

**Virginia Soil and Water Conservation Board
Thursday, September 27, 2018
Old Dominion Electric Cooperative, Glen Allen, Virginia**

MINUTES

TIME AND PLACE

The meeting of the Virginia Soil and Water Conservation Board convened at 10:00 a.m. on Thursday, September 27, 2018 at the Old Dominion Electric Cooperative, in Glen Allen, Virginia.

VIRGINIA SOIL AND WATER CONSERVATION BOARD MEMBERS PRESENT

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| Richard A. Street, Chair | Cindy Smith |
| Barry L. Marten, Vice Chair | Adam Wilson |
| Chuck Arnason | Clyde Cristman, DCR Director, Ex Officio |
| Gray Coyner | David Kriz for John A. Bricker, NRCS, Ex Officio |
| Charles Newton | Lonnie Johnson, VCE, Invitee |

VIRGINIA SOIL AND WATER CONSERVATION BOARD MEMBERS NOT PRESENT

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| Mario Albritton | Janette Kennedy |
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DEPARTMENT OF CONSERVATION AND RECREATION BOARD MEMBERS NOT PRESENT

Rochelle Altholz, Deputy Director, Administration and Finance
Russell W. Baxter, Deputy Director, Soil and Water Conservation/Dam Safety and Floodplain Management
Isaac Sarver, Deputy Director for Board and Constituent Services
Anne Crosier, Enforcement and Compliance Officer
Michael Fletcher, Board and Constituent Services Liaison
Kimberly Freiburger, Policy Analyst
Blair Gordon, SWCD Liaison
Darryl Glover, Director, Division of Soil and Water Conservation
Wendy Howard-Cooper, Acting Director, Dam Safety and Floodplain Management
Conor O'Donnell, Virginia Management Fellow
Amy Walker, Conservation District Coordinator
Christine Watlington, Policy and Regulatory Coordinator
Matthew Gooch, Office of the Attorney General

OTHERS PRESENT

Sharon Conner, Hanover-Caroline SWCD
Steven Meeks, VASWCD, Thomas Jefferson SWCD
Ben Rowe, Virginia Farm Bureau
Lucia Street

CALL TO ORDER AND INTRODUCTIONS

Chairman Street called the meeting to order at 9:00 a.m. and asked for member and staff introductions.

APPROVAL OF THE MINUTES FROM JUNE 28, 2018

Mr. Coyner noted a typographical error in the staff names listed on the printed version.

BOARD ACTION

Mr. Wilson moved that the minutes of the June 28, 2018 meeting of the Virginia Soil and Water Conservation Board be approved as amended. Mr. Coyner seconded and the motion carried.

DIRECTOR'S REPORT

Director Cristman noted that the Commonwealth closed the fiscal year on June 30, 2018. In August, Governor Northam certified that the state ended with a surplus of \$551 million. Pursuant to the Water Quality Improvement Act, 10% of that surplus is reserved for deposit to the Water Quality Improvement Fund (WQIF). Additionally, 10% of agency surplus balances are also dedicated to that fund. An anticipated \$73 million will then be deposited into the WQIF. He noted that these numbers were preliminary and that the Board would be addressing the use of these funds in the spring.

Director Cristman shared the Annual Report of the Agriculture Stewardship Act Program. He noted that the report shows that, while there was a 10% decrease in complaints, there was a 9% increase in founded complaints. A copy of the report was provided in member packets.

AUDIT SUBCOMMITTEE REPORT

Mr. Marten gave the Audit Subcommittee report. In March, the Board adopted a motion requiring that the James River and Peanut Soil and Water Conservation Districts develop a corrective action plan and provide it to the Department to address issues identified in the FY16/17 audit.

At their morning meeting, the Audit Subcommittee heard from both Districts regarding their corrective action plans. Both Districts have taken the audit findings seriously and have taken steps to correct deficiencies. Both Districts will undergo special audits, at the District's expense, to verify that the findings have been addressed.

The Subcommittee also reviewed the 2018 assessment results. Two Districts, Mountain Castles and Southside, received "C" grades on the Administration and Operations deliverables for not fulfilling specific requirements. Southside has corrected an issue regarding FOIA training. The Subcommittee recommended and approved a letter to Mountain Castles District indicating the contractual requirement for at least one District Director from each District to attend at least the Association Annual Meeting or the Spring Area meeting.

DAM SAFETY AND FLOODPLAIN MANAGEMENT DIVISION

Division Report

Ms. Howard-Cooper gave the Division Report.

Mr. Chairman, members of the Virginia Soil and Water Conservation Board, please accept this Dam Safety and Floodplain Management Division Report.

Priorities

- Ensure Emergency Action Plans and Inspection Reports for all high hazard dams are recorded in the Dam Safety Inventory System (DSIS).
- Bring dams of regulatory size with unknown hazard class under certificate.
- Bring dams with expired operation and maintenance certificates back under certificate.
- Review agricultural exempt dams of regulatory size with expired exemptions to make determinations about continued exemptions.

Dam Safety Inventory System

- Scanning of documents for high hazard dams in Regions 2 and 3 of the state is complete. This covers the southeastern and eastern parts of the state.
- Scanning of documents for high hazard dams in Region 1 is approximately 75 percent complete. This covers the northeastern part of the state.
- Scanning for Regions 4 and 5 is slated for completion by late spring or early summer of 2019. This will complete the scanning initiative for high hazard dams for the state. Scanning will then begin for significant hazard dams.
- DSIS went live for public use in June 2018. Dam Safety's website has been updated to include a link to the system and a press release was issued by DCR's Public Communications Office (PCO).
- As of September 26, 2018 there are 81 non-DCR users enrolled in the system and we are seeing a steady increase in the number of applications received.

Hurricane Florence

- Pre impact: Dam Safety sent notification to dam owners outlining possible steps to take ahead of the hurricane. Dam owners were advised to consult with their engineer of record prior to taking any actions. Dam Safety worked with PCO to issue a press release and ensure a social media presence regarding dam safety ahead of the storm. Dam Safety also worked with the Virginia Department of Emergency Management (VDEM) to ensure the appropriate emergency management officials had access to DSIS.
- During impact: Dam Safety staffed the emergency operations center, provided technical expertise in support of state, local and federal officials and identified dams in impact zones for further assessment by the Army Corps of Engineers (ACOE).
- Post impact: Dam Safety held an after incident meeting and continues to have on-going discussions to develop best practices for future response efforts.

