

**Virginia Soil and Water Conservation Board
Wednesday, December 5, 2018
Hotel Roanoke and Conference Center
Roanoke, Virginia**

TIME AND PLACE

The meeting of the Virginia Soil and Water Conservation Board convened at 9:00 a.m. on Wednesday, December 5, 2018 at the Hotel Roanoke and Conference Center in Roanoke, Virginia.

VIRGINIA SOIL AND WATER CONSERVATION BOARD MEMBERS PRESENT

Richard A. Street, Chair	Adam Wilson
Chuck Arnason	Clyde Cristman, DCR Director, Ex Officio
Janette Kennedy	Robert Williams for John A. Bricker, NRCS, Ex Officio
Charles Newton	Officio
Cindy Smith	Dan Goerlich, VCE, Invitee

VIRGINIA SOIL AND WATER CONSERATION BOARD MEMBERS NOT PRESENT

Mario Albritton	Barry L. Marten, Vice Chair
Gray Coyner	

DCR STAFF 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
Angela Ball, Conservation District Coordinator
Anne Crosier, Enforcement and Compliance Officer
Jim Echols, Western Area Manager
Michael Fletcher, Board and Constituent Services Liaison
Blair Gordon, SWCD Liaison
Darryl Glover, Director, Division of Soil and Water Conservation
Stacy Horton, Conservation District Coordinator
Lisa McGee, Policy Director
Amanda Pennington, District Engineering Services Manager
Carl Thiel-Goin, Conservation Planning and Training Coordinator
Denney Turner, Conservation District Coordinator
Amy Walker, Conservation District Coordinator
Aaron Wendt, Shoreline Engineer
Robert Waring, Nutrient Management Specialist
Christine Watlington, Policy and Regulatory Coordinator
Matthew Gooch, Office of the Attorney General

OTHERS PRESENT

Gary Boring, New River SWCD
Shepherd Cronemeyer, Virginia Agribusiness Council
Daphne Jamison, Blue Ridge SWCD
Chip Jones, VASCWD, Northern Neck SWCD

Robert E. Lund, Jr., Colonial SWCD
Steven Meeks, VASWCD, Thomas Jefferson SWCD
Martha Moore, Virginia Farm Bureau
Bill Worrell, Clinch Valley SWCD

ESTABLISHMENT OF A QUORUM

With six (6) members of the Board present, a quorum was established.

CALL TO ORDER

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

APPROVAL OF MINUTES FROM SEPTEMBER 27, 2018

BOARD ACTION

Mr. Arnason moved that the minutes of the September 27, 2018 meeting of the Virginia Soil and Water Conservation Board be approved as submitted by staff. Mr. Newton seconded and the motion carried.

OFFICER ELECTIONS

Mr. Street asked Ms. Kennedy to chair the elections.

Mr. Arnason moved that Mr. Street be reappointed Board Chair by acclamation. Mr. Wilson seconded and the motion carried.

Ms. Kennedy returned the chair to Mr. Street.

Mr. Wilson moved that Mr. Marten be reappointed as Vice Chair by acclamation. Mr. Newton seconded and the motion carried unanimously.

DIRECTOR'S REPORT – *Clyde E. Cristman, DCR Director*

Director Cristman congratulated the Association on a highly successful Annual Meeting. He expressed appreciation for the strong partnership between the Association and DCR. He thanked Mr. Steven Meeks for his leadership as President and congratulated Mr. Chip Jones on his election as incoming Association President.

Director Cristman noted that Board members were provided a copy of the final report on the rehabilitation of high hazard SWCD dams. This report has been provided to the Governor and respective House and Senate committee chairs.

PARTNER REPORTS

Virginia Association of Soil and Water Conservation Districts

Mr. Jones expressed appreciation to the Chair and to the Board. He noted:

- Mr. Meeks is now the representative to the National Association of Conservation Districts.

- The Association commended Dr. Kendall Tyree for ten years as Association Executive Director.
- The Association passed their legislative agenda and will continue to work for funding to support soil and water conservation in the Commonwealth.

Virginia Cooperative Extension

Mr. Goerlich reported that he was recently appointed as Associate Director for Virginia Cooperative Extension. He advised that in his 20 years with Cooperative Extension most of his time had been as the Extension Forester for the Central District. He expressed appreciation for the tremendous partnership between the Board and Cooperative Extension.

Virginia Department of Agriculture and Consumer Services

There was no representative from VDACS present. A written report is included as Attachment #1.

Natural Resources Conservation Service

Mr. Williams provided the report for NRCS. A copy of the written report is included as Attachment #2.

Mr. Williams noted that Matt Lohr from the Shenandoah Valley was appointed as the new chief for the Natural Resources Conservation Service. Mr. Lohr previously served as Virginia Secretary of Agriculture and Forestry.

SOIL AND WATER CONSERVATION DIVISION

Division Report – Darryl Glover, Director, Division of Soil and Water Conservation

Mr. Glover presented the following written 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 October 8, 2018, 2,131 SL-6 livestock stream exclusion practices have been installed statewide under the 100% cost reimbursement initiative. These practices have resulted in over 8.3 million linear feet of streambank protected and 103,000 animal units excluded from water bodies. Another 229 SL-6 practices have been funded but are not yet completed. This leaves only 120 pending FY2015 SL-6s that need just under \$6.3 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.

Resource Management Plan Program Update

The Resource Management Plan Stakeholder Advisory Group (RMP SAG) met in November. DCR provided updates on the additional initiatives implemented within the last year to encourage more RMP implementation and certification. Contracts with RMP developers that took effect on July 1, 2018 will result in over 30,000 acres of fully implemented and certified RMPs by May 2019. The Annual RMP Report,

which is now available online, also notes 14,000 new RMP acres were developed within the Chesapeake Bay watershed during the last year.

