

**Minutes of the
VIRGINIA SOIL AND WATER CONSERVATION BOARD
March 15, 2001
Virginia Department of Forestry
900 Natural Resources Drive
Charlottesville, Virginia**

Virginia Soil and Water Conservation Board Members Present

Charles E. Horn, Chairman	James Gardner (For David Barrett)
Leon E. App (For David G. Brickley)	Robert M. Hall
A. Dewey Bond	David L. Moyer
M. Denise Doetzer, NRCS	W. P. Johnson

Virginia Soil and Water Conservation Board Members Not Present

Robert Q. Cannell	Herbert L. Dunford
J. Carlton Courter, III	Dr. Conrad Gilliam

Staff Present

William G. Browning	Lawrence J. Gavan
Linda J. Cox	Jonathon T. Phillippe
Jack E. Frye	Stuart D. Wilson

Others Present

Ted Britt, Tri-Tek Engineering	Stephanie L. Martin, VASWCD
Chad Crawford, Fairfax County	Jacob Porter, Law Engineering
Gregory C. Evans, VASWCD	Bettina Ring, Virginia DOF
J. Michael Foreman, Virginia DOF	Scott R. St.Clair, Fairfax County
Walter Hamilton, III, Fairfax County	Donald L. Wells, VASWCD
Chris Koerner, Fox Heritage Homeowners Assoc.	Kevin Williams, Rockingham County
Daphne W. Jamison, VASWCD	Frances Zaun, Virginia Farm Bureau
Marilyn W. Layer, VASWCD	

Call to Order and Welcome

The meeting of the Virginia Soil and Water Conservation Board was called to order by Chairman Horn at 9:00 a.m., and a quorum was declared present. Michael Foreman welcomed the Board to Charlottesville and the Virginia Department of Forestry facilities and introduced Batina Ring, Deputy State Forester, who also extended a warm welcome on behalf of State Forester, Jim

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Garner.

Ms. Ring reported that the Virginia Department of Forestry, in partnership with the University of Virginia Institute for Environmental Negotiation and Virginia Tech Center for Economic Education were sponsoring the Virginia Natural Resources Leadership Institute (VNRLI) again this year. The mission of the VNRLI is “To improve the capacity of Commonwealth citizens, businesses, communities and public officials to engage in productive dialogue and resolution of issues concerning the management of Virginia’s natural resources and the quality of Virginia’s environment.”

Minutes of the January 18, 2001 Meeting

Mr. Moyer made a motion that the minutes of the January 18, 2001 meeting be approved as amended. The motion was seconded by Mr. Hall and carried unanimously.

Lake Martin Update

Mr. Wilson reported that at the January 18, 2001 meeting, the Board requested that Fairfax County submit an update of activities and progress toward resolution of impacts to Lake Martin and the upstream tributaries. On February 2, 2001, Fairfax County officials held a meeting with the Environmental Protection Agency and the Department of Environmental Quality to discuss the damages associated with the violations of the Virginia Erosion and Sediment Control Law. EPA indicated to Mr. Wilson that the issuance of an Administrative Order to the developer is imminent.

Mr. Scott R. St.Clair, Acting Director of Fairfax County Stormwater Planning Division told the Board that the conceptual design report for the streambank stabilization and pond retrofits was scheduled for completion in March and a meeting would be scheduled with the Lake Martin community and the communities upstream from the lake to discuss the viability of the conceptual alternatives after the design report had been reviewed. On the basis of that discussion and the County’s selection of appropriate alternatives, Mr. St.Clair reported that the County would authorize its consultant to proceed with the final design and construction documents. All comments received at the meeting with the communities would be evaluated for incorporation in the final design.

Mr. St.Clair reported that the County is in the process of obtaining land rights to dredge Lake Martin and have obtained a title report for parcel 42A. This landowner is currently in New Mexico and the County has not had success in contacting him.

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Also, Mr. St.Clair reported that it appears that erosion of the upstream tributaries has substantially slowed or stopped, indicating that the streams may have reached equilibrium. One course of action the County is considering is to perform retrofit work on the stormwater detention facilities of Governors Run in order to improve the outfalls from those facilities, implement limited measures to the streams to assist in stabilization and to monitor the channels for future erosion. The estimated costs for the pond retrofits, the stream channel upgrades and the dredging far exceed the funds that the County currently has for this project. Dredging operations to correct sediment impacts to Lake Martin cannot proceed until sufficient funding has been obtained.

