN ALTERNATIVE PROCEDURES PROCESS, WHICH MAY BE PERFORMED FOR THOSE DAMS WHERE THERE WILL BE NO UNREASONABLE HAZARD TO LIFE AND PROPERTY.**

C. “When considering spillway capacity for existing dams that are in a size and hazard classification currently requiring passage of a full PMF, the SDF would be presented as a range from ½ PMF to PMF for existing dams (statutory bounds).

The selection of SDF would default to the full PMF, but could be considered for downward adjustment based upon the owner's historic compliance with regard to all other dam safety requirements and taking into account meaningful site specific factors, such as:

- maximum depth and duration of overtopping
- robustness of the dam's construction
- potential structural/operational changes
- number and type of structures and transportation corridors in the inundation zone
- number of people at risk
- flood wave travel time to impact areas
- simplicity or complexity of evacuation provisions
- existence of a well coordinated and regularly exercised Emergency Action Plan
- public education program
- flood recurrence and frequency data for relevant nearby streams
- likelihood of prior flooding from other nearby streams or rivers affecting the inundation zone
- other possible site-specific factors relating to the level of risk, potential impacts of a failure and mitigating circumstances.

This listing is not intended to be comprehensive, but rather to be indicative of the types of information and analysis that may be required for this process.”

“In no case would the spillway design flood be reduced to less than ½ of the PMF (except as is considered acceptable based on 4VAC50-20-130 B [an incremental analysis]).”

- **THE DEPARTMENT AGREES AND RECOMMENDS THAT AFTER AN APPLICANT COMPLIES WITH BASIC PROGRAM PROVISIONS IN SECTION 4 VAC50-20-50 AND TABLE 1, AND AN INCREMENTAL ANALYSIS HAS BEEN PERFORMED AND THE SDF STILL EXCEEDS ½ PMF (AND ANY REDUCTIONS HAVE NOT EXCEEDED 25% OF THE PMF), THAT FOR CLASS 1 AND 2 HIGH HAZARD DAMS, THAT AN ALTERNATIVE PROCEDURES PROCESS BE DEVELOPED BY REGULATION WHICH MAY BE CONSIDERED WHERE THERE WILL BE NO UNREASONABLE HAZARD TO LIFE AND PROPERTY.**
- **FURTHERMORE, AS RECOMMENDED IN THE AD HOC COMMITTEE REPORT, THE DEPARTMENT STAFF WILL WORK WITH A SPECIAL BOARD CHAIRED WORKGROUP TO DEVELOP A DRAFT REGULATORY CONCEPTS (STRAWMAN) DOCUMENT FOR CONSIDERATION BY STAKEHOLDERS AND THE INTERESTED PUBLIC DURING THE SUBSEQUENT PUBLIC REVIEW PROCESS.**

D. “No less important, this approach would require a significant increase in dam safety staffing and credentials to provide for in-depth reviews of documents and

analyses presented to justify a reduction in the SDF, to accommodate proactive involvement by dam safety regulators in negotiating and adjudicating SDF considerations (requiring significant qualitative judgments relating to risks and impacts), and to support periodic reviews of justifying conditions to assess the need for updating a negotiated SDF basis.”

- **THE DEPARTMENT RECOGNIZES THAT THERE WILL BE SIGNIFICANT ADDITIONAL COSTS ASSOCIATED WITH IMPLEMENTING THIS NEW APPROACH AND RECOMMENDS THAT, WITH THE BOARD’S SUPPORT, THE DEPARTMENT DEVELOP A BUDGET DECISION PACKAGE TO SUPPORT ADDITIONAL DAM SAFETY ENGINEERS AND DEVELOP A REASONABLE FEE SCHEDULE ASSOCIATED WITH AN ALTERNATIVES REVIEW THAT WILL BE BORNE BY THE APPLICANT. DCR IS ALREADY UNDERSTAFFED FOR ITS EXISTING DAM SAFETY RESPONSIBILITIES.**

[NOTE: Staff Resources - The Dam Safety Program is currently understaffed to properly administer the existing program requirements. To date, Virginia’s engineers are responsible for 277 dams each, while staff in 10 East Coast States average 130 dams per employee. The 2002 regulatory definition change is substantially increasing the number of dams under Virginia regulatory jurisdiction, constituting a dire need for additional staff. Should the Alternate Procedures become a part of the dam classification process, it, too, would dictate a significant increase in staff resources.]