Chesapeake Bay WIP III

Working with the Deputy Secretary of Natural Resources, Ann Jennings, and James Davis-Martin (DEQ), DCR conducted the third round of meetings with Soil and Water Conservation Districts (Districts) that have Chesapeake Bay drainage area and other agricultural sector partners, in October.

Several Bay Districts elected to revise their agricultural BMP input deck spreadsheets, projecting additional BMPs that can be implemented by year 2025. DEQ is evaluating these changes.

Three joint sector meetings between urban and agricultural stakeholders were held throughout last week; the fourth and final meeting is scheduled for December 6.

Information from the new Phase 6.0 Chesapeake Bay Model has now identified one additional District, raising the total to nine that are vital for meeting Virginia's nitrogen reduction targets: Eastern Shore, Culpeper, Hanover-Caroline, Headwaters, Lord Fairfax, Northern Neck, Robert E. Lee, Shenandoah Valley, and Three Rivers.

Agricultural BMP Technical Advisory Committee

Suggestions for policy and programmatic changes for the state agricultural cost share program (VACS) that would promote more BMP implementation were accepted through October. Nearly 200 suggestions were received. These suggestions have been divided between six subcommittees of the Agricultural Best Management Technical Advisory Committee (Ag BMP TAC), namely Animal Waste, Cover Crop, Forestry, Nutrient Management, Programmatic, and Stream Protection. These subcommittees began meeting in early September and will continue to meet through early January.

Due to a number of horse-related suggestions, a new Equine Workgroup will continue to meet after the Ag BMP TAC concludes its meetings in January. This workgroup will make recommendations to DCR at a later date.

Every recommendation from the full Ag BMP TAC, including those that have been tabled, will go to the Soil and Water Conservation Board next spring, for final action. Many of these recommendations will require additional work by the TAC next year. Some others will require legislative or regulatory changes and/or additional programming in Ag BMP Tracking.

DCR gave a presentation on the Ag BMP TAC to the District Association on Monday.

Approval of Previously Issued Letter on Cover Crop Planting Dates – Christine Watlington, Policy and Regulatory Coordinator

Ms. Watlington advised that she had previously discussed with Board members a letter sent by Director Cristman regarding a decision to extend the planting date for standard cover crops. Director Cristman issued the memorandum due to the extensive amounts of rain received this year.

BOARD ACTION

Mr. Wilson moved the following:

Pursuant to the Department of Conservation and Recreation and Virginia Soil and Water Conservation District Cost-share and Technical Assistance Grant Agreement, approved by the Board on June 28, 2018, Soil and Water Conservation Districts are obliged to follow the specifications of the 2018 BMP manual, which was approved by the Board on April 19, 2018. Given the unusually high levels of rainfall (48.59 inches in central Virginia as of October 15, 2018), Director Cristman opted to grant a limited waiver of planting dates in the Manual as specified in the attached letter. While such a limited waiver is within the Department's rights under the Agreement, the Department asks the Board to ratify this modification to the Agreement.

Mr. Arnason seconded and the motion carried.

Approval of Small Dam Repair Projects - Amanda Pennington, District Engineering Services Manager

Ms. Pennington presented the project recommendations for funding from the Soil and Water Conservation District Dam Maintenance, Repair, and Rehabilitation Fund. She advised that a total of twelve (12) new requests were received, including five (5) from damage caused by Hurricane Michael. She further noted that the requests for Hurricane Michael were placeholders, as the final amounts were not known. DCR is requesting approval for a total of 20 projects.

BOARD ACTION

Mr. Arnason moved the following:

The Virginia Soil and Water Conservation Board approves funding for twenty (20) new projects in the amount of \$523,377.00, as presented and recommended by the Department. For FY2019, the Board also approves allocating \$62,708.96 for contingency funds and \$50,000 for emergency project funds. The Board authorizes the Department to utilize funding allocated for the Regional Riser Structure Assessment Project as necessary for repairs due to damage resulting from Hurricane Michael.

Ms. Smith seconded and the motion carried.

Approval of BMP Pilot Program – Robert Waring, Nutrient Management Specialist

Mr. Waring advised that DCR is looking at a pilot project to be implemented by the Three Rivers SWCD. This project will hopefully capture the information for all practices farmers are currently implementing on their farms, rather than just capturing the data for single cost-shared practices. The hope is to have a more accurate count of all implemented practices reported toward the 2025 goals. Many of these practices have become common practices but are not tracked by the VACS program. The request is for the Board to approve \$1.35 million for the project, \$150,000 of which will be used for technical assistance for the SWCD. The project was initially developed for row crops but could be expanded to specialty crops in the future.

Mr. Arnason noted that it was important to recognize that this initiative came at the request of the farmers.

BOARD ACTION

Mr. Arnason moved the following:

The Virginia Soil and Water Conservation Board directs the Department to allocate Three Rivers Soil and Water Conservation District with \$1,350,000 for the implementation of the BMP Pilot Project. Of the \$1,350,000, \$150,000 shall be allocated for technical assistance.

The Board directs the Department to utilize any funds returned by 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 to provide this funding to the District. If the recordation revenues do not meet anticipated levels, the Department is authorized to utilize FY2020 funds to provide the necessary funds to the District.

Prior to any funding being transferred to the District for this Pilot Project, a grant agreement, similar to the FY2019 grant agreements, must be fully executed by the Department and the District.

Mr. Newton seconded and the motion carried.

District Director Resignations and Appointments – Christine Watlington

Ms. Watlington noted that the District Director Resignations and Appointments were presented in two motions as one was received after Board materials were prepared.

