

**Virginia Soil and Water Conservation Board
November 19, 2009
West Reading Room, The Patrick Henry Building
Richmond, Virginia**

Virginia Soil and Water Conservation Board Members Present

Linda S. Campbell, Chair	Susan Taylor Hansen, Vice Chair
Joseph H. Maroon, DCR Director	C. Frank Brickhouse, Jr.
Gary Hornbaker	Jerry L. Ingle
Daphne W. Jamison	Raymond L. Simms

Virginia Soil and Water Conservation Board Members Not Present

Darlene Dalbec	Jean R. Packard
John A. Bricker, NRCS, Ex Officio	

DCR Staff Present

Russell W. Baxter	Robert Bennett
Ryan J. Brown	William G. Browning
David C. Dowling	Michael R. Fletcher
Jack E. Frye	Lee Hill
John McCutcheon	Mark B. Meador
Jim Robinson	
Elizabeth Andrews, Office of the Attorney General	

Others Present

Neil Buttimer, Lake of the Woods Association
Lisa Cahill, Watershed Services
Wilkie Chaffin, VASWCD
Margaret Darby, Lake of the Woods Association
Melissa Floyd, RFRA
Jeff Flynn, Lake of the Woods Association
Tom Frederick, Rivanna Authority
Brent Fults, Chesapeake Bay Nutrient Land Trust, LLC
Mike Gerel, Chesapeake Bay Foundation
Bruce Kay, Lake of the Woods Association
Olive Kelly, Lake of the Woods Association
Bill Nowers, Lake of the Woods
Don Rissmeyer, AMT
Lola Rodriguez-Perkins, Spotsylvania County
Pat Rowland, Lake of the Woods Association
Tom Sheridan, Lake of the Woods Association
Sally Thomas, Rivanna Authority

Troy Tignor, Spotsylvania County
Ted Wessel, Lake of the Woods Association

Call to Order and Introductions

Chairman Campbell called the meeting to order and declared a quorum present. She welcomed new Board Members Frank Brickhouse, Jerry Ingle and Daphne Jamison.

Approval of Minutes

MOTION: Mr. Hornbaker moved that the minutes of the September 17, 2009 meeting of the Virginia Soil and Water Conservation Board be approved as submitted by staff.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried with Mr. Brickhouse, Mr. Ingle and Ms. Jamison abstaining

MOTION: Mr. Simms moved that the minutes of the October 5, 2009 meeting of the Virginia Soil and Water Conservation Board be approved as submitted.

SECOND: Mr. Hornbaker

DISCUSSION: None

VOTE: Motion carried with Mr. Brickhouse, Mr. Ingle and Ms. Jamison abstaining

Director's Report

Mr. Maroon gave the Director's Report. He welcomed the new members and offered three commending resolutions for retiring Board members Michael Altizer, Granville Maitland and Michael Russell. Those resolutions read as follows:

MICHAEL G. ALTIZER

At a regular meeting of the Virginia Soil and Water Conservation Board held on November 19, 2009, at the Patrick Henry Building, Richmond, Virginia, the following resolution was unanimously adopted.

WHEREAS, Michael G. Altizer of Lebanon, Virginia, represented the Citizens of the Commonwealth on the Soil and Water Conservation Board; and

WHEREAS, bringing his experience and commitment to the protection of Virginia's natural resources, Mr. Altizer served on the Virginia Soil and Water Conservation Board from July 1, 2006 to January 30, 2009; and

WHEREAS, Mr. Altizer has served as a Director of the Clinch Valley Soil and Water Conservation District, and has served as Area IV Chair of the Virginia Association of Soil and Water Conservation Districts.

THEREFORE BE IT RESOLVED, that on behalf of the citizens of the Commonwealth, The Virginia Soil and Water Conservation Board and the Virginia Department of Conservation and Recreation extends its sincerest appreciation to Michael G. Altizer for his service to this Board, recognizing with gratitude, his contributions, and dedication to protecting the quality of the land and water resources of the Commonwealth.

MICHAEL J. RUSSELL

At a regular meeting of the Virginia Soil and Water Conservation Board held on November 19, 2009, at the Patrick Henry Building, Richmond, Virginia, the following resolution was unanimously adopted.

WHEREAS, Michael J. Russell of Amherst County, Virginia, represented the Citizens of the Commonwealth on the Soil and Water Conservation Board; and

WHEREAS, bringing his experience and commitment to the protection of Virginia's natural resources, Mr. Russell served on the Virginia Soil and Water Conservation Board from July 1, 2005 to October 31, 2009; and

WHEREAS, Mr. Russell has served as a Director and Chairman of the Robert E. Lee Soil and Water Conservation District

THEREFORE BE IT RESOLVED, that on behalf of the citizens of the Commonwealth, The Virginia Soil and Water Conservation Board and the Virginia Department of Conservation and Recreation extends its sincerest appreciation to Michael J. Russell for his service to this Board, recognizing with gratitude, his contributions, and dedication to protecting the quality of the land and water resources of the Commonwealth.

GRANVILLE M. MAITLAND

At a regular meeting of the Virginia Soil and Water Conservation Board held on November 19, 2009, at the Patrick Henry Building, Richmond, Virginia, the following resolution was unanimously adopted.

WHEREAS, Granville M. Maitland of Dinwiddie County, Virginia, represented the Citizens of the Commonwealth on the Soil and Water Conservation Board; and

WHEREAS, bringing his experience and commitment to the protection of Virginia's natural resources, Mr. Maitland served on the Virginia Soil and Water Conservation Board from July 1, 2001 to October 31, 2009 and served as Vice Chair of the Board from July 1, 2006 to October 31, 2009; and

WHEREAS, Mr. Maitland has served as a Director and Chairman of the Appomattox Soil and Water Conservation District

THEREFORE BE IT RESOLVED, that on behalf of the citizens of the Commonwealth, The Virginia Soil and Water Conservation Board and the Virginia Department of Conservation and Recreation extends its sincerest appreciation to Granville M. Maitland for his service to this Board, recognizing with gratitude, his contributions, and dedication to protecting the quality of the land and water resources of the Commonwealth.