Dam Safety, Flood Prevention and Protection Assistance Fund

- Revisions to the grant manual are underway to simplify the process and reduce or eliminate some reporting requirements.
- DCR plans to expand the application period to allow more time for application submission.
- Statewide training is planned for February 2019.
- Proposed changes to the program will be brought before the Board in December for approval.

Flood Protection Plan

- Stakeholder engagement is underway.

- DCR has ongoing interaction with the Office of the Secretary of Natural Resources as resiliency activities proceed in the Commonwealth.
- DCR anticipates working closely with Ann C. Phillips, who is the newly appointed Special Assistant to the Governor for Coastal Adaptation and Protection.

Dam Safety Enforcement Action

Ms. Crosier presented the following regarding an enforcement action before the Board.

ISOM DAM: A Cautionary Tale

Enforcement Action – Isom Dam

- On August 30, 2018, unsafe conditions at the Isom Dam resulted in the Dam's potential imminent failure.
- According to local emergency management services, a broken spillway pipe inside the dam caused the dam to erode rapidly.
- Initially, the hole in the dam was discharging water and sediment downstream at a rate of 125 gallons per minute, which could have resulted in the dam's imminent failure.

Briefly, the background facts are these: The dam is located in Carroll County outside of Galax. The dam is owned by Mr. Frank B. Isom.

The dam was 37 feet high and impounded a pond with an estimated maximum volume of 40-acre feet according to DCR records. Mr. Isom enlarged the dam between April 2010 and September 2011 to regulated size making it subject to dam safety program requirements.

On August 30, 2018, the unsafe conditions at the Isom Dam, due in large part to the owner's failure to comply with any program requirements, resulted in imminent danger of the dam's failure. According to local emergency management services, a broken spillway pipe inside the dam caused the dam to erode rapidly.

Initially, the hole in the dam was discharging water and sediment downstream at an estimated rate of 125 gallons per minute, which would have resulted in the dam's imminent failure. Had the dam failed, a wall of water 30 feet high could have flooded downstream resulting in loss of life and costly property damage.

Also according to DCR records, Mr. Isom enlarged the dam without a construction permit issued by DCR and has operated the dam without any kind of operation and maintenance certificate or any emergency action plan since the fall of 2011 (i.e. the last seven years).

State and local emergency management staff took timely emergency measures with Mr. Isom's cooperation to prevent the dam's imminent failure including bringing in heavy equipment to pump water levels down and to dig temporary trenches to act as an emergency spillway.

Nonetheless, residents from fifteen homes were evacuated and significant property damage occurred downstream (e.g. sediment discharging from the site has impacted local water supplies increasing treatment) as a result of the partial failure.

Mr. Isom has employed a professional engineer (P.E.), lowered the water levels in the pond, and breached the dam in response to the threat of imminent failure. Most recently, his P.E. has submitted an alteration permit application to DCR pursuant to Program requirements for the purpose of permanently removing the dam.

The Virginia Dam Safety Program's mission is to protect the lives and property of Virginia's citizens from natural and manmade flooding. In order to accomplish its mission, the Program regulates the construction, operation, and maintenance of dams within regulated size (i.e. twenty-five feet or greater in height and creating an impounding capacity of 15 feet or greater).

Mr. Isom failed to apply for a construction permit and an Operation and Maintenance Certificate for the dam. Moreover, Mr. Isom operated the dam without a certificate issued by DCR for seven years without developing an Emergency Action Plan or a dam break inundation mapping and analyses.

The Construction Permit Operation and Maintenance Certificate and Emergency Action Plan are the core requirements of the Virginia Dam Safety Program. Voluntary compliance with these core requirements by dam owners is essential to ensuring that dams in Virginia are operated in a safe condition. Rogue dams, like the Isom Dam, that operate entirely outside the Program endanger the lives and property of Virginians across the Commonwealth.

Isom Dam Enforcement Action – Civil Penalty (VA. CODE ANN. §10.1-613.2)

- The Virginia Dam Safety Act provides that the Virginia Soil and Water Conservation Board may assess a dam owner that violates any provision of the Virginia Dam Safety Act a civil penalty of up to \$500 per day not to exceed a maximum of \$25,000.
- Whether a civil penalty is warranted will depend upon the facts of the case. The purpose of assessing a civil penalty is to act as a deterrent to future noncompliance among the regulated community of dam owners. In order to be effective, the method employed to assess a civil charge should be fair, reasonable, and easily understood. Moreover, the method used should be applied consistently to ensure that dam owners are treated equitably throughout the Commonwealth.
- In setting the civil penalty amount, the Virginia Dam Safety Act requires that the Board consider (i) the nature, duration, and number of previous instances of failure by the owner to comply with requirements of law relating to dam safety and the requirements of Board regulations and orders; (ii) the efforts of the owner to correct deficiencies or other instances of failure to comply with the requirements of law relating to dam safety and the requirements of Board regulations and orders that are the subject of the proposed penalty; (iii) the cost of carrying out actions required to meet the requirements of law and Board regulations and orders; (iv) the hazard classification of the dam; and (v) other factors deemed appropriate by the Board.