BOARD ACTION

Mr. Arnason moved that the Virginia Soil and Water Conservation Board approve the following list of At-Large Director appointments as presented with the exclusion of the appointment for the Tri-County/City District.

AT-LARGE APPOINTED SWCD DIRECTOR TERMS EXPIRING JANUARY 1, 2023

SWCD	Current Incumbent Director	County/City	Requested Appointment	County/City
APPOMATTOX RIVER	Franklin Zitta	Dinwiddie	Franklin Zitta	Dinwiddie
BIG SANDY	Bobby E. O’Quin	Buchanan	Bobby E. O’Quin	Buchanan
BIG WALKER	Matthew K. Heldreth	Wythe	Matthew K. Heldreth	Wythe
BLUE RIDGE	Byron Brooks	Franklin	Byron Brooks	Franklin
CHOWAN BASIN	Walter W. Robinson, Jr.	Greensville	Walter W. Robinson, Jr.	Greensville
*CLINCH VALLEY	Michael Altizer	Russell	Jason Bush	Russell
COLONIAL	Charles H Carter, III	Charles City	Charles H Carter, III	Charles City
CULPEPER	Steven D. Morris	Greene	Steven. D Morris	Greene
DANIEL BOONE	Robert V. Burchett	Lee	Robert V. Burchett	Lee
EASTERN SHORE	William Davis Lovell	Accomack	N/A	N/A
EVERGREEN	Seth Umbarger	Smyth	Seth Umbarger	Smyth
HALIFAX	Dr. Bobby Hall	Halifax	Dr. Bobby Hall	Halifax
HANOVER-CAROLINE	Leigh Pemberton	Hanover	Leigh Pemberton	Hanover
HEADWATERS	Richard M. Shiflet	Augusta	Richard M. Shiflet	Augusta

HENRICOPOLIS	Herbert L Dunford, Jr.	Henrico	Herbert L. Dunford, Jr.	Henrico
HOLSTON RIVER	Michael Countiss	Washington	Michael Countiss	Washington
*JAMES RIVER	William D. Kreider	Prince George	Jerry M. Ford	Prince George
*JOHN MARSHALL	Howard Grove	Fauquier	Edmond DeBerry	Fauquier
LAKE COUNTRY	William Austin Puryear	Mecklenburg	William Austin Puryear	Mecklenburg
LONESOME PINE	Glenn Graham	Dickenson	Glenn Graham	Dickenson
LORD FAIRFAX	James W. Fagan	Shenandoah	James W. Fagan	Shenandoah
LOUDOUN	James B. Christian	Loudoun	James B. Christian	Loudoun
MONACAN	Richard Ayers	Powhatan	Richard Ayers	Powhatan
SWCD	Current Incumbent Director	County/City	Requested Appointment	County/City
MOUNTAIN	Ellen Ford	Bath	Ellen Ford	Bath
MOUNTAIN CASTLES	Walter Nelson	Botetourt	Walter Nelson	Botetourt
NATURAL BRIDGE	Sandra W. Stuart	Lexington	Sandra W. Stuart	Lexington
NEW RIVER	Gary Boring	Carroll	Gary Boring	Carroll
NORTHERN NECK	James Minor	Westmoreland	James Minor	Westmoreland
NORTHERN VIRGINIA	John W. Peterson	Fairfax	John W. Peterson	Fairfax
PATRICK	George Stovall	Patrick	George Stovall	Patrick
PEAKS OF OTTER	Keith Tuck	Bedford	Keith Tuck	Bedford
PEANUT	Carey M. Copeland	City of Suffolk	Carey M. Copeland	City of Suffolk
PETER FRANCISCO	Barbara Teeple	Buckingham	Barbara Teeple	Buckingham
PIEDMONT	Juan W. Whittington	Amelia	Juan W. Whittington	Amelia
PITTSYLVANIA	Thomas Keatts	Pittsylvania	Thomas Keatts	Pittsylvania
PRINCE WILLIAM	James Gehlsen	Prince William	James Gehlsen	Prince William
ROBERT E. LEE	Erin Hawkins	Campbell	N/A	N/A
SCOTT COUNTY	Delta Purkey	Scott	Delta Purkey	Scott
*SHENANDOAH VALLEY	Julian Price	Page	Keith Sheets	Rockingham
SKYLINE	Charles P. Shorter	Montgomery	Charles P. Shorter	Montgomery
*SOUTHSIDE	Catherine Garnett	Charlotte	Cornell "Brick" Goldman	Charlotte
TAZEWELL	Virginia Turley	Tazewell	Virginia Turley	Tazewell
THOMAS JEFFERSON	John E. Easter II	Fluvanna	John E. Easter II	Fluvanna
THREE RIVERS	Lloyd B. Mundie	Essex	Lloyd B. Mundie	Essex
TIDEWATER	William Richardson, Jr.	Middlesex	William Richardson, Jr.	Middlesex
TRI-COUNTY/CITY	Richard Street	Spotsylvania	Richard Street	Spotsylvania
VIRGINIA DARE	Mario Albritton	Virginia Beach	Mario Albritton	Virginia Beach

Mr. Wilson seconded and the motion carried.

BOARD ACTION

Mr. Wilson moved that the Virginia Soil and Water Conservation Board approve the appointment of Richard A. Street to serve as At-Large Director for the Tri-County SWCD. Ms. Smith seconded and the motion carried with Mr. Street abstaining.

Ms. Watlington advised that the final recommended motion was for an appointment to the New River SWCD from the City of Galax. This position has been vacant for some time and will fill an unexpired term.