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board approve the resolutions as submitted and that Mr. Maroon arrange to present them at an appropriate event.

SECOND: Ms. Jamison

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Maroon said that members had also received information regarding Virginia's infrastructure. A report by the Virginia Section of the American Society of Civil Engineers gave Virginia a grade of D+ in terms of infrastructure.

Mr. Maroon noted that areas where the Board had direct impact were Dam Safety and Stormwater. He said revisions to the dam safety and stormwater regulations were an attempt to address these concerns.

Mr. Maroon noted that Virginia received a B- in parks and recreation. Bond money and acquisitions had helped in this area.

Mr. Rissmeyer said that he would be happy to answer any questions.

Mr. Hornbaker asked if the implementation of the new stormwater regulations would have a bearing on Virginia's grade in the future.

Mr. Rissmeyer said that he was not on the stormwater committee. However he noted the committee recognized that the new regulations improved the approach to water quality, but also recognized the lack of funding for stormwater retrofits. He said that there needs to be a dedicated funding source.

Mr. Simms noted that parks and recreation received a higher grade.

Mr. Maroon said that the public comment period on the Stormwater Management regulations would close on November 25, 2009. He said following that staff would be preparing a review of the comments in preparation for the December 9, 2009 Board meeting.

Mr. Maroon reviewed the agenda for the remainder of the meeting.

Local Soil and Water Conservation District Operations

District Resignations and Appointments

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

Colonial

Resignation of Shirley M. Willis, James City County, effective 7/16/09, appointed director position (term of office expires 1/1/11).

Recommendation of Charles Hill Carter, III, Charles City County, to fill unexpired appointed term of Shirley M. Willis (term of office to begin on or before 12/19/09 – 1/1/11).

Recommendation of Jordan R. Anglin, City of Williamsburg, to fill unexpired appointed term of Gregory S. Hancock (term of office to begin on or before 12/19/09 – 1/1/12) (*appointed during the July 23, 2009 SWC Board meeting, but failed to take oath*).

Resignation of Paul H. Davies, New Kent County, effective 8/31/09, Extension Agent director position (term of office expires 1/1/13).

Recommendation of James (Jim) Orband, York County, to fill unexpired Extension Agent term of Paul H. Davis (term of office to begin on or before 12/19/09 – 1/1/13).

Henricopolis

Resignation of Robert A. Baird, Henrico County, to fill unexpired elected term position (term of office expires 1/1/12).

Recommendation of Leon E. App, Henrico County, to fill unexpired elected term of Robert A. Baird (term of office to begin on or before 12/19/09 – 1/1/12).

Scott County

Resignation of Toby Hilton, Scott County, effective 10/13/09, elected director position (term of office expires 1/1/12).

Recommendation of John H. Brickey, Jr., Scott County, to fill unexpired elected term of Toby Hilton (term of office to begin on or before 12/19/09 – 1/1/12).

Skyline

Resignation of Edward B. Hale, Montgomery County, effective 12/31/09, appointed director position (term of office expires 1/1/11).

Recommendation of Charles P. Shorter, Montgomery County, to fill unexpired appointed term of Edward B. Hale (term of office to begin on or before 12/19/09 – 1/1/11).

Tidewater

Recommendation of Ronnie Lewis, Mathews County, to fill unexpired elected term of Carl Thiel-Goin (term of office to begin on or before 12/19/08 – 1/1/12).

Virginia Dare

Resignation of Jo Ann Clarke, City of Chesapeake, effective 9/23/09, elected director position (term of office expires 1/1/12).

Recommendation of Thomas Jones, City of Chesapeake, to fill unexpired elected term of Jo Ann Clarke (term of office to begin on or before 12/19/09 – 1/1/12).

Mr. Brickhouse noted that he needed to abstain from voting with regard to the Virginia Dare Soil and Water Conservation District.

MOTION: Mr. Simms moved that the Virginia Soil and Water Conservation Board approve the list of District Director Resignations and Appointments as submitted with the exception of the appointments for the Virginia Dare Soil and Water Conservation District.

SECOND: Mr. Hornbaker

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Ms. Jamison moved that the Virginia Soil and Water Conservation Board approve the resignation and appointment for the Virginia Dare Soil and Water Conservation District as submitted by staff.

SECOND: Mr. Hornbaker

DISCUSSION: None

VOTE: Motion carried with Mr. Brickhouse abstaining

DCR Assessment of SWCD Compliance with DCR/SWCD FY08-09 Grant Agreement Deliverables

Mr. Meador presented a report of the DCR Assessment of Soil and Water Conservation District Compliance with DCR/SWCD FY08-09 Grant Agreement Deliverables. A copy of this report is available from DCR.

Mr. Meador noted that a grant agreement is established with each district. The performance deliverables are tied to the funding each district receives. DCR Conservation District Coordinators (CDCs) evaluate each district board.

Chairman Campbell said that the Board would receive this report as information.

Mr. Hornbaker asked about assessment item #11 for an annual report. He noted that this was not a requirement but that a lot of districts do this.

Mr. Meador noted that this item was a requirement previously required due to budget appropriation language. Due to the lack of funding, DCR does not require this report to be submitted. He noted that this was not the annual report that districts prepare.

Chesapeake Watershed Conservation Leadership Meeting hosted by NACD

Mr. Frye gave the report on the Chesapeake Watershed Conservation Leadership Meeting.

On November 2-3, 2009 conservation leaders from across the Chesapeake Bay Watershed met in Beltsville, Maryland to consider and develop strategies for

conservation districts to better engage in Bay clean-up activities. The majority of the focus was on agricultural conservation. Discussions included identifying current conditions, progress and gaps, near-term and long-term watershed wide strategies, and establishing a framework for accountability for program adoption and achievement.

