

**Virginia Soil and Water Conservation Board  
Wednesday, December 16, 2020, 10:00 a.m.  
Electronic Meeting**

**TIME AND PLACE**

The meeting of the Virginia Soil and Water Conservation Board took place at 10:00 a.m. on Wednesday, December 16, 2020 via GoToMeeting.

**VIRGINIA SOIL AND WATER CONSERVATION BOARD MEMBERS PRESENT**

Charles A. Arnason, Chair  
Adam D. Wilson, Vice-Chair  
Mario Albritton  
Kristen Saacke-Blunk  
Pamela Mason  
Charles Newton  
Kat Maybury  
Jay C. Ford  
Clyde E. Cristman, DCR Director, Ex Officio  
Dr. Edwin M. Martinez, NRCS, Ex Officio  
Daniel Goerlich, Virginia Cooperative Extension, Invitee

**VIRGINIA SOIL AND WATER CONSERVATION BOARD MEMBERS NOT PRESENT**

Dr. Dahlia O'Brien

**DCR STAFF PRESENT**

Rochelle Altholz, Deputy Director for Administration and Finance  
Russell W. Baxter, Deputy Director for Soil and Water Conservation and Dam Safety and Floodplain Management  
Darryl Glover, Director, Division of Soil and Water Conservation  
Wendy Howard-Cooper, Director, Division of Dam Safety and Floodplain Management  
Christine Watlington Jones, Policy and Regulatory Coordinator  
Michael Fletcher, Board and Constituent Services Liaison  
Lisa McGee, Director of Policy and Planning  
Stuart Blankenship, NPS Data Services Manager  
Nathan Burrell, Deputy Director, Government and Community Relations  
David Bryan, Agricultural Incentives Program Manager  
Kimberly Freiburger, Policy Analyst  
Jim Echols, Regional Manager  
Jaclyn Friedman, Conservation District Coordinator  
Mark Hollberg, Conservation District Coordinator  
Stacy Horton, Conservation District Coordinator  
Sharon Partee, Director of Finance  
Marissa Roland, Conservation District Coordinator  
Amy Walker, Eastern Area Manager  
Aaron Wendt, Shoreline Engineer

Gray O'Dwyer, Office of the Attorney General

**OTHER PRESENT**

Sheila Jaruseski, Colonial SWCD  
Matt Kowalski, Chesapeake Bay Foundation  
Kendal Liss  
Kyle Shreve, Virginia Agribusiness Council  
Robert Tolbert, WLPOA  
Dr. Kendall Tyree, VASWCD  
Greg Wichelns, Culpeper SWCD

**ESTABLISHMENT OF A QUORUM**

With eight (8) members of the Board present, a quorum was established.

**CALL TO ORDER AND CERTIFICATION OF ELECTRONIC MEETING**

Chairman Arnason called the meeting to order at 10:00 a.m. and delivered the following remarks. Good morning, I would like to call this virtual meeting of the Virginia Soil and Water Conservation Board to order.

Generally, public bodies are prohibited from meeting electronically under the provisions of the Freedom of Information Act (FOIA). However, language approved by the Governor and General Assembly in Chapter 56 of the 2020 Special Session 1 Acts of Assembly allows us to move forward with certain restrictions that I will outline below.

Before I review those provisions, please let me take a moment to review how this meeting will work. We want to allow for participation by Board members, staff, and members of the public who wish to comment. However, it is essential that we are able to manage the conversation effectively.

I am chairing this meeting today from the DCR offices in downtown Richmond. I have with me Christine Watlington Jones and Michael Fletcher. They will assist with presentations, responding to comments, and the overall coordination of the meeting.

Please be patient with all of us as we work through this. We understand and appreciate the challenges.

Chapter 56 of the 2020 Special Session 1 Acts of Assembly, also known as the "Budget Bill," includes language addressing the ability of public bodies to conduct electronic meetings without the need for a quorum being present in a single physical location ("Electronic Meeting").

The Budget Bill allows public bodies to hold Electronic Meetings when the Governor has declared a state of emergency pursuant to §44-146.17 if:

“(i) the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location;

(ii) the purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body...and the discharge of its lawful purposes, duties, and responsibilities..." §4-0.01(g).