BOARD ACTION

Mr. Wilson moved that the Virginia Soil and Water Conservation Board approve the appointment of Mr. J.D. Testerman of Galax to fill the unexpired term of Mr. Steve Ogle. Mr. Arnason seconded and the motion carried.

DAM SAFETY AND FLOODPLAIN MANAGEMENT DIVISION

Approval of Previously Denied Grant from the Dam Safety, Flood Prevention and Protection Assistance Fund – Russell W. Baxter, Deputy Director for Dam Safety and Floodplain Management

Mr. Baxter noted that at the September meeting staff presented a number of applications that had been denied approve due to administrative oversites on behalf of the applicant. Due to staff error, one additional application was not included in that list. Mr. Baxter advised that staff was requesting Board action to address that error.

BOARD ACTION

Mr. Wilson moved the following:

The Virginia Soil and Water Conservation Board approves this (1) grant applications, with an approval amount of \$11,295.00, as recommended by the Department. Approval of this grant 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 Authority's 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 the application may proceed. The Department is also authorized to take any action necessary to proceed with the closing and administration of the grant subsequent to VRA's approval of the application.

Ms. Smith seconded and the motion carried.

Approval of Dam Safety, Flood Prevention and Protection Assistance Fund Grant Manual – Russell Baxter

Mr. Baxter noted that DCR provides grants through the Dam Safety, Flood Prevention and Protection Assistance Fund. He advised that a copy of the proposed manual was provided in Board member materials. DCR is extending the grant program with the hope of reaching more people and providing better information. The proposed grant round is January 2 through March 29. Training and information sessions are scheduled around the Commonwealth during the month of February.

Mr. Baxter advised that a new requirement is that dams applying for grants need to be under either a conditional or regular certificate. In addition, quarterly reports are no longer required.

BOARD ACTION

Mr. Newton moved that the Virginia Soil and Water Conservation Board approve the 2019 Dam Safety, Flood Prevention, and Protection Assistance Fund Grant Manual as presented by the Department. Mr. Arnason seconded and the motion carried.

RECESS

At 10:00 a.m., the Board stood in recess for the purpose of conducting an administrative hearing concerning Dam Safety and Enforcement. A summary of the hearing is included as Attachment #3.

The Board meeting reconvened at 11:51 a.m.

Approval of Response to Impounding Structure Regulations Periodic Review – Christine Watlington

Ms. Watlington noted that the Department had received approximately 20 comments regarding the periodic review. In a separate internal review process, the Department also requested comments from the Dam Safety regional engineers and the Soil and Water District Engineering staff. Staff continues to review those comments.

Ms. Watlington advised that staff was recommending that in the Spring the Board authorize a NOIRA (Notice of Intended Regulatory Action) to consider amendments on how to address roadways on or below an impounding structure for hazard potential classifications; clarifications on the incremental damage analysis process; gate requirements; and the requirements for agricultural exempt dams.:

BOARD ACTION

Ms. Kennedy moved that the Virginia Soil and Water Conservation Board approve the responses to the comments received during the periodic review of the Impounding Structure Regulations (4VAC50-20) and

authorize the Department to post the report of findings to the Virginia Regulatory Town Hall and to publish the findings in the Virginia Register. Mr. Wilson seconded and the motion carried.

OLD BUSINESS

Approval of Dam Safety, Flood Prevention and Protection Assistance Fund Grant Projects – Russell Baxter

Mr. Baxter advised that there had been some confusion regarding grants awarded to the Spring Hill Lake Dam. He noted that the work on the dam was completed and the appropriate documentation had been provided. The confusion was in regard to the timing of the request.

BOARD ACTION

Mr. Wilson moved the following:

The Virginia Soil and Water Conservation Board approves two grant applications (DSFP-78-17 and DSFP-80-17), with an approval amount of \$7,245, as recommended by the Department. Grant application DSFP-78-17 requests \$1,180 for the development of an emergency action plan for Spring Hill Lake Dam (Inventory Number 019006); DSFP-80-17 requests \$6,065 for the development of a dam break inundation zone analysis, mapping, and digitization for the same dam. Approval of this grant is conditioned on the approval of the work by the Department.

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

Mr. Arnason seconded and the motion carried.

NEW BUSINESS

There was no new business.

PUBLIC COMMENT

Mr. Wilson requested that District staff and directors be updated regarding dam safety regulations. He noted that most of the dams in his Area are TVA owned dams.

Mr. Baxter suggested that this could be an agenda item for the upcoming round of Area meetings.

Ms. Moore commended the Department and Director Cristman for recommending the full funding amount from the Water Quality Improvement Fund (WQIF) in order for Districts to receive adequate funding. She expressed appreciation for the Department's assistance with the development of the WIP.

Director Cristman noted that the Governor's proposed budget would be released on December 18.

NEXT MEETINGS

The dates for the next three meetings of the Virginia Soil and Water Conservation Board are as follows. Locations will be determined.

- March 20, 2019
- April 24, 2019
- May 22, 2019

ADJOURN

There was no further business and the meeting adjourned at 12:07 p.m.