Mr. St.Clair said that the County's legal action against the upstream developers is continuing. The claims under the Airston and Interactive conservation agreements have been refiled as separate actions. The original suit, which now pertains only to Airston's development agreement, is still set for trial on July 17, 2001. The County Attorney's Office will soon be arguing a motion to consolidate the three cases for trial. Fairfax County staff and its consultant are working with attorneys to prepare for the upcoming legal action.

Because funds currently held by the County are insufficient to cover all the work, Mr. St.Clair reported that the County does not know when the work will be done and cannot project a timeline for the completion of the corrective measures. However, he did relate to the Board that the next step is to coordinate with the Lake Martin homeowners and work towards the finalization of the plans.

Mr. St.Clair indicated that the design, land rights acquisition and permitting process for the project may extend for several more months prior to the initiation of a request for bids for restoration work.

Mr. Koerner, representing Fox Heritage Homeowners Association spoke on behalf of the homeowners and expressed their dissatisfaction with the manner in which Fairfax County has responded to their complaints. A copy of Mr. Koerner's handout to the Board is attached and made a portion of these minutes (Attachment 1).

Staff presented the following motion for consideration and discussion by the Board:

1. The VSWCB accepts the progress report of Fairfax County outlining current and proposed actions to bring resolution to the Lake Martin watershed erosion and sediment control problems under the enforcement authority of the Fairfax County Erosion and Sediment Control Program. The Board notes a lack of significant progress since the January Board meeting. The Board is disappointed with Fairfax County's pace of progress in resolving this matter; the County's apparent reluctance to provide a proposed schedule or timetable for the

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resolution of this issue; and the County's evidence of full commitment to the resolution of this matter.

2. The Board again requests that Fairfax County continue to provide an update for the Board at its next meeting on May 17, 2001, and all subsequent Board meetings, relative to the progress in completing the final design and construction specification documents, the proposed plans and schedule for commencement of the restoration activities, and the actual progress in restoration. The County should insure that affected homeowners are provided input into the process of determining the final remediation plans. These updates shall continue until restoration activities have been completed. The Board again requests the County's commitment to the resolution of this matter in an expeditious manner.
3. The Board further requests the Department staff to seek assistance and guidance from the Attorney General's office to determine if there are authorities or means which the Board could utilize to further expedite the resolution of this issue.
4. The Board directs the Department Director to transmit a copy of this motion to the Fairfax County Executive and to the Fairfax County Chairman of the Board of Supervisors and all County Supervisors.

During discussion of this motion, Mr. Bond suggested an amendment to item number 1 to change the word "accepts" to "receives. The amendment was accepted.

Mr. Bond then made a motion that the Board accept the amended motion as recommended by staff. The motion was seconded by Mr. App and carried.

Mr. Moyer further discussed the importance of involving the County Board of Supervisors and made a motion that the foregoing motion be amended to reflect that that Board requests that the Chairman of the Fairfax County Board of Supervisors attend the meeting on May 17, 2001. The amended motion was seconded by Mr. Johnson and carried. A copy of the amended motion is attached and made a portion of these minutes as Attachment 2.

Fairfax County Alternative Inspection Program

In accordance with the criteria set forth in §VAC50-30-60B.b of the 1991 Virginia Erosion and Sediment Control Regulations and the Alternative Inspection Program Guidelines, Mr. Walter Hamilton, III representing Fairfax County Public Works and Environment Service, presented the County's Erosion and Sediment Control Alternative Inspection Program Proposal. After considerable deliberation, a motion was made by Mr. Moyer that the Board defer action on the

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approval of the alternative inspection program considering actions by Fairfax County in the inspection, enforcement and remediation of the Lake Martin erosion and sediment control issue. Further, the Board is also concerned that the alternative inspection program could lessen requirements for the County to inspect land disturbing activities and to enforce violations of the local erosion and sediment control program. The motion was seconded by Mr. Gardner and carried. Mr. Bond abstained from the vote.