The Budget Bill also has language regarding recordings and transcriptions of Electronic Meetings. Please be advised that this meeting is being recorded. This recording will be available to the public through the DCR website. The comments in the chat room will also be preserved as a public record. Official minutes of this meeting will be drafted and posted in accordance with regular procedures.

The Budget Bill does not allow the Board to hold an Electronic Meeting to discuss or transact business for *any purpose*. Rather, they may do so as long as the agenda items that the public body plans to take up are: (a) statutorily required or (b) necessary to continue operations and discharge lawful purposes, duties and responsibilities.

It is the Board's responsibility to determine whether "the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location."

At the conclusion of my remarks, I will ask for a motion for the board to make this determination. If that motion fails, this electronic meeting will end at that point.

The Budget Bill requires compliance with the provisions of § 2.2-3708.2. Therefore, in accordance with § 2.2-3708.2.D.2, public bodies must include a telephone number that may be used to notify the public body of any interruption in the telephonic or video broadcast of the meeting.

In the event that a disruption occurs, participants should contact Mr. Fletcher by phone or text at 804-317-8934.

Additionally, if there is an interruption in the broadcast, the meeting must be suspended until public access is restored.

Those provisions of the Virginia Freedom of Information Act not addressed by the Budget Bill remain in effect.

Before we continue with the business portion of the meeting, I will ask Mr. Fletcher to call the roll for Board members and anticipated staff. Other participants will be recorded through the chat window. If you are participating by phone and your name is not called, please call or text Mr. Fletcher at 804-317-8934.

In addition, if at any time you lose connection and are unable to reconnect, please contact Mr. Fletcher at the same number.

I will now turn to Mr. Fletcher for the calling of the roll:

ROLL CALL

PRESENT: Arnason, Wilson, Albritton, Saacke-Blunk, Mason, Newton, Maybury, Ford

ABSENT: O'Brien

Chairman Arnason called for a meeting to certify the electronic meeting.

**BOARD ACTION**

Mr. Wilson moved and Mr. Albritton seconded the following:

The Virginia Soil and Water Conservation Board certifies that the nature of the declared COVID-19 emergency makes it impracticable or unsafe for the Board to assemble in a single location and further that the agenda items to be taken up at this meeting are necessary to continue operations and discharge lawful purposes, duties, and responsibilities of the Board.

**ROLL CALL VOTE**

AYE: Arnason, Wilson, Albritton, Saacke-Blunk, Mason, Newton, Maybury, Ford  
NAY: None

Chairman Arnason continued.

I want to explain further how we will handle participation by board members, staff, and the public. Everyone, except the individual presenting materials for an agenda item, will be muted. Once the presentation is completed, the board members, and only board members, will be unmuted for discussion. Michael and Christine will assist me with ensuring board members are recognized when they have questions or comments. As needed, staff will be unmuted to address questions or concerns. Members of the public will be able to ask questions and provide input by utilizing the chat box function only. As time allows, we will respond to those questions and comments.

We will now proceed with the business of the Board as outlined in the agenda.

**APPROVAL OF MINUTES FROM SEPTEMBER 23, 2020**

**BOARD ACTION**

Mr. Ford moved and Ms. Saacke-Blunk seconded that the minutes from the September 23, 2020 meeting of the Virginia Soil and Water Conservation Board be approved as submitted by staff.

**ROLL CALL VOTE**

AYE: Arnason, Wilson, Albritton, Saacke-Blunk, Mason, Newton, Ford  
NAY: None  
ABSTAIN: Maybury

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

Director Cristman reported that at the time of the meeting the Governor was delivering his amendments to the FY21/22 budget. In the proposed budget, a little over \$30M had been earmarked from the Water Quality Improvement Fund (WQIF). The Governor is proposing adding an additional \$13.5M in general funds to provide the cost-share program allocation to the baseline of \$35M. The Board will be responsible for the allocation of those funds.

**AUDIT SUBCOMMITTEE REPORT** – *Adam Wilson, Chair, Audit Subcommittee*

Mr. Wilson reported that the Audit Subcommittee met earlier that morning to review the Performance Improvement Plan (PIP) submitted by Henricopolis SWCD. The Audit Subcommittee approved the plan as submitted.

The subcommittee will meet again in the spring.