Attachment #1



VDACS Agricultural Stewardship Act Program Update
Darrell Marshall
Agricultural Stewardship Program Manager

Virginia Soil and Water Conservation Board Meeting
December 5, 2018

- ASA program year April 1, 2018 through March 31, 2019
 - 40 complaints filed since April 1, 2018
 - 9 Dismissed complaints
 - ◆ Many of which were water quality issues that were addressed prior to completion of the investigation
 - ◆ Others were non-agricultural issues, already engaged with SWCD in addressing the issue, jurisdiction of another agency, or withdrawn by complainant
 - 12 Founded complaints
 - ◆ Requiring a plan to address water quality issues that were identified
 - 7 involving beef cattle
 - 3 involving land conversion
 - 1 involving dairy operation
 - 1 involving cropland
 - 13 unfounded complaints
 - ◆ No water quality problems identified as a result of an agricultural activity
 - 6 complaints awaiting case decisions
 - ◆ Either awaiting investigation, or completion and review of the investigation report

Attachment #2

NRCS REPORT
Virginia Soil and Water Conservation Board Meeting
December 5, 2018 ♦ Roanoke, VA

ASTC-Programs

EQIP, CSP, RCPP and Easement Programs

Environmental Quality Incentive Program (EQIP)

We are under a continuing resolution (CR) and do not have our final EQIP allocation yet. However, we announced a partial release of EQIP for all programmatic and national initiatives utilizing this partial CR funding. More than 700 applications were received and nearly 10.5 Million worth of applications were preapproved in the last 2 weeks.

Conservation Stewardship Program (CSP)

Due to the expiration of the 2014 Farm Bill, the authority for new enrollments in CSP expired.

Regional Conservation Partnership Program (RCPP)

The RCPP project with VMRC and VIMS (Oyster Bottom Restoration through Aquaculture) held a signup in October and November. Sixteen applications were received requesting nearly \$350,000 in this, year 2, of the project.

NRCS National Headquarters just authorized signup for FY19 for RCPP projects approved in FY18 that follow EQIP rules. The following project guidance is under development for release in December:

- Critical Conservation Area – *Chesapeake Bay Farm Stewardship and Preservation* (1.3 M) focusing on advanced precision nutrient management
- State – *Franklin County Dairy Ag and Water Protection* with Virginia Cooperative Extension (850K)

Agricultural Conservation Easement Program (ACEP)

Although the authority for ACEP still exists, NRCS was not given additional funding for ACEP in FY19 through the CR.

Conservation Innovation Grants (CIG)

Due to the CR, CIG is on hold for FY19.

Engineering (SCE)

Wetland Reserve Program (WRP)

Construction for the Elmwood WRP restoration in Area 1, Culpeper County is ongoing. The construction contractor is Shobe Farm Operations LLC. Construction should be complete by December 3.

Dam Rehabilitation

- **Mountain Run 11** - Concrete placement is anticipated to be complete by December 8. Riser stabilization is anticipated to be complete by December 15. Earthfill operations have been slow due to the wet weather. Kiewit anticipates having concrete work, including sealing, completed in December. Earthfill operations will progress as fast as weather and moisture conditions allow. Final completion is anticipated to be March/April.
- **Mountain Run 50** – The structural earthfill for the embankment is complete. Remaining work consists of non-structural earthfill for the dam extension across the ASW and site grading. Earthfill operations have been slow due to the wet weather. There has been sod placed on a large portion of the embankment. Kiewit anticipates having work completed by early December.
- **Upper North River 77** – Augusta County has awarded the construction contract to Howdyshell Excavating. A NTP is anticipated sometime in November.
- **Cherrystone Creek 1 and Cherrystone Creek 2** – 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** – Engineering alternatives are complete. The final Draft Plan is being developed with Sponsor input.

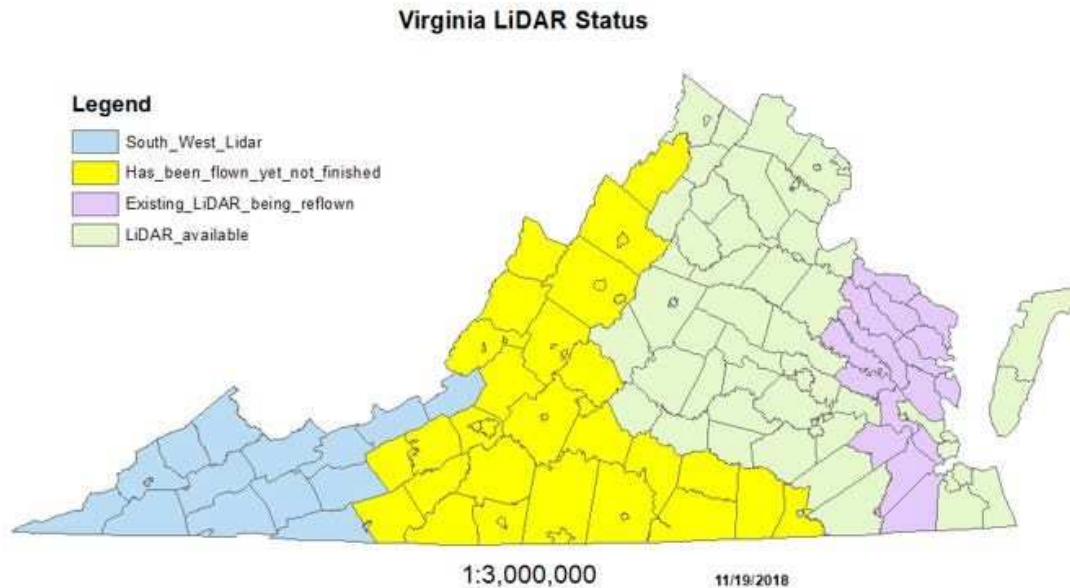
State Resource Conservationist (SRC) *(If needed, see also “Summary of VA NRCS Conservation Planning Training Provided to NRCS and SWCD Employees.”)*

Customer Service/Outreach/Training

- Helped train, coordinate, and facilitate **68 NRCS and partnership outreach and training events where over 3,772 participants attended**. These training/outreach events strive to strengthen and expand NRCS partnership activities to achieve common goals.
- Conducted SRC JED trainings and other technical training to strength and expand NRCS and partner employee’s knowledge and skills including continuing education credits required to maintain NRCS Planner Certification (these training sessions resulted in approximately **842 field staff being training at 41 training opportunities**) See included SRC Training/Outreach Calendar for a full report of all activities.
- Held **35 different soil health events** where NRCS organized with partners and was a keynote presenter. This represented over **2,739 agency staff, partner staff, industry and producers**, a key feature of the VA Soil Health Initiative of training everyone at the same time. Since the 2013 Soil Health Kickoff event in **Virginia, NRCS has helped organize and lead 234 soil health events which were attended by over 20,390 participants** which heard the NRCS principles on Soil Health including the rainfall simulator demonstrations.