Dam Safety Certificates and Permits

Mr. Phillippe presented the following dams for approval:

<u>Dam Safety Alteration Permit</u>	<u>City/County</u>
01925 Swan Lake Dam	Bedford County
05932 Kingstowne Lake Dam	Fairfax
<u>Dam Safety Construction Permit</u>	
17917 Celebrate Virginia Dam	Stafford

Dam Safety Operation & Maintenance Certificate

Class I Regular

04112 Swift Creek Reservoir Dam	Chesterfield
05913 Lake Thoreau	Fairfax
05930 Lake Newport	Fairfax
14117 Ararat River Dam #28	Patrick

Class I Conditional

72002 Upper Norton Reservoir Dam	Norton
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Class II Regular

05909 Lake Anne Dam	Fairfax
05921 Lake Audubon	Fairfax
05924 Upper Occoquan Dam	Fairfax

Extension to May 2001 Board Meeting

05307 Burnt Quarter Dam	Dinwiddie
08703 Gillie Creek Dam	Henrico
10936 Lake Ellen Dam	Louisa
14531 Carneal Pond	Powhatan

Extension to July 2001 Board Meeting

09903 Lake Jefferson Dam	King George
13113 Ararat River Dam #63	Patrick
14114 Ararat River Dam #2	Patrick

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16901 Bark Camp Dam

Scott

A motion made by Mr. App to approve the slate of dams was seconded by Mr. Johnson and carried.

Mr. Phillippe presented the following extensions for approval:

Extension to May 2001 Board Meeting

10934 South Anna Dam #22

Louisa

14739 Bush River Dam #5

Prince Edward

Extension to July 2001 Board Meeting

06702 Upper Blackwater River Dam #4

Franklin

A motion was made by Mr. Bond to approve the three extensions. It was seconded by Mr. Moyer and carried. Mr. App abstained from the vote.

Mr. Phillippe reported that a package of actions taken to bring the Greene Mountain Lake Dam (907915) into compliance has been prepared for and transmitted to the Attorney General's Office. Action is anticipated from the Attorney General's Office before the May Soil and Water Conservation Board meeting.

Mr. Phillippe reported that the Dam Safety Advisory Committee will meet again in April and that retired DCR Dam Safety staff Joe Haugh and Jerry Jones will work with the Committee. Upon a motion made by Mr. Moyer, seconded by Mr. Johnson and carried, the Board authorized Mr. Phillippe to request John H. Dyches from the City of Martinsville to serve on the Dam Safety Advisory Committee.

District Director Resignations and Appointments

Mr. Browning presented the following Soil and Water Conservation District Director resignations and appointments:

James River SWCD

Resignation of W. D. Kreider, Prince George County, effective 3/15/01, elected director position (term of office expires 1/1/04)

Recommendation of Donald A. Bagshaw, Prince George County, to fill unexpired elected term of W. D. Kreider (term of office to begin on or before 4/14/01 – 1/1/04)

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Recommendation of W. D. Kreider, Prince George County, to fill unexpired appointed term of George W. Board, Jr. (term of office to begin on or before 4/14/01 – 1/1/03)

Resignation of G. Thomas Evans, Chesterfield County, effective 1/9/01, elected director position (term of office expires 1/1/04)

Recommendation of Richard B. Chess, Chesterfield County, to fill unexpired elected term of G. Thomas Evans (term of office to begin on or before 4/14/01 – 1/1/04)

Monacan SWCD

A motion was made by Mr. Gardner to accept the recommendation of J. E. Poore, Powhatan County, to fill the unexpired appointed term of A. Murray Fisher, Jr. (term of office to begin on or before 4/14/01 – 1/1/03) The motion was seconded by Mr. Hall and carried. Mr. Moyer abstained from the vote.

Mountain Castles SWCD

Recommendation of Harold P. Entsminger, Jr., Botetourt County, to fill unexpired elected term of Wayne Thompson (deceased 1/23/01) (term of office to begin on or before 4/14/01 – 1/1/04)

Three Rivers SWCD

Recommendation of Eugene Longest, King & Queen County, to fill vacant elected position (term of office to begin on or before 4/14/01 – 1/1/02)

Upon a motion made by Mr. Hall and seconded by Mr. Johnson and carried, the resignations of Messrs. Kreider and Evans was accepted and the appointments of Messrs. Bagshaw, Kreider, Chess, Entsminger and Longest were made and staff was directed to communicate the Board's actions to the affected Soil and Water Conservation Districts.