About 55 attendees from the 6 Bay states representing NACD, NRCS, state conservation agencies, state district associations, individual SWCDs; received information from NRCS and EPA. Discussions and work sessions were moderated by NACD. Each state was challenged to draft an action plan they could take home and put into play to strengthen district engagement in Bay clean-up and improve the implementation of conservation practices across agriculture.

NACD conveyed to the group that they view the Chesapeake Bay cleanup actions as a forerunner to other targeted projects across the country. They are encouraging districts in the Bay to be actively engaged in this work.

Virginia was represented by 6 attendees: Wilkie Chaffin, J.C. Berger and Kendall Tyree from the VASWCD; Jack Frye and Mark Meador for DCR and Blaine Delaney for NRCS. The group talked at length about the implementation of agricultural BMPs. Topics and issues that are common to this discussion were revisited by the group and include:

- Questions about the delivery capacity of districts (what are limitations of the existing delivery system, what's needed for funding and staff)
- The challenges of voluntary participation especially in a poor economy
- The level of agricultural conservation that exists on the landscape and the difficulties documenting BMPs carried out without federal and state cost share assistance.

The Virginia team concluded that DCR's focus on the 5 priority practices provides a reasonably comprehensive approach to addressing nonpoint source pollution from agriculture. Yet, Virginia and other Bay states have yet to clarify basic expectations of what the state's farmers are asked to do with regards to addressing nonpoint source pollution. The Virginia group's discussion resulted in a goal of articulating through a "white paper" approach, what is being asked of the agricultural community and what level of conservation treatment will fulfill expectations for implementation of agricultural BMPs. DCR committed to draft a concept paper to elaborate on this approach for others to consider. The group believes a conversation with members of the partners for water quality would be an appropriate forum to advance further discussion and planning.

Chairman Campbell turned to Mr. Meador for additional district actions.

Mr. Meador noted that the Code of Virginia § 10.1-532 states that *The district directors may employ a secretary-treasurer, whose qualifications shall be approved by the Board, technical experts, and such other officers, agents and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties and compensation.*

Mr. Meador said that two districts had brought forth request for Board approval of appointments.

Loudoun Soil and Water Conservation District

The Loudoun SWCD requested that Peter R. Holden be approved for appointment as the District Secretary-Treasurer.

Halifax Soil and Water Conservation District

The Halifax SWCD requested that Janice E. Jackson be approved for appointment as District Secretary-Treasurer.

Mr. Maroon noted that this requirement was based on the funding that Districts receive from state government and the procedures for handling those funds.

MOTION: Ms. Jamison moved that the Virginia Soil and Water Conservation Board approve the appointment of Peter R. Holden to serve as Secretary-Treasurer for the Loudoun Soil and Water Conservation District and Janice E. Jackson to serve as Secretary-Treasurer for the Halifax Soil and Water Conservation District.

SECOND: Mr. Brickhouse

DISCUSSION: None

VOTE: Motion carried unanimously

Dam Safety Certificates and Permits

Mr. Browning gave the report of Dam Safety Certificates and Permits. He noted that 77 dams were proposed for action.

Enforcement Actions

Mr. Browning noted that there was no Board action required on the enforcement actions. He noted that the Board would be addressing Mellott Dam at an executive session later in the agenda.

Mr. Browning noted that staff had been working with the dam owners' attorney and engineer for Jolly Pond. Staff had not yet received the necessary paperwork.

Mr. Browning said that Stafford County had not addressed the Emergency Action Plans for the 2 Lake Arrowhead Dams as requested by the Board.

Compliance Issues – Conditional Certificates

Mr. Browning presented the recommendations for Conditional Certificates.

3	Woods Landing Dam	01923	BEDFORD	1 Year Conditional
4	Muddy Creek Dam #1	02911	BUCKINGHAM	1 Year Conditional
5	Muddy Creek Dam #2	02912	BUCKINGHAM	1 Year Conditional
6	Slate River Dam #2	02913	BUCKINGHAM	1 Year Conditional
7	Slate River Dam #14	02933	BUCKINGHAM	1 Year Conditional
8	Slate River Dam #13	02934	BUCKINGHAM	1 Year Conditional
9	Slate River Dam #8	02935	BUCKINGHAM	1 Year Conditional
10	Roanoke Creek Dam #35A	03703	CHARLOTTE	1 Year Conditional
11	Roanoke Creek Dam #68	03704	CHARLOTTE	1 Year Conditional
12	Roanoke Creek Dam #5B	03705	CHARLOTTE	1 Year Conditional
13	Roanoke Creek Dam #6A	03706	CHARLOTTE	1 Year Conditional
14	Roanoke Creek Dam #49A	03707	CHARLOTTE	1 Year Conditional
15	Roanoke Creek Dam #62	03708	CHARLOTTE	1 Year Conditional
16	Roanoke Creek Dam #67	03709	CHARLOTTE	1 Year Conditional
17	Roanoke Creek Dam #4A	03710	CHARLOTTE	1 Year Conditional
18	Roanoke Creek Dam #61A	03711	CHARLOTTE	1 Year Conditional
19	Roanoke Creek Dam #31B	03712	CHARLOTTE	1 Year Conditional
20	Roanoke Creek Dam #54	03713	CHARLOTTE	1 Year Conditional
21	Roanoke Creek Dam #43A	03715	CHARLOTTE	1 Year Conditional
22	Fox Lake Dam	05919	FAIRFAX	1 Year Conditional
23	Clifton Farm Lower Dam	06117	FAUQUIER	1 Year Conditional
24	Melody Lake Dam	06707	FRANKLIN	1 Year Conditional
25	Peaceful Valley Dam	06908	FREDERICK	1 Year Conditional
26	Twin Lakes Dam #3	07914	GREENE	1 Year Conditional
27	Horse Pasture Creek Dam #1C	08912	HENRY	1 Year Conditional
28	Mirror Lakes Dam No. 1 (west)	09525	JAMES CITY	1 Year Conditional
29	Beaverdam Creek Dam	10701	LOUDOUN	1 Year Conditional
30	Goose Creek Dam	10703	LOUDOUN	1 Year Conditional
31	Silver Lake Dam	15312	PRINCE WILLIAM	1 Year Conditional
32	Sullivan Dam	18707	WARREN	1 Year Conditional
33	Lake Independence Dam	19304	WESTMORELAND	1 Year Conditional

Mr. Browning asked that the Board take action separately on item #24 for Melody Lake Dam as the approval was contingent upon receipt of the necessary fees.