State Soil Scientist (SSS)

LiDAR acquisition



- The South West LiDAR acquisition shown above is now available.
- The not finished areas shown have been flown, and are in the processing stage, and will be available at differing dates.
- The area shown as being reflown we do have the LiDAR for that area. It is being reflown with tide coordination as a partnership with USGS.
- NRCS's contribution to the FY 2019 reflown lidar area was \$500,000.

Soil Mapping

- The Web Soil Survey had ~80,000 areas of interest drawn in the state of Virginia during the 2018 fiscal year.
- 108 Soil Survey area's Web Soil Survey data was updated to include new national soil interpretations this October.
- The Web Soil Survey update included three newly mapped areas. They include the cities of Waynesboro, Staunton, and Winchester.

Public Affairs

Outreach/Public Affairs

Minority Farmer Recognition. Coordinated November 3 presentation of the NRCS Civil Rights Advisory Committee "Farmer of the Year" award at the VSU Small Farm Outreach Conference. Our 2018 recipient, Albert McGhee, began his stewardship journey with a CREP project in 2013. After seeing the benefits, he fenced his cattle out of streams on his property, installed an alternative watering system, and instituted several wildlife habitat practices. (View [Albert McGhee's tribute video](#) on the Virginia YouTube channel.)

Native American Outreach. Helped coordinate distribution of 2018 American Indian Alaska Native (AIAN) Month posters to Virginia tribes and high schools with significant Native American populations. Districts interested in obtaining posters for their own local use can contact Barbara Bowen at barbara.bowen@va.usda.gov.

NRCS in the News. Helped expand the audience for the Virginia NRCS Potomac Vegetable Farm soil health series with Ellen Polishuk through national ***Soil Health Saturday*** spotlight. The bulletin highlighting overseeding cover crops into fall vegetables drove additional traffic to the Virginia YouTube channel with 1,000+ additional views since the end of September.

Provided communications support for a Virginia segment of the *Cattlemen to Cattlemen* program, which aired on RFD TV in October. The spotlight on Crozier grazier Ronnie Nuckols also included interviews with Virginia Forage and Grassland Agronomist J.B. Daniel, National Range and Pasture Specialist Chuck Stanley, and Jason Carter (Executive Director of the Virginia Cattlemen's Association). View the [Virginia feature](#) on YouTube (forward to 28:00 mark).

Outreach Resources. Produced new *Working Lands for Wildlife* banner stands set to debut at the VASWCD Annual Meeting. Two of the stands focus on reconnecting cattle and quail to create a mutually supportive environment for both. A third banner highlights forest ecosystems and can be used as a standalone exhibit.

Fall Meetings. Networked and shared program information with approximately 150 farmers and partners at the VSU Small Farm Outreach Conference in Danville, VA, on November 2-3.

Earth Team Program

Selected two district submissions for state level Earth Team awards: Duane Mohr (Outstanding Individual Volunteer) and the Emory & Henry College GOLD Team (Outstanding Group). Forwarded those nominations for regional and national award consideration.

Attachment #3

**Virginia Soil and Water Conservation Board
Isom Dam Penalty Administrative Hearing
Wednesday, December 5, 2018
Hotel Roanoke and Conference Center**

TIME AND PLACE

The meeting of the Virginia Soil and Water Conservation Board convened at 9:00 a.m. on Wednesday, December 5, 2018 at the Hotel Roanoke and Conference Center in Roanoke, Virginia.

VIRGINIA SOIL AND WATER CONSERVATION BOARD MEMBERS PRESENT

Richard A. Street, Chair	Adam Wilson
Chuck Arnason	Clyde Cristman, DCR Director, Ex Officio
Janette Kennedy	Robert Williams for John A. Bricker, NRCS, Ex Officio
Charles Newton	Dan Goerlich, VCE, Invitee
Cindy Smith	

VIRGINIA SOIL AND WATER CONSERATION BOARD MEMBERS NOT PRESENT

Mario Albritton	Barry L. Marten, Vice Chair
Gray Coyner	

DCR STAFF 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
Blair Gordon, SWCD Liaison
Darryl Glover, Director, Division of Soil and Water Conservation
Lisa McGee, Policy Director
Christine Watlington, Policy and Regulatory Coordinator
Matthew Gooch, Office of the Attorney General

OTHERS PRESENT

Franklin B. Isom, Dam Owner
Martha Moore, Virginia Farm Bureau

ESTABLISHMENT OF A QUORUM

With six (6) members of the Board present, a quorum was established.

The hearing in the matter of the Isom Dam convened at 10:04 a.m.

INTRODUCTION

Chairman Street opened hearing and called for Ms. Crosier to present an overview of the matter.

Ms. Crosier advised that Mr. Isom was present at the hearing. She noted that the Board had taken initial action regarding the dam at the September 27, 2018 meeting. At that time, the Board issued the notice and order. Mr. Isom appealed the decision and the matter is again before the Board to hear his appeal.