Date to File Nominating Petitions for November 2001 District Elections

A motion was made by Mr. Bond that in accordance with state law § 10.1-523.D. and § 24.2-503 of the *Code of Virginia*, the Board establish June 12, 2001, 7:00 p.m., as the deadline for acceptance of the required statements by candidates seeking to qualify for the office of SWCD director and appear on the November 2001 General Election Ballot. The motion was seconded by Mr. Moyer and carried.

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Appointment of Secretary/Treasurer of the James River SWCD

Mr. Moyer made a motion that the Board approve the qualifications of Linda McAllister to serve as the Secretary/Treasurer of the James River Soil and Water Conservation District and directed DCR staff to prepare a letter for the Board Chair's signature notifying the James River SWCD of the Board's approval. The motion was seconded by Mr. Hall and carried.

Halifax Soil and Water Conservation District No-Till Drill Loan Request

Mr. Browning presented a request from the Halifax Soil and Water Conservation District for the purchase of a Haybuster No-Till Drill in the amount of \$6,800.00, with the loan repayment through two annual installments at 6% interest. A motion was made by Mr. Johnson that the request be approved and directed DCR staff to administer the loan arrangements. The motion was seconded by Mr. Gardner and carried.

Evaluation Criteria of Guidance for DCR/SWCD FY 2000-20001 Grant Agreement

Board members received a draft document titled "Evaluation Guidance for DCR/SWCD FY 2000-20001 Grant Agreement Deliverables and were requested to review the material prior to the May meeting for discussion and possible action.

FY 00-01 Operating Funding for Soil and Water Conservation Districts

Mr. Browning presented the Draft Virginia Soil and Water Conservation Board Policy relating Financial Assistance for Soil and Water Conservation Districts. The purpose of this policy is to give direction in regard to making funding available to support the essential operation costs of every soil and water conservation district as authorized by Title 10.1 of the Code of Virginia. Mr. Browning reviewed the suggested changes and reiterated that this policy should be reviewed and adopted annually by the Board. A motion was made by Mr. Moyer that the Board approve the recommended amended revisions to the Virginia Soil and Water Conservation Board Policy on Financial Assistance for Soil and Water Conservation Districts as documented and presented by DCR staff. The motion was seconded by Mr. Gardner and carried. A copy of the Adopted Policy is attached and made a portion of these minutes as Attachment 3.

Mr. Browning presented Attachment A – ("Essential" Operating Support) Of the VSWCB Policy on "Financial Assistance for Soil and Water Conservation Districts" amended March 16, 2000. Mr. Bond made a motion that, based on the Commonwealth's current budget situation, the Board recommend no funding change to the existing "Essential" Operating Support for SWCDs

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for Fiscal Year 2001-2002, and in the event that state employees receive a pay raise, the Board will reconsider its funding to the “Essential” Operating Support for SWCDs. The motion was seconded by Mr. Gardner and carried. A copy of Attachment A (“Essential” Operating Support) Of the VSWCB Policy on “Financial Assistance for Soil and Water Conservation Districts”, amended March 15, 2001 is attached as Attachment 4 and made a portion of these minutes.

Mr. Browning presented staff recommended changes to the Performance Deliverables For the DCR/SWCD FY 2001 – 2002 Grant Agreement of the VSWCB Policy on “Financial Assistance for Soil and Water Conservation Districts” amended March 16, 2000. A motion was made by Mr. Bond that the Board approve the recommended revisions to the Performance Deliverables for the DCR/SWCD FY 2001 – 2002 Grant Agreement as documented and presented by DCR staff. The motion was seconded by Mr. Johnson

Lake Barcroft Watershed Improvement District FY 2001-2002 Budget

Upon review of the Lake Barcroft Watershed Improvement District (WID) FY 2002 Budget, and in accordance with state law § 10.1-630 of the Code of Virginia, Mr. Bond made a motion that the Board approve the FY 2002 Budget in the amount of \$580,648.00 and approve Tony Bracken as a Trustee and instructed the Board Secretary to notify the Lake Barcroft Watershed Improvement District. The motion was seconded by Mr. Hall and carried.