MOTION: Mr. Hornbaker moved that the Virginia Soil and Water Conservation Board approve the conditional certificate for Melody Lake Dam, Inventory #06707 as presented by staff contingent upon the receipt of the necessary fee.

SECOND: Mr. Simms.

DISCUSSION: None

VOTE: Motion carried unanimously

Ms. Jamison noted that she would need to abstain on action on item #27, Horse Pasture Creek Dam #1C as the dam is owned by the Blue Ridge Soil and Water Conservation District.

MOTION: Ms. Jamison moved that the Virginia Soil and Water Conservation Board approve the list of conditional certificate recommendations for the remainder of the list with the exception of item #27, Horse Pasture Creek Dam #1C, Inventory #08912.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Mr. Brickhouse moved that the Virginia Soil and Water Conservation Board approve the conditional certificate for item #27, Horse Pasture Creek Dam #1C, Inventory #08912.

SECOND: Mr. Hornbaker

DISCUSSION: None

VOTE: Motion carried with Ms. Jamison abstaining.

Regular Certificates

Mr. Browning presented the list of Regular Certificate recommendations.

4	Pedlar River Dam	00905	AMHERST	6 Year Regular
5	Central VA Water Storage Corp.	02940	BUCKINGHAM	6 Year Regular
6	Dulles Station Regional Pond Dam	05945	FAIRFAX	6 Year Regular
7	Tenaska Virginia Partners Dam	06524	FLUVANNA	6 Year Regular
8	Fields Dam	07703	GRAYSON	6 Year Regular
9	Haynes Dam	10728	LOUDOUN	6 Year Regular
10	Hamilton Dam	13505	NOTTOWAY	6 Year Regular

11	Flythe Dam	17703	SPOTSYLVANIA	6 Year Regular
12	Aquila Creek Dam	17911	STAFFORD	6 Year Regular

Mr. Browning noted that items #8 and #11 were Low Hazard dams (Special Criteria) and needed no action. He noted that the remaining 7 dams fully qualified with the requirements for the 6 year certificate.

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board approve the list of Regular Certificates as submitted by staff.

SECOND: Ms. Jamison

DISCUSSION: None

VOTE: Motion carried unanimously

Construction and Alteration Permits

Mr. Browning presented the recommended list of Construction and Alteration Permits.

4	Pohick Creek Dam #3	05928	FAIRFAX	2 Year Alteration
5	Johnson Dam	06114	FAUQUIER	1 Year Alteration
6	Lake Madison Dam	09905	KING GEORGE	1 Year Alteration
7	T. Nelson Elliott Dam	15302	PRINCE WILLIAM	2 Year Alteration
8	Lake Montclair Dam	15303	PRINCE WILLIAM	1 Year Alteration

MOTION: Mr. Hornbaker moved that the Virginia Soil and Water Conservation Board approve the list of Permit Recommendations as presented by DCR staff and that staff be directed to communicate the Board action to the affected dam owners.

SECOND: Mr. Simms

DISCUSSION: None

VOTE: Motion carried unanimously

Extensions

Mr. Browning presented the list of Extension Recommendations.

4	Lower Ragged Mountain Dam	00304	ALBEMARLE	6 Months
5	Peacock Hill Dam	00351	ALBEMARLE	1 Year Extension
6	Upper Ragged Mountain Dam	00356	ALBEMARLE	6 Months

7	Hunt Country Dam	00369	ALBEMARLE	1 Year Extension
8	Chimney Rock Dam	00388	ALBEMARLE	1 Year Extension
9	Bedford Lake Dam	01905	BEDFORD	1 Year Extension
10	Margaret Dam	04114	CHESTERFIELD	1 Year Extension
11	Lake Patrick Henry Dam	04142	CHESTERFIELD	1 Year Extension
12	Rowlett Road Dam	04153	CHESTERFIELD	1 Year Extension
13	Lake Accotink Dam	05906	FAIRFAX	1 Year Extension
14	Musgrove Dam	06714	FRANKLIN	1 Year Extension
15	Hidden Valley Estates Dam	07706	GRAYSON	1 Year Extension
16	Clifton Pond Dam	08527	HANOVER	1 Year Extension
17	Hartford Lake Dam	08542	HANOVER	1 Year Extension
18	Wilde Lake Dam	08712	HENRICO	1 Year Extension
19	Lanier Dam	08910	HENRY	1 Year Extension
20	McGhee Dam	10706	LOUDOUN	1 Year Extension
21	Jackson/Moore Dam	14111	PATRICK	1 Year Extension
22	Ararat River Dam #28	14117	PATRICK	1 Year Extension
23	Cherrystone Creek Dam #1	14302	PITTSYLVANIA	1 Year Extension
24	Cherrystone Creek Dam #2A	14303	PITTSYLVANIA	1 Year Extension
25	NVCC Woodbridge Campus Dam	15324	PRINCE WILLIAM	1 Year Extension
26	Robertson Dam	16303	ROCKBRIDGE	1 Year Extension
27	Lee Lake Dam	17710	SPOTSYLVANIA	1 Year Extension
28	Winston Lake Dam	76011	CITY OF RICHMOND	1 Year Extension
29	Kingston Lake Dam	81002	CITY OF VIRGINIA BEACH	1 Year Extension

Mr. Browning said that at the last meeting, the Board had issued the Rainbow Forest Association a four month extension for Inventory #02303. He said that a representative from the Association would address the Board following the other actions.