Ms. Crosier noted that the violations include the following:

- Mr. Isom enlarged the dam and the pond between April 2010 and September 2011 during which he failed to apply for a Construction Permit pursuant to Virginia Code Ann. §10.1-605 and 4VAC50-20-60 and 70.
- Mr. Isom failed to apply for an Operation and Maintenance Certificate for the Dam pursuant to Virginia Code Ann. §10-1-605 and 4VAC50-20-105C, respectively.
- Mr. Isom operated the dam without an Operation and Maintenance Certificate issued by DCR.
- Mr. Isom has failed to develop a dam break inundation map and analysis or an Emergency Action Plan.

Chairman Street advised that this was a formal hearing held at the request of Mr. Isom to appeal the Isom Dam Penalty Notice and Order issued by the Board on September 27, 2018.

Chairman Street further advised that the hearing was being held in accordance with the Administrative Process Act, Code of Virginia §2.2-2020 and pursuant to the Virginia Dam Safety Act, Code of Virginia §10.1-613.2. The Board is authorized to conduct an appeal of the Isom Dam Penalty Notice and Order with a quorum of the Board present.

IDENTIFICATION OF PARTIES AND ADMINISTRATION OF OATH

Chairman Street administered the following oath to Ms. Anne Crosier and Mr. Franklin B. Isom.

Do solemnly swear that the testimony you give will be the truth, the whole truth, and nothing but the truth, so help you God?

Ms. Crosier and Mr. Isom responded in the affirmative.

VERIFY PROPER NOTICE

Chairman Street verified that Mr. Isom and Counsel had been properly noticed and received all necessary materials for the appeal.

OPENING STATEMENTS

Ms. Crosier reviewed the above stated violations. She noted that DCR staff had been contacted by local emergency response officials regarding the dam. Several news outlets also covered the concern over the possible dam failure. Since the initial incident in August, the dam has been breached.

Ms. Crosier noted that DCR had no record of previous contact with Mr. Isom. However, Mr. Isom provided a letter from 2013 from the DCR regional office informing Mr. Isom that the dam might be of regulatory size. There was no additional record of contact from Mr. Isom.

Ms. Crosier advised that based on the information provided, DCR was asking that the Board affirm the penalty notice.

Director Cristman reaffirmed that at the September meeting DCR had advised that there had been no prior contact with Mr. Isom. He noted that staff was updating that information as Mr. Isom had provided a 2013 letter.

Chairman Street called on Mr. Isom for an opening statement.

Mr. Isom noted the following:

- The dam was initially built in 1998 or 1999 as a farm pond with the intent of keeping cattle out of the creek.
- Initially Mr. Isom worked with USDA for the creation of the pond.
- The pond is fed by about 12 springs.
- In 2010, Mr. Isom increased the size of the dam.
- Mr. Isom's understanding was that the dam remained under the agricultural exemption provision.
- Mr. Isom received a letter from DCR Dam Safety Engineer Tom Roberts in 2013. The letter was signed by a DCR intern. At that time, Mr. Isom called and spoke with Mr. Roberts and explained his understanding that the dam was still under the agricultural exemption.
- Mr. Isom had no further contact with DCR prior to the August 2018 incident.

Agency Presentation

Ms. Crosier noted the following:

- The information regarding the size of the dam is based on 2011 aerial photos.
- At a height of 37 feet from the toe to the top of the dam, the dam would be of regulatory size and not agriculturally exempt.
- Mr. Isom operated the dam from September 2011 to September 2018 without a certificate or Emergency Action Plan.
- DCR was unaware of the dam until news media and emergency officials reported the unsafe condition on August 30, 2018.
- DCR became involved because of the threat of imminent failure of the dam.

Mr. Newton asked about DCR efforts to contact Mr. Isom in 2013.

Ms. Crosier responded that the contact was from the regional office and that there was no record in the DCR central office of the dam or of that conversation.

Director Cristman noted that there had not been substantive regulatory changes that would impact the dam since 2008. The 2013 letter was sent as part of an internship program in cooperation with Virginia Tech i to identify dams of regulatory size and to notify dam owners.

Director Cristman further advised that the Code of Virginia placed the responsibility for compliance with regulations on the dam owner.

Mr. Isom asked how the volume of the water of the pond was determined without measurements. He advised that he had not received additional information after the initial contact in 2013. He noted that he was under the assumption that his pond was grandfathered under the agricultural exemption.

Ms. Crosier noted that it was unfortunate that Mr. Isom did not receive the information, but that he should not have assumed that the dam was grandfathered. She further noted that the dam measurements were obtained from the DCR regional engineer.

Ms. Crosier advised that the concern over a possible dam failure led to the evacuation of homes downstream. This was the concern for DCR.

Appeal Presentation

Mr. Isom again noted that his understanding was that the pond was grandfathered under the agricultural exemption. He asserted that DCR had failed to provide timely communication since the initial contact in 2013.

Mr. Isom advised that if the muddy water had not returned to Chestnut Creek, DCR would not have been aware of the situation.

Mr. Isom asserted that the height of the dam was less than 25 ft. He advised that in 2013 he had agreed to decrease the size of the dam, but that he had received no further communication from DCR.

Mr. Isom noted that in his opinion the concern for imminent failure was overblown by DCR. While the sheriff advised downstream residents that a fifteen-foot wall of water could come through their yard, the water would have to travel almost a mile to get to the first house.

Mr. Isom advised that the level of the pond was lowered back to the area contained by the original dam. He noted that he lost about \$10,000 worth of fish that had been stocked in the pond.

Mr. Isom introduced a copy of the 2013 letter from the DCR regional office.