**DIVISION OF SOIL AND WATER CONSERVATION**

*Approval of guidance document related to the identification of perennial streams – Christine Watlington Jones, Policy and Regulatory Coordinator*

Ms. Watlington Jones noted the following:

- This is one of the tasks required by the Bay bills (Hb1422 and SB704) passed during the 2020 regular session.
- Enactment Clause #5 states that the Board shall establish, no later than December 31, 2020, the methodology for identifying perennial streams as defined by §62.1-44.122.
- The methodology was utilized for a study of Rockingham County related to livestock stream exclusion. The Board received a copy of this study in the spring.
  - The methodology utilizes Virginia Information Technology Agency (VITA) LIDAR data as the baseline dataset.
  - From this dataset, general stream features will be created and hydrologic process will be modeled (including the accumulation of water and the direction of the flow of water).
  - Stream features will then be subdivided into segments for identification.
  - Stream segments will then be overlaid with information from 3 reference datasets to identify segment as either perennial or intermittent:
    1. SSURGO dataset that includes information about soils as collected by the National Cooperative Soil Survey over the course of a century; contains individual soil classifications to examine whether wet or flooded soil are present;
    2. 2002 VGIN-created stream network (derived from digital elevation models (DEMs)); this data set includes data from a severe drought; a stream segment is included in this dataset there is a high likelihood the stream is identified as perennial; and

3. The United States Geological Survey's National Hydrography Dataset (NHD) contains information indicating potential water flow through stream segments.
- Perennial stream, as defined in §62.1-44.122, means a body of water depicted as perennial on the most recent U.S. Geological Survey 7-1/2-minute topographic quadrangle map (scale 1:24,000) or identified by a method, established in guidelines approved by the Department, that does not require field verification.
  - The draft guidance document was published in the Virginia Register of Regulations on November 9, 2020.
  - The public comment period ended on December 9, 2020.
  - Fifteen (15) comments were received.
  - Key changes made to the guidance document based on the comments include:
    - Including the delayed effective date provisions;
    - Referencing the intent to focus special efforts on areas with karst during the quality control process; and
    - Revising the language referencing previous regulatory determinations (including those determinations made by localities under their Chesapeake Bay Preservation Act authorities) after discussions with the Department of Environmental Quality.
  - Concerns were raised about karst topography and the identification of streams in these areas.
    - There is not a single reference dataset that can be utilized to address these concerns.
    - Therefore, these concerns may be best addressed through the quality control process.
    - There are several datasets or data layers, which are limited in scope or geographic area that may be able to assist with the identification of karst features including data layers from the Virginia Department of Mines, Minerals, and Energy (a sinkhole data layer and a karst bedrock layer) and the Karst Hydrology Atlas.
    - The Department anticipates utilizing the data layers and the Karst Hydrology Atlas to investigate if there are discrepancies in the final dataset that may be related to karst topography. The quality control process may identify additional discrepancies during the review of identifications of segments, which tracks upstream or downstream of a segment to ensure the identifications make logical sense based on the flow. For example, if a stream segment is identified as perennial, the stream will be traced upstream to ensure all of the associated segments are identified as perennial as well.
  - Comments were raised about using 3 out of 3 reference datasets to identify streams as perennial, rather than 2 out of 3.
    - Two out of three datasets strikes the appropriate balance between regulatory certainty and environmental considerations.
  - Many comments were received about field verification or ground-truthing.
    - The Department is unable to conduct field verification; the law does not

- allow for a process or method for field verification or ground-truthing.
- Comments were received about a potential appeal process.
  - Appeals would be handled through the existing Administrative Process Act; the law does not provide for an expedited or different process.
  - Additionally, this guidance discusses the methodology that will be utilized to identify a stream segment as perennial; it does not provide guidance on actions, including appeals, related to the implementation of §62.1-44.123.
- Many comments are requesting information the Department truly doesn't know yet (bias, uncertainty with datasets, etc.)
  - The Department needs to develop the final dataset to see if there are issues with the reference datasets or the identifications made using the final dataset.
  - If there are issues, the methodology can be revised.
- Reminders: this is the first step in this process.
  - The Department needs an approved methodology to develop a final dataset.
  - If discrepancies arise, it is possible to revise the methodology to address those discrepancies.

Mr. Ford asked about the determination of the final methodology and the use of the term "final data set." He noted that some perennial streams are not the same from year to year. He asked if this will be reviewed on a five-year basis or if there would be a need to return to the legislature. He commented that in ten years some of the determinations would change.