Mr. Browning also indicated that two of the dams on the extension list were owned by the Rivanna Water and Sewer Authority. He introduced Thomas L. Frederick, P.E., Executive Director, and Jennifer Whitaker, P.E. Chief Engineer from the Association.

Mr. Frederick addressed the Board concerning Lower Ragged Mountain Dam, Inventory #00304 and Upper Ragged Mountain Dam, Inventory #00356. Mr. Frederick noted that Sally Thomas, a member of the Albemarle County Board of Supervisors, was also present.

Mr. Frederick said that this had been a challenging project as the Authority was combining dam safety with extending the water supply. He said that the Authority had consistently noted that the issues of concern needed to be resolved. He said that the Authority submitted a schedule in 2005 that was believed to be achievable. The Authority has also been working within the community and has held a series of public meetings. The intent is to construct a new dam to replace the two existing dams.

Mr. Frederick said that the Authority had a design contract in 2007 and made progress until 2008. He said at that time that the consultant had requested additional funding

beyond the initial request. He said that the consultant had also determined the dam would need a deeper foundation.

Mr. Frederick said that the Authority requested a revised cost estimate. The cost estimate received was more than twice the initial estimate. He said that the Authority requested a second consultant to review the project. He said that after a review of the data the Authority had come to a similar conclusion as the second consultant.

Mr. Frederick said that the Authority now has a new consultant. He said that the Authority no longer believed the 2011 time table to be achievable, but was looking at February 2013 as an achievable date for the construction of a new dam and October 2013 as a completion date for all construction improvements.

Mr. Frederick noted that the Authority made a policy decision to draw the reservoir down three feet during hurricane season. He said that they continue to do this every year.

Ms. Campbell asked the location of the proposed dam.

Mr. Frederick said that the proposed location of the new dam was a couple of hundred feet below both existing dams.

Mr. Browning said that staff recommendation was that the Authority be given a six month extension for both dams.

- MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board issue six month extensions to the initial High Hazard Conditional Operation and Maintenance Certificate to the Rivanna Water and Sewer Authority for Lower Ragged Mountain Dam, Inventory #00304 and Upper Ragged Mountain Dam, Inventory #00356 and instruct the Authority to:
1. Work towards finalizing the determination of dam ownership by submitting copies of the property leases between the RSWA and the City of Charlottesville referenced in the Four Party Agreement dated June 12, 2003 (submit to Dam Safety by December 15, 2009).
 2. Submit a final RWSA Board approved revised schedule for the completion of the new dam (submit to Dam Safety by December 15, 2009).
 3. Provide mitigation measures to prevent or lessen the possible overtopping of the existing Upper and Lower Ragged Mountain Dams (e.g. enlarging the spillways, lowering the reservoir pool elevations or other actions) (submit to Dam Safety by April 15, 2010).

SECOND: Mr. Maroon

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Mr. Simms moved that the Virginia Soil and Water Conservation Board approve the extensions for dams listed in rows 5, 7-12, 14-22 and 28 contingent upon the receipt of the required fees and that DCR staff be directed to communicate the Board action to the affected dam owners.

SECOND: Mr. Brickhouse

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board approve the extension recommendations for the remaining listed dams and that DCR staff be directed to communicate the Board action to the affected dam owners.

SECOND: Mr. Ingle

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Browning addressed Rainbow Forest Dam, Inventory #02303. He said that the Rainbow Forest Recreational Association, Inc. was issued a Class I (High Hazard) Conditional Operation and Maintenance Certificate in December 2004 and had received a number of extensions. At the September 2009 Board Meeting the Board issued a four-month extension and requested that the Association appear before the Board in November 2009 to provide a progress update on the dam and schedule of planned actions to correct the deficiencies identified in the Conditional Certificate.

Mr. Browning introduced Melissa Floyd as the Association's representative.

Ms. Floyd said that the Association was privately funded and that there were no requirements to be members and pay dues. She said that the financial concerns were the biggest obstacle. The Association has been working with VDOT and the water authority. The Association has also hired a construction firm.

Ms. Floyd said that the Association hoped to be ready to file an alteration permit in early 2010 pending the consultants paperwork. She said at that point they would understand the funding options and needs. She said that the Association had applied for two grants to pay the consulting engineer. At this time they had not applied for low interest funding and would not until the cost estimates were known.

Ms. Campbell asked about the duration of the extension.

Mr. Browning said that the extension would expire on January 31, 2010.

Mr. Browning said that this was a High Hazard Dam and there is a road on top of the dam.

Ms. Hansen said that she was concerned with the uncertain funding and the uncertain inundation zone. She asked to hear more regarding the delay.

Ms. Floyd said that part of the delay was because the Association was relying on the consulting firm. She said that if the Association cannot get a resolution they would seek another consulting firm.

Ms. Campbell asked if the Association understood the time restrictions.

Ms. Floyd said that they did and that those concerns had been shared with the consulting firm.

Mr. Browning said that the seven initial conditions included tree removal and lowering the water level.

Ms. Hansen said that from a safety standpoint, lowering the water should be considered.

Ms. Jamison asked if the debris had been removed or if that was just the intent.

Ms. Floyd said that they were in ongoing discussions with the landowner.

Ms. Hansen asked if the Association had no concept of the estimated cost.

Ms. Floyd said that they had outdated costs and were looking in the range of \$250,000.

Ms. Campbell asked for the staff recommendation.

Mr. Browning said that the Association had been asked to attend the meeting to relay to the Board their reasons for the delay. He said that if the Association is not moving forward that actions should be taken to lower the water during the interim.