**3. Ad Hoc Committee report: Additional Ad Hoc Committee recommendations include the following:**

A. “... the Committee also recommends that efforts be made to increase the degree to which dam safety is recognized and considered by the public and local officials as they make land use and development decisions. Although not part of the specific charge by the Board to this Committee, the Committee believes that misunderstanding and lack of awareness on the part of the public and local officials of the potential impact of future land use changes on the classification of a dam lies at the heart of the problem that brought this Committee together and recommends that some positive action be taken by the Board to initiate steps to foster more complete communication connecting the classification of each dam with the land use downstream that affects its classification.”

“As a minimum, the Committee believes that the downstream potential inundation area needs to be made a matter of public record so that this information is available to land owners and policy makers. All dam owners need to know that their dam is subject to evolving design standards tied to downstream development. The Committee also believes that land use zoning needs to be adopted or adjusted to take the inundation area into account.”

- **THE DEPARTMENT CONCURS AND RECOMMENDS THAT THE DEPARTMENT ESTABLISH WITHIN THE NEXT YEAR A DAM BREAK INUNDATION ZONE MODEL ORDINANCE FOR ADOPTION BY LOCAL GOVERNMENTS.**
  
- **THAT WITH THE BOARD'S SUPPORT, THAT THE DEPARTMENT DEVELOP A BUDGET DECISION PACKAGE TO SUPPORT ADDITIONAL DAM SAFETY ENGINEERS THAT WOULD FOCUS ON EVALUATING AND DETERMINING THE STATUS OF THOSE DAMS THAT BECAME REGULATED IN JULY 2002 [AS REQUIRED BY CHAPTER 92 OF THE 2001 VIRGINIA ACTS OF ASSEMBLY (SB1166)], PERFORMING LOCALITY OUTREACH ON DAM BREAK INUNDATION ZONE PROTECTIONS, AND ASSISTING WITH REGULATORY DEVELOPMENT AND IMPLEMENTATION OF AN ALTERNATIVES ANALYSIS NECESSARY UNDER ALTERNATIVE # 2.**

B. "...a program that would assist dam owners through state grants and loans was suggested."

- **THE DEPARTMENT CONCURS THAT FUNDING FOR DAM REPAIRS IS A CRITICAL ISSUE AND RECOMMENDS THAT THE BOARD RECOMMEND THE DEVELOPMENT OF LEGISLATION TO ADDRESS FUNDING NEEDS.**
  
- **THAT WITH THE BOARD'S SUPPORT, THAT THE DEPARTMENT CONSIDER THE DEVELOPMENT OF A LEGISLATIVE PROPOSAL(S) THAT WOULD 1) DEVELOP A FUNDING SOURCE FOR PROVIDING LOANS AND GRANTS TO DAM OWNERS THROUGH THE EXISTING FLOOD PREVENTION AND PROTECTION ASSISTANCE FUND OR OTHER MECHANISM, 2) ADD A GREATER SUITE OF ENFORCEMENT TOOLS (SUCH AS LOWERING THE POOL, AUTHORITY TO CEASE CONSTRUCTION ACTIVITIES ON DAMS, ETC.), ESPECIALLY NEEDED TO ADMINISTER ALTERNATIVE #2 IF ADOPTED, AND 3) DEVELOP PENALTY MEASURES AND DUE PROCESS PROCEDURES FOR NON-COMPLIANT DAM OWNERS TO BE APPLIED AT THE DEPARTMENT'S RECOMMENDATION AND THE BOARD'S APPROVAL.**

**VIRGINIA SOIL AND WATER CONSERVATION BOARD**

July 21, 2005 Meeting

at the Natural Resources Conservation Service

Richmond, Virginia

Motion to authorize and direct the filing of Notice of Intended Regulatory Actions (NOIRA) related to the Board's Virginia Impounding Structures Regulations and other associated actions:

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 Board's Virginia Impounding Structures Regulations. The changes may include, but not be limited to amendments:

- to address the Ad Hoc Dam Safety Committee's recommendations relative to Classes of Impounding Structures (§ 4 VAC50-20-40), Performance Standards Required for Impounding Structures (§ 4 VAC50-20-50), and the attendant Table 1 established in the 2004 Virginia Impounding Structures Regulations;
- to clarify vague words/wording (e.g. possible, probable, reasonable, appropriate, etc.);
- to make Table 1 more understandable and consistent in application;
- to eliminate the reference to "new" and "existing" dams;
- to establish alteration permit requirements similar to construction permit requirements;
- to remove DCR forms currently contained in the regulations; and
- to make other technical or administrative amendments necessary to improve and clarify the regulations.