Ms. Watlington Jones advised that in internal discussions staff have acknowledged that the data set will need to be reviewed as funding becomes available. There is a need to be careful to strike a balance between regulatory certainty for producers and having the best, most accurate data available. There must be certain data points to have surety of compliance.

Mr. Baxter noted that the guidance document is not effective until July 1, 2026. There will be time to review the data set before standards are applied.

Director Cristman noted that a challenge with developing the guidance was the legislative deadline of December 31, 2020. Additionally DCR was given no additional funding for this task. The agency is working to develop a cost-effective way to determine the methodology.

Ms. Mason asked if a statement could be included that would guarantee the use of the best available data.

Mr. Baxter advised that the statement could be included with the motion. He further commented that the Board could ask the staff to report back regularly on the status of the guidance dataset.

#### **BOARD ACTION**

Ms. Mason moved the following and Mr. Ford seconded.

The Virginia Soil and Water Conservation Board approves the *Guidance Document on the Methodology for Identifying Perennial Streams*. The Board approves the recommended responses to the public comment and directs the Department to post the guidance document to the Town Hall and to provide the responses to public comments to all individuals that provided comment.

The Board commits to utilizing the best available statewide datasets and the best available technology for the final dataset. The Department will provide regular updates to the Board on the status of the development of the dataset, quality control process, and other key activities.

#### ROLL CALL VOTE

AYE: Arnason, Wilson, Albritton, Saacke-Blunk, Mason, Maybury, Ford  
NAY: None  
ABSTAIN: Newton

*Approval of 2021 District Program Reviews related to the Resource Management Plan Program – Christine Watlington Jones, Policy and Regulatory Coordinator*

Ms. Watlington Jones presented the District Program Reviews for the RMP Plan Program. She noted the following:

- Resource Management Plan regulations (4VAC50-70-130) requires periodic review of duties performed by soil and water conservation districts.
- The reviews will be conducted using the process and forms approved by the Board at the September, 2018 meeting.
- During 2021, the following Districts will be reviewed:
  - Eastern Shore;
  - Henricopolis;
  - Monacan;
  - Tidewater; and
  - Tri-County/City.

#### BOARD ACTION

Ms. Saacke-Blunk moved and Mr. Newton seconded the following motion.

The Virginia Soil and Water Conservation Board approves the following Districts for program reviews as required pursuant to 4VAC50-70-130:

1. Eastern Shore;
2. Henricopolis;
3. Monacan;
4. Tidewater; and
5. Tri-County/City.

All program reviews will follow the process presented to the Board by the Department and will utilize the program review forms previously approved by the Board at the September 27, 2018 meeting.



## ROLL CALL VOTE

AYE: Arnason, Wilson, Albritton, Newton, Saacke-Blunk, Mason, Maybury, Ford  
NAY: None

*Approval of small dam repair projects for Districts – Christine Watlington Jones, Policy and Regulatory Coordinator*

Ms. Watlington Jones advised that this was the annual approval of “repair” projects for District dams that comes before the Board every December. She noted:

- \$500,000 is provided each year in the budget for these repairs.
- The Department is requesting approval of 12 projects, which includes the continuation of remote-monitoring project (which was funded again this year)
  - Total funding request of \$1,043,675
    - \$127,280.09 for contingency funds and \$50,000 for emergency project funds.

Ms. Watlington Jones noted one correction on page five of the document. The reference to a water berm design project on the Culpeper Beautiful dam (ID#20-09) should be a reference to a graded filter project.

## BOARD ACTION

Ms. Mason moved and Mr. Newton seconded the following motion:

The Virginia Soil and Water Conservation Board approves funding for twelve (12) projects in the amount of \$1,043,675, as presented and recommended by the Department. For FY2021, the Board also approves allocating \$127,280.09 for contingency funds and \$50,000 for emergency project funds.

Additionally, the Board directs the Department to reimburse Soil and Water Conservation Districts for all eligible costs associated with the installation of the remote monitoring equipment as provided for in Chapter 56 of the 2020 Special Session 1 Acts of Assembly. The funding for the reimbursements shall be provided from the Soil and Water Conservation District Dam Maintenance, Repair, and Rehabilitation Fund.