Mr. Robinson noted that the reservoir was used for recreation and beach facilities during the summer months.

Ms. Floyd said that when heavy rains are anticipated the lake level is lowered.

Ms. Hansen asked the method.

Ms. Floyd said that there was one main operator of the valve and a backup operator.

Mr. Browning said that the lowering of the water condition in 2004 had been to drain the impoundment and maintain the impoundment in a drained condition until the required improvements were completed.

Mr. Browning said that staff could work with the owner and come back to the Board in January with a complete recommendation.

MOTION: Ms. Hansen moved that DCR staff work with the dam owner to determine the appropriate level for lowering the water and to address the other required improvements, including tree and debris removal, with regard to the dam. Further that the Association return to the Board at the January meeting with a list of deliverables from the consultant and that the deadline for the expiration of the extension remains January 31, 2010.

SECOND: Mr. Brickhouse

DISCUSSION: Mr. Maroon said that he would anticipate that the Association would come forward with a request for an alteration permit.

Mr. Browning said that would have to be addressed as a separate issue.

VOTE: Motion carried unanimously

Ms. Campbell thanked Ms. Floyd for attending the meeting.

Ms. Campbell called on Mr. Kay from the Lake of the Woods Association for a presentation.

Mr. Bruce Kay, President of the Lake of the Woods Association made the following comments.

Representatives from the Division of Dam Safety recommended that the hazard classification of the Lake of the Woods Main Dam and Keaton's Run Dam be changed from Class II to Class I. The rationale for this change as reflected in their justification document dated September 20, 2001, was the high traffic volume on Routes 3 and 20. The conditional Operational and Maintenance

Certificate and forwarding letter Lake of the Woods later received required further investigation to be conducted as an implicit condition of the conditional certificate, but provided no explanation to use of the Commonwealth's rationale for the classification changes. In response to an inquiry, Ms. Dianna Sheesley provided a copy of the justification provided to you and stated her opinion that a sunny day failure of either dam would probably result in loss of life as well as a significant amount of property damage.

Virginia's Impounding Structure Regulations (Dam Safety) state that the Class I hazard potential for impounding structures will cause probable loss of life in the event of failure. Our reading of the literature on dam failures and discussions with Dewberry and Davis, our consulting engineers, indicate that dam failures can occur from overtopping under heavy precipitation conditions that exceed the capacity of the spillway, or when internal erosion occurs due to unchecked animal burrowing, excessive tree growth, leading pipe penetrations or other poor maintenance situations. In any realistic scenario there most likely will be warning indications of a dam failure. Heavy precipitation situations will be accompanied by rainfall measurements and rising spillway levels which are the basis for warnings, road blocking and evacuation of occupied buildings. Failures under any other conditions are significantly minimized by proper dam management and will have indications revealed during regular inspection again allowing sufficient warning to take live preserving measures. In reviewing dam failure investigation reports, even the "unexpected failures" usually have had advance warning indications that minimally responsible dam management would have detected. The only scenario in which a loss of life may be probable is a failure situation without any indication that has been worst case situation hypothesized by the Division of Dam Safety as the sunny day failure. Division of Dam Safety personnel have stated that the sunny day failure is a standard practice for evaluating impounding structure hazards. However, using such a standard to upgrade hazard classification and therefore requiring dam modification expenditures in the millions of dollars without subjecting that standard to scrutiny during the regulatory process and approval by the Soil and Water Conservation Board seems inconsistent with good governing.

Lake of the Woods Association has a record of outstanding dam management that will ensure that the dams are well maintained and that adequate warnings and protective actions are carried out. The Association has plans in place to manage a wide variety of emergency situations, including dam emergencies that could affect our community and surrounding areas. We have 24 hour security staff on duty and have implemented a radio-linked warden system to supplement our staff for emergency functions such as notification, evacuation and traffic control. In the area of routine operation and maintenance we installed piezometers on both dams to enable monitoring of internal water levels. Issues identified by our professional engineer inspections and the former head of the Division of Dam Safety during his visit had been promptly corrected. Our staff conducts the required annual inspections on a monthly basis.

Over the past five years Lake of the Woods Association (LOWA) has expended over two million dollars in resolving potential problems with our main dam. These changes include, but are not limited to, installation of a berm, installation of additional monitoring devices for water flow and level, purchase of land and a house, engineering studies/analysis, hiring of a full time lake manager, staff training, first responder coordination, updating our Emergency Action Plan (EAP), and working with DCR.

Virginia statutes state that “no one shall maintain a dam which ‘unreasonably’ threatens the life and property of another.” We believe that our dams as currently configured meet that standard. We achieve “safety” by conscientious management and maintenance.

Please refer to Attachment “A”, a climate survey of possible rainfall amount in a 24-hour period by Dr. Russell A. Ambroziack. [a copy of this Attachment is available from DCR]. This clearly shows that the LOWA main dam can meet any rainfall amount projected within the next thousand years. There is less than a 1 in 5000 chance of getting 18 inches of rain in any given year, which is less than the maximum the current spillway can handle.

LOWA is dedicated to the safety of its members and the residents of the surrounding communities. LOWA proposes the following items be undertaken in lieu of the required Dam Spillway Improvement Project.

- Authorize the McGuire Woods Consultants to prepare a Memorandum of Agreement with the Governor to authorize the “forceful” removal of any individual, in an emergency, from the possible flood zone, thus providing “No Loss of Life.”
- Acquire, install and monitor a seismic monitor to measure the dam structure for a “sunny day break.”
- Install and monitor additional water flow/level devices up stream for additional early warning (Maptech)
- LOWA General Manager, both Assistant General Managers, Lake Manager, seven members of the Board of Directors, LOWA 24-hour security, LOWA Fire and Rescue, and the Orange County Emergency Preparedness Organization will all be integrated into the 24/7 LOWA dam monitoring system.
- The Lakes Manager (with a licensed engineer as required) will perform monthly inspection of the dam.
- The insurance Broker for LOWA has obtained an insurance policy on the dam at a very favorable rate because of the Underwriters “low risk rating” assigned the dam. This policy would reimburse the community for the loss due to a breach or in case of a disaster (hit by an airplane, flood, hurricane or other instance of damage).