- The Virginia Dam Safety Act requires that the Board assess all civil penalties by written penalty notice delivered to the dam owner by certified mail or personal service. The notice states the specific reasons for the penalty, the number of days the Department considers the owner in violation, and the total amount due. Within 30 days after receipt of a copy of the written penalty notice, any owner subject to the civil penalty provisions shall have the right to petition the Board, in writing, for a hearing. A timely filed petition shall stay the effect of the penalty notice.
- Mr. Isom's failure to comply with any Program requirements endangered the lives of residents in fifteen homes downstream of the dam. Moreover, the Isom Dam is cautionary tale of what might have been. Had the Isom Dam begun to fail a few days later and had Hurricane Florence made landfall in Virginia as originally predicted, there would have been a catastrophic dam failure, almost certainly resulting in loss of life.
- The facts in this case warrant a civil penalty. Assessing a civil penalty would act as a deterrent to future noncompliance among the regulated community of dam owners and send a message to those who are operating rogue dams to begin the certificate process before a catastrophe happens and it is too late.
- For the reasons outlined above (i.e., the nature, duration, and number of violations as well as potential downstream impacts including the evacuation of 15 downstream residences and failure on Mr. Isom's part to correct deficiencies until an emergency arose avoiding the cost of compliance for seven years), DCR is recommending that the Board assess Mr. Isom the maximum \$25,000 penalty.
- Staff provided a written Penalty Notice and Order to be signed by the Chairman of the Board and delivered to Mr. Isom, the dam owner, by certified mail or personal service. The Notice and Order state the specific reasons for the penalty (i.e., the nature, duration, and number of violations as well as potential downstream impacts including the evacuation of 15 downstream residences and failure on Mr. Isom's part to correct deficiencies until an emergency arose avoiding the cost of compliance for more than seven years), the number of days the Department considers the owner in violation (i.e., seven years or approximately 2,555 days, and the total amount due (i.e., \$25,000).
- Mr. Isom has 30 days after receipt of a copy of the written penalty notice, has the right to petition the Board, in writing, for a hearing. A timely filed petition stays the effect of the penalty notice.
- The hearing is conducted before the Board or a designated member thereof as an Informal Fact-finding proceeding pursuant to the Virginia Administrative Process Act, §2.2-4019. The Board either affirms, modifies, amends, or cancels the penalty notice and order within 10 days following the conclusion of the hearing. If Mr. Isom is aggrieved by the Board's decision after a hearing he has the right to judicial review of the final Board decision.
- Mr. Isom may appeal final Board decisions in any court of competent jurisdiction. The judgments of the courts of original jurisdiction are subject to appeal by higher courts. Mr. Isom must provide notice to DCR of the appeal within 30 days of the final decision's date of service, which is either the date that he receives the final decision or the date it was mailed, whichever occurs first.

- If any civil penalty has not been paid within 45 days after the final Board decision or court order has been served on the violator, the Board shall request the Attorney General to institute a civil action in the court of any county in which the violator resides or has his principal place of business to recover the amount of the assessment.
- Civil penalties assessed by the Board or the court are paid into the Flood Prevention and Protection Assistance Fund and shall be used for the administration of the Dam Safety Program, including for the repair and maintenance of dams.

Ms. Crosier advised that, while the law was established in 2006, this was the first time that staff has brought such a recommended action before the Board. She noted that DCR was working to establish a consistent process. DCR staff is very confident this situation warrants the highest possible fine.

While the fine recommended to the Board is a civil penalty, there is also a provision for a criminal penalty, which would result in a Class 3 misdemeanor. That action would have to go before the Commonwealth's Attorney and there would have to be proof of criminal intent.

Mr. Street asked Mr. Gooch about the thirty-day response time for the dam owner to ask for a hearing.

Mr. Gooch responded that, if the dam owner requests a hearing, there would be no requirement to pay the fine until the hearing is held.

Mr. Coyner asked if due diligence was performed and if the dam had previously been built under the permitting process. He also asked if the houses downstream were built after the dam was in place.

Ms. Crosier advised that it was the responsibility of the dam owner to comply with dam safety regulations, including construction and alteration permits as well as emergency action plans.

Mr. Newton asked if there was an option for the individual to take steps to bring the dam into compliance within sixty days, rather than applying the penalty. He also asked whether there could be a reduced penalty rather than taking the matter to court.

Ms. Crosier advised that the dam owner had submitted an alteration permit to remove the dam.

BOARD ACTION

Mr. Arnason moved the following:

Motion for the Board to assess a civil penalty and issue a Written Penalty Notice and Order to Mr. Frank B. Isom, the owner of the Isom Dam.

Pursuant to VA. CODE ANN. §10.1-613.2, any dam owner violating any provision of the Virginia Dam Safety Act (Act) and Virginia Impounding Structure Regulations (Dam Safety) (VA. CODE ANN. §10.1-604 et seq. and 4VAC50-20-10 et seq.) may be assessed a civil penalty of up to \$500 per day by the Virginia Soil and Water Conservation Board (Board) not to exceed a maximum of \$25,000.

The Board moves to assess Mr. Frank B. Isom a civil penalty of \$25,000 pursuant to VA. CODE ANN. §10.1-613.2 for violations of the Act and Regulations and to issue the Written Notice and Penalty Order to Mr. Isom to be signed by the Chairman of the Board and delivered to Mr. Isom by certified mail at his address, 303 Boxwood Lane, Galax, Virginia, 24333. The specific reasons for the civil penalty are stated in the Written Notice and Penalty Order.

Mr. Newton seconded and the motion carried unanimously.

Approval of Previously Denied Grants from the Dam Safety, Flood Prevention and Protection Assistance Fund

Ms. Howard-Cooper noted that the Board passed the following motion at the June 28, 2018 meeting:

The Board directs the Department to contact each of the remaining thirteen grant applicants whose applications were denied and allow for the submission of additional or corrected information that may allow for the approval of the denied applications. Funding recommendations related to the previously denied grant applications will be presented to the Board at their September meeting. Additionally, the Board requests the Department review its internal procedures to ensure that additional or clarifying information is requested from applicants prior to final grant approval during future grant opportunities.

Ms. Howard-Cooper advised that staff contacted 13 (thirteen) applicants who had supplied insufficient information. Eight responded and provided additional information.

BOARD ACTION

Mr. Coyner moved the following:

The Virginia Soil and Water Conservation Board approves the six (6) grant applications, with an approval amount of \$93,126.50, as recommended by the Department. Approval of these grants is conditioned on the following:

1. All grants are made on a reimbursement basis and will be governed by a Grant Agreement developed in consultation with the Virginia Resources Authority. All applicants will be given a period of 90 days to enter into a Grant Agreement following the Agreement being sent. The Department of Conservation and Recreation (Department) is authorized to further extend this date in its discretion and following consultation with VRA.
2. All grant agreements will require that projects be completed within 12 months of the date of execution of the Agreement. Upon receipt of a written request for a project extension with a specified completion date by the Grantee to the Department with a copy to VRA, the Department is authorized to consider such request and may amend the terms of the Agreement and allow a specified extension upon the Department's and the Authorities written approval. Extension requests must be received by the Department not later than 90 days prior to the expiration of the original agreement or grant funds are subject to rescission at the Departments discretion. No extensions shall exceed an additional year without specific Board approval.

3. In the event that any of the above applicants fail to execute a Grant Agreement with VRA within 90 days of such an Agreement being sent to the applicant, the Department, in consultation with VRA, is authorized to rescind those grant funds and allocate in subsequent grant rounds.