Rockingham County Alternative Inspection Program Proposal

Mr. Kevin Williams, representing Rockingham County, and Mr. Gavin presented a proposal for Rockingham County’s Alternative Inspection program for review and approval by the Board in accordance with the Virginia Erosion and Sediment Control Regulations. A motion was made by Mr. Bond that the Board accept for consideration Rockingham County’s proposal of an Erosion and Sediment Control Alternative Inspection Program and request that DCR staff provide an action recommendation at the Board’s May 17, 2001 meeting. The motion was seconded by Mr. Hall and carried.

Urban Local Program Review Update

At its meeting on January 18, 2001, the Virginia Soil and Water Conservation Board accepted the DCR staff recommendation to initiate program reviews for 20 City/County programs. Mr. Wilson reported that the current status of the reviews are as follows:

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Reviews completed – 1

Bedford County – official program review meeting held with County in February. Final review results and programs recommendations to be transmitted to County by April 1, 2001.

Reviews initiated – 10

Frederick County – Official program review meeting scheduled for April
Greensville County – Official program review meeting scheduled for April
Caroline County – Official program review meeting scheduled for May
Goochland County – Official program review meeting scheduled for May
Patrick County – Official program review meeting scheduled for June
City of Chesapeake – Official program review meeting scheduled for July
Buchanan County – Official program review meeting scheduled for August
Dickenson County – Official program review meeting scheduled for August
Botetourt County – Official program review meeting scheduled for October
Gloucester County – Initial contact with County/ review not yet scheduled

Mr. App made a motion that the Board accept the staff progress report relative to the Local Urban Program review process and requested further updates at future Board meetings. The motion was seconded by Mr. Gardner and carried.

Natural Resources Conservation Service

Ms. Doetzer reported on Natural Resources Conservation Service activities. A copy of her report is attached and made a portion of these minutes. Attachment 5.

Virginia Department of Forestry

Mr. Foreman presented a report for the Virginia Department of Forestry. A copy of the report is attached and made a portion of these minutes. Attachment 6.

Virginia Cooperative Extension Service

Mr. Gardner reported that Cooperative Extension is working with the Migrant and Seasonal Farm Workers Interagency Policy Committee and the farming community and producers who hire seasonal employees. Informational packets have been assembled and Extension is in the process

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of distributing the packets to employers of migrant workers. These packets contain information regarding laws and federal programs.

Cooperative Extension Service has been asked by animal and plant inspectors who work with livestock to be more aware of and look for symptoms of hoof and mouth disease. The disease has been reported in Europe and special precautions are being taken in the United States to abate the spreading of the disease to the U.S.

Mr. Gardner also reported that Cooperative Extension Service has been working with the Department of Agriculture and Consumer Service on a drought monitoring taskforce. He reported that some portions of the Commonwealth are in desperate need of rain.

Virginia Department of Agriculture and Consumer Services

No Representative Present

Virginia Department of Conservation and Recreation

Mr. Frye reported on the following:

Legislative Actions of the 2001 Virginia General Assembly:

Four recent actions are of particular importance to soil and water conservation interests:

- HB 2076 – Enables individuals to register locally (rather than through DCR and the State Board of Elections) to run for the office of district director and have their names appear on the ballot for November general election. Since this change takes effect July 1, 2001, 10 SWCDs with elections this November must still comply with existing filing requirements.
- HB 2077 – Requires directors of SWCDs to designate a chairman from the elected or from the (Virginia Soil and Water Conservation Board) appointed members of a district board.
- SKR 438 – Specifies that the Commission studying the Future of Virginia's Environment be directed to study the implementation of local erosion and sediment control programs and local stormwater management programs.
- SB 1247 – Amends the code of Virginia relating to land-disturbing activities (i.e. the E&S Law) to require as a prerequisite of approval for a land-disturbing site plan, the person responsible for carrying out the plan must provide the name of an individual holding a certificate of competence who will be responsible for carrying out the land-disturbing activity. DCR is currently exploring the opportunities that exist for carrying out this massive training and certification effort and envision an opportunity for the private sector, soil and water conservation districts and others in providing the training needed to make the program successful.