As part of this process, the Board further authorizes a public meeting to be held by the Department not less than 30 days after publication of the NOIRA in the Virginia Register of Regulations, that a technical committee 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.

This authorization is related to those changes that are subject to the Administrative Process Act and to the Virginia Register Act. The Department shall follow and conduct actions in accordance with the Administrative Process Act, the Virginia Register Act, the Board's Regulatory Public Participation Procedures, the Governor's Executive Order 21 (2002) on the "Development and Review of Regulations Proposed by State Agencies", and other technical rulemaking protocols.

This authorization extends to, but is not limited to, the drafting and filing of the NOIRA, the holding of public meetings, the development of the draft proposed regulation and other necessary documents and documentation as well as the coordination necessary to gain approvals from the Department of Planning and Budget, the Secretary of Natural Resources, the Governor, the Attorney General, and the Virginia Registrar of Regulations.

The Board requests that the Director or the Regulatory Coordinator report to the Board on these actions at subsequent Board meetings and for the Department to work with the Board's Dam Safety subcommittee during the regulatory process as deemed appropriate.

Motion made by: Linda S. Campbell

Motion seconded by: Jean R. Packard

Action:

Motion Carried

David L. Moyer \_\_\_\_\_

David L. Moyer

Chairman

(Signatures on file)

Joseph. H. Maroon \_\_\_\_\_

Joseph H. Maroon

Secretary

Attachment # 2

**NRCS Report**  
**Virginia Soil and Water Conservation Board Meeting**  
**July 21, 2005**  
**Richmond, VA**

**Farm Bill Program Activities**

- **Grassland Reserve Program (GRP)** – A total of twenty-seven (27) applications were received. Six (6) long term rental agreements and three (3) permanent easements were approved. All of the \$800,000 allocation was used in these approvals. All agreements have been signed and obligated, and work is proceeding to obtain appraisals on the three easement sites to obligate these funds.
- **Farm and Ranchland Protection Program (FRPP)** – A ceremony was held on July 6<sup>th</sup> to announce the easement for the Waterford Foundation tract in Loudoun County. NRCS chief Bruce Knight and Congressman Frank Wolf were in attendance.
- **Wildlife Habitat Incentive Program (WHIP)** – Field offices have obligated all of the available WHIP money for on-farm habitat creation and maintenance. There is a waiting list of application and project activities. A request for additional funds was submitted to the national program manager in case more becomes available.
- **Environmental Quality Incentives Program (EQIP)** – Field offices have obligated in excess of \$10 million for contracts this year. Funding allocations to the NRCS four administrative areas proved successful for fund distribution and will be used again next year. Local work group meetings are being called by local Soil and Water Conservation Districts during July and August to obtain local input from FSA County Committees, local conservation staff, and other interested parties into the development of the Fiscal Year 06 program. The local work group is asked to provide suggestions for the addition or deletion of practices and other measures to address local needs.
- **Conservation Security Program (CSP)** – Signup and application evaluations have been completed in the three approved watersheds. A total of 207 applications were received and forwarded to our national office. Final approval will be made and a national announcement is expected the last week of July on which application will be included in the FY 05 program.

**Budget**

The Senate and House Appropriations Committee have passed their budgets for FY-06. Both committees are submitting increases over the President's budget, but until a final budget is adopted it is unknown what programs may see reductions from FY-05.

### **Dam Rehabilitation**

The first draft of the South River Dam Rehabilitation Plan for three Headwaters SWCD dams has been completed and is out for interagency and public review. Comments are due by September 1, 2005. This plan includes the installation of articulated concrete blocks to armor the spillways and a parapet wall to raise the height of the dams by 4-5 feet each. The total estimated cost is about \$4.1 million for all three dams. The federal share is 65% and the local share is 35%.