The Department is authorized to communicate this approval to the Virginia Resources Authority (VRA) so that VRA's review of applications may proceed. The Department is also authorized to take any action necessary to proceed with the closing and administration of grants subsequent to VRA's approval of the application.

Mr. Wilson seconded and the motion carried unanimously.

Revision to Guidance on Dam Break Inundation Zone Modeling and Mapping Procedures

Ms. Watlington noted that the Board had previously approved revisions to the Dam Break Inundation Zone Modeling and Mapping Procedures at the June 28, 2018 meeting. She advised that after further review, Dam Safety engineers had suggested an additional edit. Under item "d" in the section titled "Virginia PMP Implementation and Tool" it was recommended that the phrase "and the worst case scenario or the basin being analyzed" be stricken from the text.

BOARD ACTION

Mr. Coyner moved that the Virginia Soil and Water Conservation Board approve the clarifying revision to the Guidance Document on Dam Break Inundation Modeling and Mapping Procedures related to the use of temporal distribution curves. Mr. Arnason seconded and the motion carried.

SOIL AND WATER CONSERVATION DIVISION

Division Report

Mr. Glover gave the following report.

Mr. Chairman, members of the Virginia Soil and Water Conservation Board, please accept this Soil and Water Conservation Division Report.

Livestock Stream Exclusion Update

As of September 7, 2018, 2,117 SL-6 livestock stream exclusion practices have been installed statewide under the 100% cost reimbursement initiative. These practices have resulted in over 8.2 million linear feet of streambank protected and 101 thousand animal units excluded from water bodies. Another 244 SL-6 practices have been funded but are not yet completed. This leaves only 121 pending FY2015 SL-6s that need just under \$6.4 million in future funding. Of these, only 15 pending practices, at an estimate cost of less than \$650,000, are in the Chesapeake Bay watershed.

Division Staffing Update

Ben Chester has joined the Department's District Engineering Services Team as our second Agricultural BMP Engineer. Ben earned his undergraduate degree in Civil Engineering from Virginia Tech and a Masters'

Degree in Environmental Engineering from Old Dominion University. Ben is a registered Professional Engineer with six years of private sector experience designing utilities, water and wastewater, and site plan development. He is also an adjunct professor at Virginia Western Community College. Ben is located in our Christiansburg Office.

Joseph Tesauro has been hired as a Nutrient Management Specialist in the Christiansburg office. Joe has fifteen years of direct farm production experience, over five years of experience teaching agriculture and is currently working towards his Master's degree in Agriculture and Consumer Services. He recently sat for his Nutrient Management Certification exam and is awaiting his results. Please welcome Joe to the team when you meet him.

Chanel Wilson, Urban Nutrient Management Specialist – Golf Courses, accepted a position with Virginia Cooperative Extension. This contractual position through Virginia Tech will soon be advertised.

Gary Moore, Agricultural Incentives Program Manager, retired at the end of August. His position is currently being advertised. Denney Turner, who formerly assisted Gary Moore, has been promoted to Conservation District Coordinator for the Richmond District, replacing Blair Gordon, who was previously promoted to Soil and Water Conservation District Liaison.

Both of the 2018 Diversity Outreach Interns have finished their time at DCR. Joshua Mott has accepted a part-time position with the James River Soil and Water Conservation District. He will start graduate school at Virginia Tech in January. Gershom Ejoni (Natural Heritage) has returned to the University of Richmond. He is a member of their football team. Emma Aguero (Nutrient Management) is returning to Virginia Tech, where she is Vice President of the Virginia Tech Chapter of the Society of Hispanic Professional Engineers. Bruce Phirrmann (Shoreline Erosion Advisory Service) has accepted a research project in Alaska. He will then be taking a permanent position in South Carolina. DSWC is very excited over the prospects for all of the interns we had this year and wish them the very best as they go forward. Recruitment for the next pair of Diversity Outreach Interns and for our annual Nutrient Management intern will begin earlier, by January 2019, in order to make these opportunities as widely available to prospective candidates as possible.

Resource Management Plan Certification

New contracts with RMP developers that took effect on July 1, 2018 will result in at least 30,000 acres of fully implemented and certified RMPs by May 2019. The Department direct mailed every producer with an approved RMP to inform them of their eligibility for RMP-2 (certification) payments upon fully implementing their RMPs.

BMP Verification

Verification of every type of best management practice (BMP) is now required by the EPA Chesapeake Bay Program to document the level of implementation and continued performance of BMPs, for every sector, in order to secure credit for nutrient and sediment reductions over the long-term.

Nutrient management plan verification simply involves an end of season interview conducted by a planner with their clients that produces an assessment of how well that farmer was able to implement the recommendations contained in their plan. To ensure every planned acre is credited with reductions, increased nutrient management plan verification is being pursued. Department staff met with private

sector certified nutrient management planners on August 23 to explain how to verifying nutrient management plans and report such data to the Department. Forty-four planners attended.

Questions have arisen regarding expectations for Soil and Water Conservation Districts with respect to nutrient management plans. The Department is aware of this issue and is working on a resolution, including developing tools.

Training

Engineering - Department staff will conduct a multi-day engineering training class this autumn, likely to be in November. Suggestions from the District Employee Association have been requested in order to help us to plan this training. We hope to receive those suggestions by the end of September, so that we can then adequately prepare to conduct the training.

Conservation Planning - On June 28, the Virginia Soil and Water Conservation Board approved the launch of the DCR Conservation Planning and Certification Program. The program was developed to address a need for those Soil and Water Conservation Districts who, for various reasons, have been unable to maintain their conservation planning certifications from the USDA – Natural Resource Conservation Service. The DCR certification is unique because it emphasizes the resource concerns of related state agency programs.

On-line classes were made available in July. As of September 5, 67 Soil and Water District Employees had registered for DCR Conservation Planning Certification training. Twenty-five Districts have nearly 40 staff who qualified to be grandfathered due to either current or very recent conservation planning certification from the U.S. Department of Agriculture. Another eight Districts have staff that has started working their way through the DCR curriculum. On September 11 and 14, the Department facilitated two Virginia Resource training classes, with another two to be held on October 2 and 3. These resource classes are focused on other state agency resources such as cultural, historical, and/or species of concern. Another Conservation Selling Skills class, scheduled for November 13 – 14, has been made available to as many District staff as possible.