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SWCD Operation Funding:

Mr. Frye reported that as Virginia legislators and this Administration move closer towards resolution of the Commonwealth's operating budget for the balance of this fiscal year and the year that will follow, the situation for funding SWCDs remains undetermined.

CREP – Conservation Reserve Enhancement Program:

Mr. Frye reported that progress continues as partner agencies work to achieve program goals for this important incentive program. As of March 13, there were 344 contracts statewide covering 3,046 acres resulting in at least 709 miles of restored buffers. Statewide, it is expected that 200,000 hardwood seedlings will be planted this spring. The process of data collection and tracking has been significantly improved as implementation has progressed. NRCS is working to direct staff to areas that has "excessive" sign-up in order to reduce approval backlogs.

Building SWCD Capabilities:

Mr. Frye reported that two recent initiatives of DCR and its conservation partner agencies, the VASWCD and NRCS, were carried out in the spirit of strengthening the capabilities of the SWCD directors:

- On February 15-16, a leadership retreat for SWCD directors was held at the Smith Mountain Lake 4-H Center. Over 60 directors from 27 districts participated in the session. Topics covered included personnel management, marketing, communicating effectively with decision-makers. Consideration of future leadership retreats, including their frequency, location, duration, and other factors is underway.
- Three orientation programs were delivered for the benefit of directors new to district boards (as well as veterans that wished to receive a refresher). The three nearly identical programs were carried out on February 22 in Charlottesville, the 26th in Richmond and the 28th in St. Paul, with combined attendance of over 100 SWCD directors, employees and partner agency staff. Evaluations indicate the events were successful and provided valuable information to attendees.

State Cost-share for FY 02:

Statewide cost-share has been funded from the Water Quality Improvement Act (WQIA) monies since FY98. If the General Assembly fails to create a budget for FY02 and the Governor's adjustments to the existing biennial budget are what remains, then there is not opportunity for the Governor to make money available for cost-share through WQIA. Cost-share this fiscal year was \$5.2 million statewide from WQIA. Without the legislators creating the budget for FY02 and adding cost-share to WQIA, the cost-share available will be from the Chesapeake Bay grant and from the Section 319 grant. Mr. Frye reported that Section 319 funding is anticipated to be about \$1.5 million for carrying out specific approved TMDL implementation plans which may include

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BMPs as well as other items.

John Phillippe reported that Senate Bill 1166 was passed by the 2000 Virginia General Assembly. The provisions of this bill become effective on July 1, 2002 and expands the definition of an impounding structure under the Dam Safety Act that adopts the national recommended standard. Currently 495 dams in the Commonwealth are regulated, 1,598 dams are listed in the DCR data bank, and of that 1,598 there are 883 that are exempt because of size. It is expected that at least 126 of the 883 will be reclassified and upgraded.

Mr. App reported that Kathleen Lawrence, former DCR director had passed away on March 8. Mrs. Lawrence was director at DCR from May 1996 to January 1998.

Mr. App also reported that the Department of Conservation and Recreation will have an exhibit at the Boy Scout Jamboree at Fort AP Hill, July 21-31, 2001. Volunteers will be needed to man the exhibit for each day of the 10-day event.

Mr. Frye reported that he had received a letter from Law Engineering and Environmental Services, Inc. requesting for services for Erosion and Sediment Control for contractors training. Mr. Frye had written Mr. Porter of Law Engineering and Environmental Services, Inc. that to date, no protocols have been developed by DCR to recognize third party private sector entities as trainers of Board approved training and certification programs.

Public Comment

Mr. Jacob Porter of the Law Engineering and Environmental Services, Inc. requested to address the Board during the public comment period. He reiterated his firm's desire to provide services for the erosion and sediment control for contractors training.

Next Meeting

The next meeting of the Virginia Soil and Water Conservation Board will be held in Richmond on May 17, 2001. A notice of the location will be mailed prior to the next meeting.

The meeting was adjourned at 1:50 p.m.

Approved:

Respectfully Submitted:

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Charles H. Horn
Chairman

David G. Brickley
Executive Secretary