- Provide the State of Virginia with reporting data as required.

LOWA believes that the above-described actions provide greater safety than a modification to the spillway could.

We request that LOWA, DCR and the SWCB meet to work out an agreement based on the above proposed actions with the result of the Main and the Keaton's Run Dams be classified as Class II Dams and that the SWCB issue LOWA a six-year Operation and Maintenance Certificate.

Ms. Campbell thanked Mr. Kay for the information. She noted that it had not been reviewed by staff and that it was not appropriate for the Board to take action at this meeting.

Ms. Hansen asked Mr. Kay how many members there were in the Lake of the Woods Association.

Mr. Kay said that there were 4,357 lot owners and about 12,000 permanent residents.

Ms. Hansen asked how many persons were in the inundation zone.

Mr. Kay said less than ten. He said that all but one were members of the Association. He said that in 2008 there was correspondence between DCR and LOWA and that the Association took actions to mitigate some of the concerns. The Association purchased a home, and obtained signatures and commitments from people in the inundation zone. One of the requirements was that they could guarantee the removal of all personnel, however, only the Governor can do that.

Ms. Campbell noted that the General Assembly had provided a million dollars for the modifications.

Mr. Kay said that they have met the requirements for the first quarter of that money.

Mr. Maroon asked if the Board took alternative actions if the Association was prepared to repay the money.

Mr. Kay said that they would.

Ms. Hansen said that she would like to hear from the staff regarding changes in the process.

Mr. Browning said that the issue was that of reclassification. He said that before the last design was submitted the Association had indicated that reclassification was not necessary.

Mr. Kay said that the classification rating did not have to change. He said the concern was the requirement for the spillway as opposed to the alternate plan.

Ms. Hansen said that her concern was only if there was new information not previously considered.

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board direct staff to evaluate any new information with regard to the Lake of the Woods Association, Inc. dams and report back to the Board as appropriate for further recommendations.

SECOND: Mr. Simms

DISCUSSION: None

VOTE: Motion carried unanimously

Consideration of Applications to the Dam Safety, Flood Prevention and Protection Assistance Fund

Mr. Brown presented the following summary of applications and scoring results for the Dam Safety, Flood Prevention and Protection Assistance Fund.

Overall, 16 applications were received (note that some applications applied for funding for both Dam Break Inundation Zone Mapping and Incremental Damage Analysis grants):

1. One dam applied for a \$20,000 grant for upgrade and rehabilitation (Lake Overton Dam). The dam owners were advised that only loans were available for upgrade and rehabilitation, and responded that they were not interested in a loan. Therefore, their application has been removed from consideration.
2. Fifteen dams applied for grants related to dam break inundation zone mapping. Ranking of the dams based on scoring criteria is as follows (note that private dams are given priority by the scoring criteria):

Name of Dam	Amount Requested	Public/Private	Ranking
Rainbow Forest	\$5,000	Private	1
Johnson Dam	\$2,300	Private	2
Springvale Dam	\$5,000	Private	3
Brushy Mountain Dam	\$5,000	Private	4
Northup Dam	\$5,000	Private	5 (tie)
Grymes Mill Dam	\$5,000	Private	5 (tie)
Rivanna Woods	\$3,800	Private	5 (tie)

Dam			
Barr Dam	\$10,000	Private	6
Elk Garden Dam	\$5,000	Private	7 (tie)
Omisol Dam	\$5,000	Private	7 (tie)
South River Dam	\$5,000	Public	8 (tie)
Licking Run Dam	\$5,000	Public	8 (tie)
Upper Occoquan Dam	\$5,000	Public	9
Bush River Dam	\$5,000	Public	10
Troublesome Creek Dam	\$5,000	Public	11

\$20,000 is available for dam break inundation zone mapping in this round, with a \$5,000 limit per dam. Therefore, according to the rankings, funding is proposed to be awarded as follows (note that the last three dams split the \$2,670 that is left after funding of the first four dams):

Rainbow Forest	Up to \$5,000
Johnson Dam	\$2,330
Springvale Dam	Up to \$5,000
Brushy Mountain Dam	Up to \$5,000
Northup Dam	Up to \$890
Grymes Mill Dam	Up to \$890
Rivanna Woods Dam	Up to \$890

In the event that any of the above applications fail to execute a grant agreement with VRA within 60 days of such an agreement being sent to the applicant, it is recommended that the grant funds not utilized by that applicant be distributed equally among the final three dams approved above, up to the total amounts of their requests and thereafter to other applicants in the order specified in the ranking above.

- Four dams applied for assistance with incremental damage analysis. Ranking of the dams based on the scoring criteria is as follows (note that those dams that are not also receiving assistance with mapping are given priority in this category):

Name of Dam	Amount Requested	Public/Private	Ranking
Omisol Dam	\$1,000	Private	1
Rainbow Forest	\$2,000	Private	2
Johnson Dam	\$2,000	Private	3
Rivanna Woods Dam	\$1,300	Private	4

\$5,000 is available for incremental damage analysis during this round, with a maximum award per dam of \$2,000. Therefore, according to the rankings, funding is proposed to be awarded as follows:

Omisol Dam	Up to \$1,000
Rainbow Forest Dam	Up to \$2,000
Johnson Dam	Up to \$2,000

In the event that any of the above applicants fail to execute a grant agreement with VRA within 60 days of such an agreement being sent to the applicant, it is recommended that the grant funds not utilized by that applicant be distributed to the final applicant for this category, Rivanna Woods Dam, up to \$1,300, and that any funds remaining thereafter be utilized to fund qualifying Dam Break Inundation Zone Mapping projects as indicated by the ranking for that category above.