Nutrient Management - Department staff is participating with professors in the Agriculture Technology Program at Virginia Tech to teach students about writing nutrient management plans and becoming certified nutrient management planners. Ag Technology is a two-year program offered at Virginia Tech. The addition of the “Nutrient Management” course to their two-year curriculum will meet the education requirement to become a certified planner. This is a new offering and an opportunity to get young people that have a farm background introduced to adding nutrient management certification to their resume’ and to build a pool of future potential applicants for Department agricultural programs.

Horse Stewardship Project

A short course for horse owners on pasture and manure management has scheduled four educational workshops across Virginia’s Chesapeake Bay watershed on: September 25 (Middleburg), October 10 (Roanoke), October 11 (Free Union), and October 30 (Chesapeake). An event flier is available on-line at <https://vaforages.org/healthy-lands-for-healthy-horses-short-course/>.

Each workshop will be held from 9 am – 3 pm. Online registration is \$35/person at www.vaforages.org. Interested persons can also register by mail. Lunch is included with the registration.

DEQ has announced that EPA 319 Total Maximum Daily Load project funds are now available for two types of equestrian related BMPs, using specifications developed by Hanover-Caroline District. Demonstration projects in John Marshall District have been approved by DEQ.

Chesapeake Bay WIP III

DCR began holding meetings with Soil and Water Conservation Districts (Districts) that have Chesapeake Bay drainage area, and other agricultural sector partners, in May. Four initial meetings were held for VASWCD Areas I, II, III, and VI. Districts in both Areas IV and V that also have Chesapeake Bay drainage area were invited to participate with one of the listed areas near their location. The Virginia Department of Environmental Quality (DEQ) played a key role in all four of these meeting. A second round of four similar meetings were held in August. However, only two meetings are scheduled in October, on the 22nd at the Department of Forestry in Charlottesville, and October 24 at the Virginia Institute of Marine Sciences in Gloucester Point. Once all sectors have submitted their BMP projections for year 2025, joint meetings between agriculture and all other sectors, via the Planning District Commissions, will be held in November and December to determine whether the overall reduction targets will be met.

Each Chesapeake Bay District, with the exception of Southside District, was given and asked to complete a personalized District BMP input deck spreadsheet for year 2025 and submit it back to the Department. Southside District will need no additional load reductions for 2025.

These input deck spreadsheets are still being revised by a few Districts. Once completed, Chesapeake Bay Program CAST modeling can be run in order to predict whether both individual Districts and the Area as a whole, will meet nutrient reduction targets. The key pollutant for this project is nitrogen. If nitrogen targets are met, the current assumption is that adequate reductions for both phosphorus and sediment targets will also be achieved. A few Districts have elected to commit to the prior, WIP II scenario and not propose any changes.

Once the agricultural sector contribution to WIP III has been completed, and Agricultural BMP TAC recommendations to the Board formulated, a cost estimate will be generated. This will then inform both the District budget template process in 2019, future budget requests by the Department, including our staffing needs to support this effort, and future Agricultural Needs Assessments.

Information from the new Phase 6.0 Chesapeake Bay Model has identified these eight Districts that are vital for meeting Virginia's nitrogen reduction targets: Eastern Shore, Culpeper, Hanover-Caroline, Headwaters, Lord Fairfax, Northern Neck, Shenandoah Valley, and Three Rivers. This will need to be considered when future cost-share allocations are made.

Agricultural BMP Technical Advisory Committee

In addition to BMP projections for year 2025 in the Chesapeake Bay watershed, all Districts, both in the Chesapeake Bay and Southern Rivers, were asked to submit suggestions, irrespective of budget or current staffing limitations, on both policy and programmatic changes for the state agricultural cost share program (VACS) that would promote more BMP implementation. Over 170 suggestions have been received to date. These suggestions will be discussed with the Agricultural Best Management Technical Advisory Committee (Ag BMP TAC), which began meeting in early September.

Due to the number submitted, suggestions have been divided and assigned to six sub-committees of the Ag BMP TAC: Animal Waste, Cover Crop, Forestry, Nutrient Management, Programmatic, and Stream Protection. DCR staff will chair each of the sub-committees.

In order to solicit as much input as we can, over 55 people were invited to participate on the Ag BMP TAC this year. The only requirement to participate was to join a sub-committee to work on.

Any debate, presentations, etc. regarding suggestions submitted will occur in the sub-committees. Sub-committees will recommend either to “advance”, “amend,” or “table” each suggestion submitted. The full TAC will mainly vote on the recommendations the sub-committees bring to the full committee. To accomplish this, both the full Ag BMP TAC, and each of its sub-committees, will need to meet monthly until early January. A subcommittee may be able to finish sooner if the full TAC has acted on all of its recommendations.

Every recommendation from the Ag BMP TAC, including those that are tabled, will go to the Soil and Water Conservation Board next spring, for final action. Consequently, only the Board can “kill” a recommendation.

In addition to their first meeting on September 10, subsequent Ag BMP TAC meetings have been scheduled on October 18 (Waynesboro Public Library) and November 15 (Department of Forestry in Charlottesville). Tentative dates also include December (10th) and January (8th), with those locations to be determined.

Reallocation of Unobligated Funds

Ms. Watlington noted that in April the Board had directed DCR to recover any undisbursed, unobligated funds from the District and to hold those funds in reserve. She advised that DCR was asking the Board to hold those funds in reserve until later in the fiscal year. The FY2019 cost-share policies anticipate a reduction in the recordation revenue; however, staff is concerned that revenue will be even lower than the amount allocated in those policies. The request is to hold the funds until Spring 2019 in order to assess the actual revenue.

BOARD ACTION

Mr. Wilson moved that the Virginia Soil and Water Conservation Board direct the Department to hold in reserve all funds returned by the Districts in response to either FY18 reallocation procedures or in response to the Board’s action on April 19, 2018, as well as all funds that were not yet obligated by Districts prior to the close of FY2018. All funds held in reserve will be allocated by the Board prior to the close of FY2019. Ms. Smith seconded and the motion carried.

Approval of Pilot Program Reviews of District Duties

Ms. Watlington provided information regarding a potential pilot program to review District duties with regard to Resource Management Plans. She noted that, as the RMP program is still new, DCR recommends a pilot review program be established to review three Districts. Those Districts are Culpeper, Headwaters, and Three Rivers. Staff has developed a plan review checklist, verification inspection checklist, a compliance inspection, program ranking sheet and a program ranking summary sheet.