Director Cristman read the following contents of the letter:

Subject: Virginia Impounding Structure Regulations and Dam Owner Information Meeting

Dear Mr. Isom:

The Virginia Department of Conservation and Recreation, Office of Dam Safety, is conducting an inventory of dams and impoundments throughout the state. The intent of the inventory is to determine the location and ownership of dams and lakes which are of sufficient size or storage capacity that they meet state impounding structure requirements and thereby may be subject to regulation under the Virginia Dam Safety Act. Generally, these are dams which are 25 feet or more

in height and impound at least 15 acre feet of storage or are dams over 6 feet high that impound 50 or more acre-feet of storage.

The intent of this letter is to contact owners who have dams which appear to meet regulatory size requirements. You appear to be the owner of record for one or more such dams based on aerial photographs. An aerial photo of your dam attached so you may know which dam (or dams) on your property is (are) the subject of this letter. The Dam Safety Act stipulates that "dams operated primarily for agricultural purposes which are less than 25 feet in height or which create a maximum impoundment capacity smaller than 100 acre-feet" are not subject to regulation and therefore are exempt. A dam may also be exempt from state regulation if it is operating under a mining permit. If you believe that your dam is exempt for one of these reasons, size, agricultural use, or mining, please contact me.

The state requires under law that all dams not under exemption have a certificate to operate. Again, it appears that your dam meets the requirements to be under state regulation.

DCR Dam Safety is holding a dam owner's information meeting July 25, 2013, 9:00 am – 11:45 am, break for lunch, then continue from 1:00 pm – 3:00pm, at the Town Offices for Big Stone Gap auditorium, 505 East Fifth Street, South, Big Stone Gap, Virginia 23219, (276) 523-0115. Owners of regulated size dams, emergency responders, and building officials are encouraged to attend. It is anticipated that the information will include the requirements for the owners of a regulated dam: how to measure the height of a dam and estimate the volume of a pond, proper maintenance, hazard classification, spillway requirements, dam break inundation zones and mapping, emergency action plans and emergency preparedness plans.

There will be plenty of time for any questions you may have. Directions can be provided if needed. Please contact Thomas Roberts, the regional Dam Safety engineer, with any questions/comments/concerns.

In addition this dam owner's information meeting, there will be a one day dam owner training and safety course on September 4, 2013 at Hungry Mother State Park. More information on this course will be mailed out in the near future.

Chairman Street asked Mr. Isom attended the meetings. Mr. Isom indicated that he had not attended.

Director Cristman asked Mr. Isom if he did the work for the dam expansion.

Mr. Isom responded that he had the equipment but contracted with an operator to do the work.

At this time, the Board took a brief recess and reconvened at 11:24 a.m.

CLOSING STATEMENTS

Director Cristman gave the closing statement for DCR.

He noted the following with regard to the facts presented in September and at this hearing.

- This is a very unfortunate situation. However, the dam would likely have required a permit from the Army Corps of Engineers in 1998, even if it was built under the agricultural exemption.
- The purpose of the enlargement was not for agricultural purposes.
- Mr. Isom's measurement of 22 feet was from the inside of the dam not, as required by regulation, from the toe of the dam to the top.
- Mr. Isom did not attend the 2013 informational meetings.
- With regard to overreaction by emergency response, had the dam been under certificate, officials would have known how to properly respond. However, without that information, first responders had to err on the side of public safety.

Director Cristman noted that, with that information, his hope was that there could be an agreeable resolution. He observed that Mr. Isom is now aware of the need for the appropriate permits and that he appears to recognize the gravity of the situation. There is no question that the dam is clearly in violation. The Board's action was appropriate given the information available at the time.

Mr. Isom gave his closing statement.

Mr. Isom advised that he had not pursued the matter, as his understanding was that the dam was under agricultural exemption. He again noted that he had received no further communication from DCR after the 2013 letter and phone call.

Mr. Isom asserted that the issue at hand was the lack of communication from DCR.

Chairman Street advised that there seemed to be errors on both sides of the issue. However, both NRCS and the SWCD would have advised Mr. Isom of the need for permits. In addition, if the dam was expanded at the suggestion of the Department of Forestry, Mr. Isom should have contacted DOF after the work was done.

Director Cristman made the following recommendation. He suggested that the Board impose the fine as initially ordered. However, he recommended that the Board suspend collection of the fine as long as Mr. Isom continues to work with the Department and pursues the appropriate permits as required by the Dam Safety Act.

Mr. Gooch recommended that the threshold for the motion should be whether there was a violation of the Dam Safety Act.

Chairman Street suggested that the Board address this with two motions.

BOARD ACTION

Chairman Street moved that the Virginia Soil and Water Conservation Board affirm their September 27, 2018 decision that Mr. Isom violated terms of the Dam Safety Act with the construction and operation of the dam on his property and affirm the penalty of \$25,000. Mr. Arnason seconded and the motion carried.

BOARD ACTION

Chairman Street moved that the Virginia Soil and Water Conservation Board continue to impose the fine on the Isom Dam but that collection of the fine be suspended contingent upon Mr. Isom fully cooperating

with the Department to correct the situation and to obtain all necessary permits and certificates for the operation of the dam. Mr. Newton seconded and the motion carried.

CONCLUSION OF THE HEARING

Chairman Street read the following closing statement.

Mr. Isom: As it relates to your appeal of the: Isom Dam Penalty Notice and Order, these matters have been held in accordance with §2.2-4000 through §2.2-4032 and §10.1-613.2 of the Code of Virginia, as amended.

You have the right to have this decision reviewed by a court of competent jurisdiction pursuant to Code of Virginia §2.2-4026 and §10.1-613.2.

These decisions will be memorialized in writing by the Department of Conservation and Recreation staff for signature and forwarded to both parties pursuant to Code of Virginia §2.2-4023.

The hearing concluded at 10:49 a.m.