## ROLL CALL VOTE

AYE: Arnason, Wilson, Albritton, Newton, Saacke-Blunk, Mason, Maybury, Ford  
NAY: None

*Allocations of funds*

Reassignment of funds to provide for perennial stream dataset and RMP developers – Christine Watlington Jones, Policy and Regulatory Coordinator

Ms. Watlington Jones noted that this was a shifting of funds. In the budget, \$750,000 was provided for resource management plans, poultry litter transport, and other nonpoint source programs in the Water Quality Improvement Fund carve-outs.

Ms. Watlington Jones advised that no Board action was required to direct the use of these funds. She further noted:

- Originally, this funding was earmarked for the development and certification of resource management plans and poultry litter; however, the Department now needs to fund development of the dataset and maps related to the perennial stream guidance document.
- Therefore, the Department needs to utilize \$180,000 of the funds earmarked for RMPs .
- The Department is requesting the Board allocate \$180,000 of additional recordation revenue from FY2020 to provide funding for the development and certification of RMPs.

#### BOARD ACTION

Mr. Ford moved and Mr. Newton seconded the following motion.

The Virginia Soil and Water Conservation Board approves the use of up to \$180,000 from recordation revenue received in FY2020 above the amounts allocated by the *Virginia Soil and Water Conservation Board Policy and Procedures on Soil and Water Conservation District Cost-Share and Technical Assistance Funding Allocations (Fiscal Year 2020)*. This funding shall be used to provide for direct pay grants to Resource Management Plan developers in the Chesapeake Bay watershed.

#### ROLL CALL VOTE

AYE: Arnason, Wilson, Albritton, Newton, Saacke-Blunk, Mason, Maybury, Ford

NAY: None

#### Reallocation of Funds for Small Herd Initiative - *Christine Watlington Jones, Policy and Regulatory Coordinator*

Ms. Watlington Jones advised that §62.1-44.123 requires any person who owns property in the Chesapeake Bay watershed on which 20 or more bovines are pastured to install and maintain stream exclusion practices sufficient to exclude all such bovines from any perennial stream in the watershed. The Small Herd initiative would assist producers with this requirement. She further noted:

- The initiative would provide targeted assistance to producers and landowners in Bay watershed.
- The initiative would begin on July 1, 2021.
- All livestock exclusion practices adopted by this Board would be eligible.
- Each participant would be eligible for a maximum of \$25,000.
- The herd size must be between 20-35 animals.
- Funds would be non-competitive and would be available on a first-come, first-served basis.

- Funds provided through the initiative will not impact VACS participant caps
- This initiative would operate similarly to Conservation Reserve Enhancement Program (CREP).
  - Districts will request funds for individual practices once there are applicant sign-ups.
  - District must verify that the herd size qualifies for the initiative.
  - The Department will verify funds are available.

Ms. Watlington Jones advised that the Department was requesting that \$2.26 million be held in reserve for this initiative from funds returned to Department from previous years.

- \$2.0 million for implementation and installation.
- \$260,000 provided for technical assistance.
- The Department will bring a specification to the Board for formal approval of this initiative in the spring.

#### BOARD ACTION

Ms. Saacke-Blunk moved and Mr. Newton seconded the following motion:

The Virginia Soil and Water Conservation Board directs the Department to hold in reserve a total of \$2.26 million for a proposed *Small Herd Initiative*. Of the \$2.26 million, \$2.0 million shall be for practice implementation funding and \$260,000 shall be for held for technical assistance funding for Soil and Water Conservation Districts.

#### ROLL CALL VOTE

AYE: Arnason, Wilson, Albritton, Newton, Saacke-Blunk, Mason, Maybury, Ford

NAY: None

#### Additional VACS allocations - Christine Watlington Jones, Policy and Regulatory Coordinator

Ms. Watlington Jones reminded the Board that only \$35 million was allocated for VACS this spring because of budgetary concerns related to the impact of COVID. However, \$5.85 million was allocated in technical assistance funding; only \$547,023 was left unallocated for technical assistance. Additional funds for VACS were re-allocated during the Special Session.

Ms. Watlington Jones noted that the staff recommendations were highlighted in spreadsheets provided to the Board. The criteria used to allocate the additional funding was as follows:

- Criteria used to allocate additional funding:
  - a. Districts showed a need in tracking that exceeded their current allocation.
  - b. At least 85% of the current allocation is obligated.
- Funding was limited for areas outside of the Chesapeake Bay watershed so a percentage of available funds were provided to Districts.
- Districts received 10.9% for technical assistance.
- Districts are still able to transfer funds between Districts and if necessary, can transfer money back to the Department.