BOARD ACTION

Mr. Coyner moved that the Virginia Soil and Water Conservation Board approve a pilot program review of the RMP duties performed by the following Soil and Water Conservation Districts: Culpeper, Headwaters, and Three Rivers. If a District chooses not to participate in the pilot program, the Department may request another District's participation in the pilot. Mr. Marten seconded and the motion carried.

Approval of Guidance Document on Freedom of Information Act Requirements for Resource Management Plans Program Implementation by Soil and Water Conservation District Boards and Technical Review Committees

Ms. Watlington reviewed recommended changes to the Board Guidance Document on Freedom of Information Act Requirements for Resource Management Plan Program Implementation by Soil and Water Conservation District Boards and Technical Review Committees. She noted that the changes reflect the statutory amendments to the Freedom of Information Act (FOIA). Changes cover how Districts protect information in RMP, FOIA guidance, closed sessions, and amendments to the FOIA law. These revisions do not change current District procedures.

BOARD ACTION

Mr. Arnason moved that the Virginia Soil and Water Conservation Board approve the revisions to the Guidance Document on Freedom of Information Act Requirements for Resource Management Plan Program Implementation by Soil and Water Conservation District Boards and Technical Review Committees. The revisions reflect amendments to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). Mr. Wilson seconded and the motion carried.

District Director Resignation and Appointments

Ms. Watlington presented the recommended District Director resignations and appointments.

Headwaters

Resignation of Ms. Brenda Mead, City of Staunton, effective 7/1/2018, elected director position (term of office expires 12.31/2019).

Recommendation of Ms. Wendy Turley, City of Staunton, to fill unexpired term of Ms. Brenda Mead (term of office to begin on 10/27/2018 – 12/31/2019).

Southside

Resignation of Robert Jones, Charlotte County, effective 8/8/2018, appointed Extension Agent director position (term of office expires 12/31/2020).

Recommendation of Lindy Fimon, Lunenburg County, to fill the unexpired term of Robert Jones (term of office to begin on 10/27/2018 – 12/31/2020).

BOARD ACTION

Mr. Marten moved that the Virginia Soil and Water Conservation Board acknowledge District Director resignations and approve appointments as recommended by DCR staff. Ms. Smith seconded and the motion carried.

Conflict of Interest Training Update

Ms. Watlington noted that there had been much discussion regarding the COIA training requirement in the Administration and Operations grand agreement. She shared a memorandum from Mr. Baxter to Districts regarding this requirement. She noted that the Office of the Attorney General had agreed to provide this training at annual Association meetings as well as Spring Area meetings.

No action by the Board was needed.

Board Member Recognition

Chairman Street presented the following recommended resolution.

VIRGINIA SOIL AND WATER CONSERVATION BOARD
COMMENDING RESOLUTION

Presented to

Stephen R. Lohr

At a regular meeting of the Virginia Soil and Water Conservation Board held on Thursday, September 27, 2018 at the Old Dominion Electric Cooperative in Glen Allen, Virginia, Virginia the following resolution was unanimously adopted.

WHEREAS, Stephen R. Lohr was appointed by Governor Robert F. McDonnell to serve as a member of the Virginia Soil and Water Conservation Board from 2010 through 2014;

WHEREAS, Mr. Lohr was reappointed by Governor Terence R. McAuliffe to serve as a member of the Virginia Soil and Water Conservation Board from 2014 through 2018;

WHEREAS, Mr. Lohr served as a member of the Virginia Soil and Water Conservation Board Audit Subcommittee;

WHEREAS, Mr. Lohr was elected a Director of the Shenandoah Valley Soil and Water Conservation District in 2008 and has served continuously since that time;

WHEREAS, Mr. Lohr served as Chair of the Shenandoah Valley Soil and Water Conservation District Committee on the Chesapeake Bay;

WHEREAS, Mr. Lohr served as Chair of the Shenandoah Valley Soil and Water Conservation District Committee on Dam Maintenance;

WHEREAS, Mr. Lohr served on the Shenandoah Valley Soil and Water Conservation District committees on Personnel and Nominations;

WHEREAS, Mr. Lohr actively farms in the Shenandoah Valley where he actively implements practices that protect land and water resources; be it

RESOLVED that the Virginia Soil and Water Conservation Board recognizes and applauds Stephen R. Lohr for his services to the Board and extends sincere appreciation, recognizing with gratitude his contributions and dedication to protecting the quality of the land and water resources of the Commonwealth.

BOARD ACTION

Mr. Coyner moved that the Virginia Soil and Water Conservation Board approve the resolution honoring Stephen R. Lohr as presented. Mr. Newton seconded and the motion carried.

Director Cristman advised that staff would look for an opportunity to present this resolution at the Association Annual Meeting.

OLD BUSINESS

There was no old business.

NEW BUSINESS

BOARD ACTION

Mr. Coyner moved that the Board express appreciation to DCR staff for the work in support of Board activities, including meeting and material preparations. Mr. Newton seconded and the motion carried.

Director Cristman noted that it had been almost a year since the passing of David Dowling. He asked that the Board adjourn the meeting in the memory of Mr. Dowling.

Natural Resources Conservation Service

Mr. Kriz presented the report for the Natural Resources Conservation Service. That report is included as Attachment A.

Virginia Cooperative Extension

Mr. Johnson thanked the Board for the opportunity to attend the meeting. He noted that Extension was in the process of completing interviews for a replacement for Dr. Grisso's position. He also advised that Extension has about 225 agents across the state and currently has fifteen critical vacancies. There are several vacancies east of I-95.

Virginia Association of Soil and Water Conservation Districts

Mr. Meeks noted that Dr. Tyree was attending the gathering of State Executive Directors of District Associations in Florida. He expressed congratulations to Mr. Newton for joining the Board.

The Association Annual Meeting will be held December 2-4, 2018 at the Hotel Roanoke. Registration materials will be handled electronically via email or the Association website.

PUBLIC COMMENT

There was no public comment.

NEXT MEETINGS

- December 5, 2018, Hotel Roanoke, Roanoke, Virginia
- March 20, 2019 – tentative
- April 24, 2019 – tentative
- May 22, 2019 – tentative

ADJOURN

There was no further business and the meeting adjourned at 12:47 p.m. in the memory of David C. Dowling.