Construction is about 50% complete on the \$2.5 million construction on the Marrowbone Creek Dam Rehabilitation project. Congressman Goode's aide visited the site with the Blue Ridge SWCD in June. This rehabilitation project includes the installation of a roller compacted concrete spillway through the dam and raising the dam 8.5 feet. Construction should be complete by September 30, 2005.

### **Watershed Operations**

The first phase of the flood control work for the City of Buena Vista is out for bid and a contract will be awarded later this fiscal year. NRCS has completed the design of two debris basins for the Chalk Mine Run and Washer Hollow sub-watersheds in the City of Buena Vista. The debris basins are designed to catch cobble and reduce the volume of material migrating through the system during flood events. The total estimated cost is \$450,000 for this portion of the project. The federal share is 100% for the construction, which should begin, in early November. The Buena Vista Watershed project will continue FY-06 with the design and installation of needed channel improvements on Chalk Mine Run and the design of 5 more debris basins for other sub-watersheds.

### **Congressman Goodlatte tours EWP sites**

On July 5, 2005 Congressman Bob Goodlatte, Chairman of the House Agriculture Committee, toured restored streams that once posed threats to property and life in Augusta and Rockbridge Counties following flooding storm events. These sites were among 60 hazardous sites statewide that were stabilized utilizing \$2.1 million in federal Emergency Watershed Protection Funds administered by NRCS.

### **Soil Surveys and Digitizing**

Sixty-two percent (62%) of the 231,580 acre mapping goal is complete. Four soil surveys – Bath, Bland, Cumberland and Halifax have been correlated (meaning their data entered into the soil survey database meetings national standards). Twelve manuscripts have been sent for technical edits and seven countries sent to digital map finishing.

Map compilation (the transferring of map information from soil survey field sheet imagery to publication imagery or map bases for digitizing) is complete on three countries. Seven surveys have been digitized and placed on the Soil Data Mart for public

access. They are Alleghany, Amherst, Bath, Bland, Chesapeake, Halifax, and James City and York County and Williamsburg.

### **BSA Jamboree**

NRCS is operating a natural resource conservation station at the Boy Scout Jamboree, which runs from July 25 until August 3, 2005. 40,000 Scouts and leaders are expected at Fort A.P. Hill in Caroline County to attend this event, which occurs once every four years. In conjunction with the Jamboree Virginia NRCS produced a new soils poster to illustrate the characteristics and uses of soils. It will be available for distribution at other future public events. The poster explains the need to protect and maintain soil resources and contains information on contacting NRCS for assistance.

### **White House Conference on Cooperative Conservation**

The 2005 White House Conference on Cooperative Conservation convenes on August 29, 2005 in St. Louis, Missouri. A key purpose of the conference is to learn what Americans are doing within their communities and in cooperation with others to steward and conserve the nation's natural resources. In addition, it is an opportunity to share the lessons, information, and resources that are critical to everyone's conservation success.

All Americans – including individual citizens, non-profit organizations, civic groups, schools; businesses, and government agencies – are urged to be part of this cooperative conservation effort and to help share the conference outcomes. If you want to contribute and share your conservation project story, please visit the Cooperative Conservation America website at [www.cooperativeconservationamerica.org](http://www.cooperativeconservationamerica.org) to learn more about cooperative conservation and enter your project story into the database.