**BOARD ACTION**

Mr. Wilson moved and Ms. Mason seconded the following motion.

The Virginia Soil and Water Conservation Board approves the additional cost-share and technical assistance funding allocations to the Soil and Water Conservation Districts as presented by the Department (Fiscal Year 2021).

**ROLL CALL VOTE**

AYE: Arnason, Wilson, Albritton, Newton, Saacke-Blunk, Mason, Maybury, Ford

NAY: None

*Resignations and appointments - Christine Watlington Jones, Policy and Regulatory Coordinator*

Ms. Watlington Jones presented the recommendations for Cooperative Extension agent appointments. She noted that each of the 47 Districts would have a cooperative extension agent representative. The Board approves these appointments every four years. These terms will expire on January 1, 2025.

Ms. Watlington Jones expressed appreciation to Mr. Goerlich for his assistance in filling the position.

**BOARD ACTION**

Mr. Wilson moved that the Virginia Soil and Water Conservation Board approve the appointment of the individuals being recommended. Ms. Saacke-Blunk seconded and the roll call vote was as follows.

**ROLL CALL VOTE**

AYE: Arnason, Wilson, Albritton, Newton, Saacke-Blunk, Mason, Maybury, Ford

NAY: None

**District Director Resignations and appointments**

Ms. Watlington Jones presented the list of appointments and resignations

**Natural Bridge**

Resignation of Mr. Roy Swartz, of Buena Vista, effective 10/21/2020, elected director position (term of office expires 1/01/2024).

Appointment of Mr. Herbert Huffman, of Buena Vista, effective 11/18/2020, to fill the unexpired elected director term of Mr. Roy Swartz (term of office expires 1/01/2024).

**Shenandoah Valley**

Resignation of Ms. Linda Campbell, of Page County, effective 05/07/2020, elected director position (term of office expires 1/01/2024).

Appointment of Mr. James W. Burke, of Page County, effective 11/05/2020, to fill the unexpired elected director term of Ms. Linda Campbell (term of office expires 1/1/2024).

**Thomas Jefferson**

Resignation of Ms. Patricia Willis, of Louisa County, effective 10/2020, elected director position (term of office expires 1/1/2024).

Appointment of Ms. Carolyn Daughters, of Louisa County, effective 10/28/2020, to fill the unexpired elected director term of Ms. Patricia Willis (term of office expires 1/1/2024).

**BOARD ACTION**

Mr. Wilson moved that the Virginia Soil and Water Conservation Board approve the appointment of the individuals being recommended. Ms. Maybury seconded and the roll call vote was as follows.

**ROLL CALL VOTE**

AYE: Arnason, Wilson, Albritton, Newton, Saacke-Blunk, Mason, Maybury, Ford  
NAY: None

*Approval of initiation of periodic review for the public participation regulations (4VAC50-11) - Christine Watlington Jones, Policy and Regulatory Coordinator*

Ms. Watlington Jones advised that at recent meetings the Board has authorized periodic reviews for the Impounding Structure Regulations and the Resource Management Plan Regulations. She noted that the Public Participation Guidelines were due for a periodic review.

Ms. Watlington Jones noted that staff will bring a motion to initiate a review of the Nutrient Management Training and Certification Regulations at the March meeting.

**BOARD ACTION**

Ms. Mason moved and Ms. Saacke-Blunk seconded the following motion:

The Virginia Soil and Water Conservation Board approves the initiation of a periodic review of the Public Participation Guidelines (4VAC50-11). The Board requests a report from the Department regarding specific issues that were raised during the periodic review after the close of the public comment period.

**ROLL CALL VOTE**

AYE: Arnason, Wilson, Albritton, Newton, Saacke-Blunk, Mason, Maybury, Ford  
NAY: None

**DIVISION OF DAM SAFETY AND FLOODPLAIN MANAGEMENT**

*Approval of guidance document related to the design and use of devices to lower the reservoir water levels - Christine Watlington Jones, Policy and Regulatory Coordinator*

Ms. Watlington Jones presented an overview of the recommended guidance document. She noted the following:

- The guidance document outlines devices, methods, and systems (low-level drain system) that are used to lower the level of water in the reservoir created by an impounding structure.
- The draft guidance document was published in the Virginia Register of Regulations on August 17, 2020
- The public comment period ended on September 16, 2020.
- 8 comments were received.
- The Department has been very responsive to comments received
- Key changes made to guidance document based on comments received:
  - Added language to definition of “practicable” to include factors that impact which drain system an owner and the owner’s engineer may choose including – operational challenges, site-specific conditions, cost, and other owner-specific considerations.
  - Modified requirement for low-hazard potential dams which are no longer required to install, modify, or replace a low level drain system unless the downstream conditions change (low hazard dams have no expected loss of life and no more than minimal economic damage).
  - High or significant dams may need to retrofit an existing system if the system isn’t operational.
  - If a high or significant dam does not have an existing system to lower the reservoir level, the dam will be required to be retrofitted if practicable.
  - Added language to clarify when the reservoir should be lowered:
    - after consultation with, and with the concurrence of the owner’s engineer;
    - (ii) in accordance with the dam’s emergency action plan or emergency preparedness plan; and
    - (iii) in accordance with established engineering safety protocols to ensure the structural integrity of the dam.
  - Provides a possible option for utilizing the use of a third-party pumping service or the use of portable pumps owned or operated by the owner may be approved by the Department.
    - Sufficient documentation detailing why a more permanent system, device, or method is not practicable must be provided to the Department.
    - The use of financial hardship, or the sole use of the cost of such device, method, or system alone, is not sufficient reason for the Department to approve the use of a pumping service or portable pumps.
  - Removed the statement about the need to operate the drain system annually; but retained the language earlier in the paragraph that all maintenance should be conducted in accordance with manufacturer’s specifications.

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### BOARD ACTION

Mr. Albritton moved and Ms. Maybury seconded the following motion:

The Virginia Soil and Water Conservation Board approves the *Guidance Document on the Design and Use of Devices to Lower the Reservoir Water Level*. The Board approves the recommended responses to the public comment and directs the Department to post the guidance document to the Town Hall and to provide the responses to public comments to all individuals that provided comment.

### ROLL CALL VOTE

AYE: Arnason, Wilson, Albritton, Newton, Saacke-Blunk, Mason, Maybury, Ford

NAY: None

*Authorization to manage rehabilitation projects for District-owned dams - Christine Watlington Jones, Policy and Regulatory Coordinator*

Ms. Watlington Jones advised that \$15 million was provided in the budget for the major modification, upgrade, or rehabilitation of dams owned or maintained by the Department of Conservation and Recreation and the Virginia Soil and Water Conservation Districts. She noted that the Department will work with Districts to manage these projects. Further:

- Funding priorities will be determined by using the 2018 final report on rehabilitation of high hazard dams owned by Districts and the revised prioritized list.
  - As additional analysis has been completed, there have been shifts in the prioritization.
- Funds may be utilized to match, supplement, or leverage other funding opportunities.

### BOARD ACTION

Mr. Newton moved and Ms. Mason seconded the following motion:

The Virginia Soil and Water Conservation Board authorizes the Department to manage the major modification, upgrade, or rehabilitation projects of District-owned dams. The Department shall utilize the *2018 Final Report on the Rehabilitation of High Hazard Soil and Water Conservation District Impounding Structures* and the *Revised Prioritization List for District Rehabilitation Projects (October 2020 version)* to determine the funding priority for the necessary projects.

The Board authorizes the Department to utilize these monies to match, supplement, or leverage any funding from any other sources including any federal or state funding.

### ROLL CALL VOTE

AYE: Arnason, Wilson, Albritton, Newton, Saacke-Blunk, Mason, Maybury, Ford  
NAY: None

**PUBLIC COMMENT**

Mr. Ford advised that he wanted to bring to the Board's attention that the Commonwealth recently published draft guidance regarding the Community Flood Preparedness Fund as required by the Clean Energy and Community Flood Preparedness Act. Districts are eligible to apply for funding. He noted a concern that there was no language regarding how Districts can partner with localities.

Mr. Baxter noted that the referenced fund is administered by the agency and does not fall under the responsibilities of the Board. However, he commented that the Department would welcome comments from the Board regarding the administration of the fund.

**NEXT MEETINGS**

Tentative dates for the next meetings of the Virginia Soil and Water Conservation Board are March, April, and May 2021.

**ADJOURN**

There was no further business and the meeting adjourned at 11:50 a.m.