Attachment A

ASTC-Programs

EQIP, CSP, RCPP and Easement Programs

Environmental Quality Incentive Program (EQIP)

- Final allocation for FY18 is 28 Million.
- We ended the year with 646 new contracts covering more than 84,000 acres.

Conservation Stewardship Program (CSP)

- A total of 146 applications were ranked for 60,119 acres. We requested and received an additional 32,000 acres to fund all applications. Staff are continuing to obligate these into new contracts as we close out the fiscal year this month.

Regional Conservation Partnership Program (RCPP)

- Existing multi-year RCPP Projects with our partners have allocated the following to landowner contracts:

| Fund Code | Account Name | Allocated | Contracts | Contract Approval | Funds Remaining |
|------------------|--|------------------|------------------|--------------------------|------------------------|
| RCPP-DCR | Accelerating Chesapeake Bay Watershed Implementation | \$1,621,534.72 | 49 | \$1,471,088.39 | \$39,462.42 |
| RCPP-TNC | Upper Clinch-Powell Watershed Partnership | \$2,040,000.00 | 42 | \$2,028,644.14 | \$11,355.86 |
| RCPP-VRMC | Oyster Bottom Restoration through Aquaculture | \$776,284.00 | 14 | \$280,000.00 | \$496,284.00 |

Agricultural Conservation Easement Program (ACEP)

- Final agreements were obligated for one 91 acre WRE application on the Eastern Shore and 3 ALE agreements in Clarke and Loudon Counties for a total of 253 acres.
- We closed 5 easements this fiscal year for a total of 847.18 acres:
 - 3 WRE in Southampton County for 200.32 acres, in Washington County for 72.63 acres and in Shenandoah County for 29.93 acres
 - 2 ALE in Orange County for 381.99 acres and in Northumberland County for 162.31 acres.

Conservation Innovation Grants (CIG)

- 7 CIG proposals were funded for FY18 (450K) and final grant agreements were just completed for the following projects:
 - VSU - High Tunnel Production Technologies: Environmentally Friendly and Profitable Alternative Production Methods for Small Farmers
 - UVA - Using Drone-Based Hyperspectral Imagery to Map Individual Species of Invasive Plants in the Northern Blue Ridge Mountains of Virginia

- Virginia DARE SWCD - Southeast Virginia Farmers' 20/20 Club: Innovative Motivation in Conservation through Collaboration, Education and Implementation
- VA Tech - Does Reduced Tillage Minimize Potential Non-Target Effects from Neonicotinoid Seed Treatments?
- VA Tech - Does Reduced Tillage Minimize Potential Non-Target Effects from Neonicotinoid Seed Treatments?
- VA Tech - Intercropping Tillage Radish and Wheat for Improving Nutrient Cycling, Soil Properties and Yield
- VA Tech - Management of Cover Crops at Termination: How do Species, Biomass and Termination Method Affect Early Season Weed Control?

Engineering (SCE)

Wetland Reserve Program (WRP)

The acquisition process for the Elmwood WRP restoration Federal Acquisition Regulation (FAR) construction contract in Area 1, Culpeper County is ongoing. The construction contract has been awarded but a NTP has not been issued due to administrative delays.

Dam Rehabilitation

- **Mountain Run 11** and **Mountain Run 50** – Concrete work at Mountain Run 50 is complete with site work completed by the end of November. Construction is ongoing at Mountain Run 11 with completion expected by the end of April.
- **Upper North River 77** – The design has been approved by NRCS and Augusta County is moving forward with the construction acquisition process. Negotiations are ongoing with USFS about a road closure for construction.
- **Cherrystone Creek 1** and **Cherrystone Creek 2** – West Virginia NRCS engineering staff is providing engineering planning services. The Final plan for Cherrystone Creek 1 was sent to NHQ for concurrence at the end of June and comments are being resolved. The Draft plan for Cherrystone Creek 2A has been sent to the NWMC for review.
- **Johns Creek 1** – Gannett Fleming has completed their engineering alternatives. A Sponsor meeting was held September 11 to discuss the recommended alternative.

State Resource Conservationist (SRC)

NRCS Conservation Delivery Streamlining Initiative

- New Conservation Planner Certification
 - The transition period to the new national policy has been extended from a 3-year time period to a 5-year time period (January 1, 2022) to have all certified planners in the old system meet the new training requirement for the new training program.
 - This will provide for a consistent training program across the country from state-to-state, defining what level of training is needed to be a certified conservation planner and refocus the importance of conservation planning, the critical role it has on advancing voluntary conservation efforts and provide a consistent message on what a conservation plan is. This is an outcome from the National Conservation Planning Partnership (NCPPI).

- Currently working on developing the Virginia State Supplement and all the training materials needed to transition to the new national policy including a new national database to track certifications and expirations and state level training requirements.
- New Ecological Science Job Approval Authority (ESJAA)
 - National policy establishing ESJAA was established in 2017 with state implementation needed by September 30, 2018.
 - This policy for the most part mirrors Engineering JAA for all ecological science practices.
 - The Virginia State Supplement on the implementation of this policy has been developed and distributed to staff.
 - All NRCS staff whom implement Ecological Science practices have been assigned ESJAA to begin implementation in FY19.
 - ESJAA is available for SWCD personnel.
- Currently in process of finalizing the 11 revised Ecological Science Practices for release in October to be implemented in FY19.