Attachment #3

**Virginia Soil and Water Conservation Board**  
**July 21, 2005**  
**Virginia Department of Forestry**

- The Department of Forestry held 2 “listening sessions” on its proposed forest policy. Over 60 people attended the 2 sessions. Numerous recommendations were received including clarifying the role of the private landowner and ensuring the ability of the private landowner to practice good harvesting. Also we heard of the importance of clear definitions in the policy. The final draft policy is to be presented to the Secretary of Agriculture and Forestry by September 1.
- Also regarding forest policy and land conservation, the Board of Forestry, with assistance from the Department, is continuing to work on Senate Joint Resolution 367 regarding the forest land conservation incentives and the impact of local ordinances on non-industrial private landowners. Also, Dr. Mike Mortimer of the College of Natural Resources at Tech is conducting a survey of local governments and their ordinances, which will feed into the SJR 367 work. Discussions with other land conservation agencies and some county planning staff are planned for August 2005.
- The Department put in a proposal to the NRCS Conservation Innovation Grants Program. The proposal was to focus riparian and other tree planting efforts in the Lower Rappahannock watershed. This watershed has not had the same level of CREP plantings as other parts of the Rappahannock. In addition, the Department has been discussing the carbon sequestration issue with the Nature Conservancy and Mirant Corporation and Dominion Power as part of this proposal. As of July 20, the Department has not heard the outcome of this proposal.
- The Department is a sponsor for the upcoming Virginia Sustainability Summit to occur from September 13 through the 15<sup>th</sup>. It is being held in Richmond at the Coliseum. Secretary Bloxom will speak on “Working Landscapes.” Also, a session on healthy urban communities will be delivered by Department staff on September 15.
- The Department will assist VIMS on a Dragon Run watershed symposium to be held August 4, Dragon Run stakeholders will be present to learn more about the various aspects of natural resource issues in the Dragon. The Department will speak to small woodlot management and reaching the small landowner. DCR, DGIF, and the Middle Peninsula PDC are participating also. Ms Alyson Craig is the principal VIMS contact if you are interested in attending.
- The Department is hiring a Conservation Education position. The job is on the street now. The position will focus on adult education issues with regard to forests and natural resources and will be housed in our Charlottesville office within the Public Information Division.

Attachment #4

**Department of Conservation and Recreation**  
Report to the VASWC Board on July 21, 2005

**1. DCR/SWCD Operational Funding:**

All 47 SWCDs have endorsed grant agreements with DCR for Operational funding this fiscal year. There are no changes in the performance “deliverables” contained within the agreements. The first quarter of this year’s funding is being processed for payment. Every district should receive their check for this initial allocation within the next few weeks. Future disbursements will continue on a quarterly basis.

This fiscal year (FY06), operational funding for all districts totals \$4,052,240. The total amount is the same as FY05 operational funding, however, FY06 funding is still roughly 6% less than the peak funding level experienced by districts in FY01 (\$4,301,000).

**2. SWCD Audit Services:**

The accounting firm of Robinson, Farmer, Cox Associates (RFCA) will begin a new round of SWCD audits later this summer for an audit period that will end on June 30, 2005. Twenty-six (26) SWCDs were audited by RFCA last summer and fall for an audit period that ended June 30, 2004. DCR will aim to audit no less than 21 SWCDs so that a two year audit cycle for all SWCDs is maintained. Previously the audit schedule provided a 3 or 4 year cycle of audits. .

**3. SWCD Bonding Coverage:**

DCR’s last 2 year contract that provides bonding coverage to all SWCDs ended on July 15, 2005. Earlier this spring DCR posted several “Invitation to Bid” solicitations to establish a new contract. No bids were submitted. Modifications in the last solicitation (which closed June 21<sup>st</sup>) resulted in one acceptable bid. A new 2 year contract is now in place with a higher deductible and at a greater cost. The new contract raises the deductible from \$5,000 to \$10,000 per claim, with an annual premium (paid by DCR) of nearly \$20,000 (twice previous rate). Further, SWCDs must implement tighter controls for every district payment to any vendor, and for those SWCDs that use credit cards for business purposes, a policy governing use must be in place. Further information pertaining to these new arrangements will be shared with SWCDs in the weeks and months to come.

**4. 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. High rates of employee turnover continue to create challenges with maintaining well-trained staff. Additionally, the likelihood of greater funding for state and federal cost-share programs coupled with the need for additional SWCD technical employees creates a further challenge with expanded training needs.

**5. SWCD Dams:**

DCR staff initiated creation of a SWCD dam owner work group. Two meetings of this group have been held with roughly 20 SWCD directors and staff representing 11 of the 12 districts owning dams, participating at both meetings. The initial meeting of this work group was held April 21; the group met again on June 30<sup>th</sup>. Participants generated a list of topics where further

information and training is desired. With recent increases in funds for dam maintenance and smaller repairs, the group expressed greatest need for assistance working through a contractual process to perform needed work. Other needs include training and assistance with Emergency Action Plans, addressing liability concerns, and understanding the impacts of land development above and below impoundments, and other topics. The group agreed to meet every 2 months until topics of greatest urgency are addressed.

The 12 SWCDs that own 103 flood control structures are receiving a sizeable increase in O&M (operation and maintenance) funding appropriated by the General Assembly. For many years a total of \$50,000 was shared and apportioned equally among the 103 dams. Effective July 1<sup>st</sup>, 2005 the annual O&M funding has increased to \$2,000 per dam. Checks are being issued to each district and should be received within the next two weeks.