Customer Service/Outreach/Training

- Held the NEDC Soil Health and Sustainability training on May 22-24 which is part of the new national conservation planner certification requirements. This course included indoor teaching, demonstrations, education field trips to learn case studies with farmers and the rainfall simulator.
- Held the 2018 Longleaf and Quail Workshop and Field Tour with VDGIF, VCE, NRCS, and VDOF on May 8. Around 70 participants learned about Longleaf values and quail habitat enhancements including how cost share programs can assist.
- Conducted the rainfall simulator demonstration along with forage and plant ID and pasture condition scoring and pasture fertility management at the Soil and Water Conservation Field day for 74 participants hosted by Thomas Jefferson SWCD. We highlighted technical and financial assistance offered by our local Conservation Staff as it relates to developing grazing system as well as using the Working Lands for Wildlife program to transition some grazing acres to NWSG.
- Worked with local field staff along with the SWCD, Extension and Agribusiness to collaborate and plan an annual forage field demonstration for Tazewell County to demonstrate to farmers the opportunities available to use selected forage species to fill forage gaps and build soil health.
- Partnered with the State Wildlife Biologist, the SW PLB, DGIF and Extension to plan, coordinate and conduct a JED training in Wytheville on the Use of Native Summer Forages for Beef and Bobs where a total of 35 Natural Resource Professionals and 3 producers received an all day, quality training from Dr. Pat Keyser in the classroom followed up by a practical pasture walk on a local farm. This resulted in 2 farmer commitments to convert a total of 20 acres of cool season forage to NWSG.
- Partnered with VFGC and the local NRCS, SWCD and Extension offices on a Va. Tech CIG related outreach event focusing around the challenges of using cool season-based fescue systems and the associated effects of the toxic alkaloid in endophyte infected fescue. The producer host and the invited speakers from Virginia Tech and the Southern Piedmont Agricultural Research and Extension Center explained the challenges, discussed management alternatives and options for converting to novel endophyte fescue and using some annual forages to meet the needs of the livestock. A total of 55 participants attended the event and also learned about conservation technical and financial assistance.
- Conducted three rainfall simulator presentations at VSU Field Day on June 7, 2018.

- Posted to VA NRCS YouTube channel a total of three new video products profiling soil health champion Robb Hinton and his experiments with new no-till and cover crop strategies.
- Gave invited rainfall simulator presentation at Appomattox SWCD Field Day on July 10 in Dinwiddie County, at request of local NRCS office.
- Coordinated with partners and local NRCS staff to dig and staff soil pit and associated stops on VCE Field Tour at 2018 Ag Expo grain producer event in Essex County.
- Planning and coordination with VA Sustainable Agriculture, Research and Extension to secure grant funding for VFGC to partner to customize the development of a Grazing School for Agricultural Professionals. Coordinated with partner with NRCS, SWCD and Extension to send staff to this training now planned for October. Planning and coordination with VA Sustainable Agriculture, Research and Extension to secure grant funding for VFGC to partner to customize the development of a Grazing School for Agricultural Professionals.
- Wrote and submitted article on the benefits of stream exclusion fencing to be included in the Fall edition of the Virginia Forager.
- Hosted two breakout sessions at the VA Southeast Regional NACD meeting in Williamsburg and presented a summary of the VA partnership approach to building soil health on grazing lands to an audience of 65 participants from across the United States.
- Partnered with VA Tech, Virginia Cooperative Extension, and Lake Country SWCD to conduct a pasture walk highlighting the conversion of pasture from toxic to novel endophyte tall fescue at a Conservation Innovation Grant demo farm site near Chase City, VA, where 38 participants attended.
- Partnered with VA Tech, Virginia Cooperative Extension, and the local field office to conduct a pasture walk highlighting the conversion of pasture from toxic to novel endophyte tall fescue at a Conservation Innovation Grant demo farm site in Giles County, VA, where 19 participants attended.
- CIG Case Study Summary titled, *Using Annual Forages and Improved Grazing Management to Build Soil Health and Improve System Performance*, was published on the NRCS CIG webpage and hosted on the VFGC website and promoted to all VFGC members.
- Collaborated with the local NRCS office, SWCD, Extension and DCR to establish a forage and grazing demonstration on farm in Tazewell County to promote the benefits of soil health and grazing management.
- Released three new videos on soil health/cover crop/VA soil health champion profile and distributed to statewide audiences on the VA NRCS YouTube Channel.

Public Affairs

Outreach/Public Affairs

Native American Outreach. Provided communications support for installation of new weather station on Pamunkey tribal land that will support agricultural operations and Science, Technology, Engineering, and Mathematics (STEM) education for tribal youth. The Bureau of Indian Affairs (BIA) and NRCS partnered to purchase and deploy 30 solar-powered Soil Climate Analysis Network (SCAN) weather stations that can assess soil moisture/temperature, air temperature/relative humidity, rainfall, and wind speed/direction. The units can provide real-time weather data available online for the general public.

Black Grower Outreach. NRCS staff from multiple Area IV offices participated in the Black Growers Council Model Farm Series Field Day at Upper Brandon on August 17. Warsaw DC Debbie Bullock provided an overview of NRCS programs and services for the 200+ participants.

Women Farmers. Coordinating with Warrenton Soil Conservationist Casey Dietzen James to publicize and promote a new cycle of Women's Learning Circle outreach programs to be held in Purcellville, VA. The circles are part of the American Farmland Trust's "Women and Land" Conservation Program, which is designed for women landowners who make management decisions on Virginia forest or farm land. James serves as the Virginia NRCS Federal Women's Program Special Emphasis Program Manager (see attached flyer).

Partner/Meeting Support. Debuted new floor model exhibit at the SE Region NACD Meeting in Williamsburg on August 5. The display featured a "Flight Across Virginia" video with stops at 15 farms, a showcase highlighting our conservation farmers and accomplishments, and complementary banners stands set up above the exhibit hall. The unique display and "Customer-Focused Conservation" theme resonated with attendees with many interested in creating similar products for their states/organizations. Soil health and aquaculture breakout sessions with Forage and Grassland Agronomist J.B. Daniel, State Biologist Jeff Jones, and Assistant State Conservationist - Field Operations Keith Boyd (moderator) were well received.

Outreach Resources. Set up new Auto-Cad Training playlist on the Virginia NRCS YouTube channel to assist Verona Civil Engineering Technician Rebecca Evans in sharing webinars with district staff. Uploaded the first two videos and will post others as they are produced/provided. Also posted three-movie series on Northern Neck farmer Robb Hinton's experiments with a new cover crop roller. Promoted products through partner listservs, email notice to staff, and Granicus bulletin to 2,060 subscribers of VA Soil Health and Success Stories topics.

Summer Meetings. Networked and shared program information with more than 2,700 farmers and partners at five field days/events: 2018 Virginia Cattle Field Day and Dairy Expo (July 6 and 13), Virginia Ag Expo (Aug. 2), Verona County Fair (July 31-Aug. 4), and Fluvanna County Fair (Aug. 16-18).

Earth Team Program

Reached out to NRCS and district staff to solicit nominations for 2018 state and national Earth Team awards. The team will review submissions and select state winners at the next quarterly Earth Team Advisory Committee meeting on October 4. Also ordered recognition items for state awards and National Volunteer Week. Coordinating with Dr. Mike Wilson and AVC Wendy Mears to sign up participants in September Tribal SCAN (climate station) installation training as an Earth Team group.