**6. Agricultural BMP Cost-Share Program:**

Grant agreements for Cost-Share program funding have been issued to every SWCD. Each agreement specifies funding commitments and priorities for this program year and the year to follow. Funds committed through the agreements total \$10 million in FY06 and \$10 million in FY07.

Each year, \$6 million will be dedicated to the land within Virginia that flows into the rivers and streams that make up the Chesapeake Bay basin. The \$6 million in the Bay will provide a base of \$4 million for a variety of best management practices (BMPs) that address local water quality issues while reducing nonpoint source pollution throughout the basin. Further, \$2 million will be dedicated to the added implementation of high priority, cost-effective BMPs in the Bay basin. In FY06 the priority BMPs are: (1) cover crops; (2) conservation tillage (continuous no-till); and (3) nutrient management planning and implementation. Any adjustments to these priorities will be considered in advance of the start of the FY07 program.

In Virginia's Southern Rivers, a total of \$4 million will be available each year (FY06 and FY07). This amount enables a \$3 million base program and an additional \$1 million devoted to addressing nonpoint source impaired "TMDL" waters in these areas.

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

The web pages for reserving CREP landowner incentive bonus payments for CREP riparian forest buffers 100' or wider (Chesapeake Bay basin only), and wetlands restoration (statewide) were launched in late March and early April. Several requests for reservation of incentive funds have been processed. The system seems to operate well and DCR will continue to monitor its performance. Progress continues in the southern rivers towards fulfillment of the additional 5,000 acres of CREP enrollment.

**8. Stormwater Management:**

EPA and DCR staff members have completed MS4 program evaluations for the cities of Norfolk and Hampton and the counties of Hanover and Henrico. Program evaluations have been scheduled for the City of Portsmouth and Arlington County. DCR staff issued coverage under the General Permit for Stormwater Discharges from Construction Activities for 704 projects during the period of January 29 through June 30, 2005.

**9. Nutrient Management Regulatory Actions:**

Public comment on the draft nutrient management training and certification regulations closed July 1. The agency is currently reviewing the public comments. The intent is to have the new regulations in place sometime between October 31<sup>st</sup> and the end of this year.

**10. Chesapeake Bay Tributary Strategies**

Virginia completed and published final Tributary Strategies in early 2005 and posted the documents on the web site of the Secretary of Natural Resources. There is a Bay-wide report and a strategy for each of the five tributary basins. Increased implementation efforts are beginning with the increased funding received through the WQIF and the “targeting” language included in the SWCD Agricultural BMP Agreements for FY06. DCR Regional Managers and staff will be discussing the content of the Tributary Strategies with each Soil and Water Conservation District and local governments. The overall goals within the strategies have been separated out for each county into a list of agricultural and urban/suburban BMPs to be accomplished locally. Awareness of these goals and how to start accomplishing this significant effort with available resources will be subject of the discussion DCR staff will initiate in coming months.

## Attachment #5

Use of funds managed by DCR (as directed by the VSWCB) on behalf of all SWCDs

<b>Total available monies set aside by the VSWCB to support SWCDs:</b>	<b>\$108,200</b>
<u>Audits</u> 24 each year (no less than 24 to maintain a 2 year audit cycle of all SWCDs) at \$2,600/per audit --ideally we do more than 24	-\$62,400
<u>Surety Bond</u> for all SWCDs (annual expense)	-\$19,483
<u>SWCD Directories</u> (printing)	-\$1,300
<u>Public Notices</u> (District Director Elections (no expense until Spring 2007) –estimated expense \$35,000	(FY06) \$0
<u>VASWCD support</u> from DCR (DCR/VASWCD Grant Agreement)	-\$15,000 “base” plus -\$5,000 “supplemental”
Other misc. support such as:	?
<ul style="list-style-type: none"> <li>• Revisions/printing of the SWCD Desk Top Guide</li> <li>• Training provided by auditors for SWCD Admin. Sec.</li> <li>• Enhancements to SWCD tracking/reporting requirements that further reduce staff time</li> <li>• District Director Leadership Retreats</li> <li>• Other SWCD related support expenses</li> </ul>	
<b>Balance not yet committed and available for audits and/or other support needs listed above:</b>	<b>~\$5,000</b>

Prepared 6/22/05