4. Further recommendations. All of the above grant awards are to be made on a reimbursement basis – that is, grant monies will be forwarded to the recipients upon their delivery of (1) a dam break inundation zone map, or incremental damage analysis (as may be applicable) meeting all regulatory standards, and (2) receipts demonstrating actual costs (the total award for a dam will be 50% of these costs, with the maximum award not to exceed the limit for each category). The awards will be formalized by a grant agreement with VRA. It is recommended that each recipient be given a period of 60 days to sign a grant agreement with VRA from the time that VRA approval is obtained (this will follow the Board's approval), and then a maximum of six months to finally complete all work from the time that the grant agreement is executed.

MOTION: Mr. Simms moved the following:

In accordance with its responsibilities pursuant to §10.1-603.18 of the Code of Virginia, the Board approves the following applications for funding from the Dam Safety, Flood Prevention and Protection Assistance Fund in the amounts specified. In addition to other terms and conditions as specified in the Summer 2009 DSFPPAF Loan and Grant Manual and as will be determined by the Virginia Resources Authority, this approval is conditioned upon 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 60 days to enter into a grant agreement following the agreement being sent. The Board may further extend this date in its discretion and following consultation with VRA.
2. All grant agreements will require that projects be completed within six months of the date of execution of the agreement. The Board may further extend this date in its discretion and following consultation with VRA.

Dam Break Inundation Zone Mapping	
Name of Dam	Grant Amount
Rainbow Forest	Up to \$5,000
Johnson Dam	\$2,330
Springvale Dam	Up to \$5,000
Brushy Mountain Dam	Up to \$5,000
Northup Dam	Up to \$1123
Grymes Mill Dam	Up to \$1123
Rivanna Woods Dam	Up to \$1123

In the event that any of the above applicants fail to execute a grant agreement with VRA within 60 days of such an agreement being sent to the applicant, grant funds not utilized by that applicant may be distributed equally among the final three dams approved above, up to the total amounts of their requests, and thereafter to other applicants in the order specified by the ranking presented to the Board by staff at this meeting.

Incremental Damage Analysis	
Name of Dam	Grant Amount
Omisol Dam	Up to \$1,000
Rainbow Forest Dam	Up to \$2,000
Rivanna Woods Dam	Up to \$1,300

In the event that any of the above applicants fail to execute a grant agreement with VRA within 60 days of such an agreement being sent to the applicant, grant funds not utilized by that applicant may be distributed to the final applicant any funds remaining thereafter may be utilized to fund qualifying Dam Break Inundation Zone Mapping projects as indicated by the ranking for that category presented to the Board by staff at this meeting.

DCR Staff is authorized to communicate this approval to the Virginia Resources Authority (VRA) so that VRA's review of applications may proceed. Staff 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.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

Closed Session for Consultation with Counsel Regarding Legal Matters

Chairman Campbell turned to Ms. Hansen for the purpose of a motion.

Ms. Hansen moved the following:

Madame Chairman, I move that the Board convene a closed meeting pursuant to §2.2-3711(A) (7) of the Code of Virginia for the purpose of consultation with legal counsel regarding specific legal matters requiring the provision of legal advice, namely the Riverkeepers' appeal of the Construction General Permit regulations and the Mellott Dam Safety case.

This closed meeting will be attended only by members of the Board. However, pursuant to § 2.2-3712(F) of the Code, the Board requests counsel, the Director of the Department of Conservation and Recreation (DCR), and Russell Baxter, David C. Dowling, Ryan Brown, Jack Frye, Lee Hill, William G. Browning and Jim Robinson to attend because it believes that their presence will reasonably aid the Board in its consideration of the topic that is the subject of this closed meeting.

SECOND: Mr. Simms
DISCUSSION: None
VOTE: Motion carried unanimously

Ms. Hansen moved the following:

WHEREAS, the Board has convened a closed meeting on November 19, 2009 pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712(D) of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, the Soil and Water Conservation Board hereby certifies that, to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

SECOND: Simms

DISCUSSION: None

VOTE: Aye: Campbell, Brickhouse, Hornbaker, Jamison, Maroon, Ingle, Maroon, Simms

No: None

Motion carried unanimously

Erosion and Sediment Control

Mr. Hill presented the background for the Annual Standards and Specification for Stream Restoration Banks. He said that this was added to the Board responsibilities for companies that operated or constructed stream restoration or mitigation banks in multiple counties could submit annual standards and specification for the Board review and approval.

Approval of 2010 Annual Standards and Specifications for Wetland and Stream Restoration Banks for Wetland Studies and Solutions, Inc.

MOTION: Ms. Hansen moved the following:

The Virginia Soil and Water Conservation Board receives the staff update concerning the review of the 2010 annual standards and specifications for wetland and stream restoration bank construction by Wetland Studies and Solutions, Inc. The Board concurs with staff recommendations for conditional approval of the 2010 specifications for Wetland Studies and Solutions, Inc. in accordance with the Erosion and Sediment Control Law. The Board requests the Director to have staff notify Wetland Studies and Solutions, Inc. of the status of the review and the conditional approval of the annual standards and specifications.

The four items for conditional approval are:

1. A revised list of all proposed projects planned for construction for 2010 must be submitted by January 1, 2010. The following information must be submitted for each project:
 - Project name (or number)
 - Project location (including nearest major intersection)
 - On-site project manager name and contact information
 - Project description
 - Acreage of disturbed area for project

- Project start and finish dates
2. Project information unknown prior to January 1, 2010 must be provided to DCR two (2) weeks in advance of land disturbing activities by e-mail at the following address:
MitigationBank@dcr.virginia.gov.
 3. Notify DCR of the Responsible Land Disturber (RLD) at least two (2) weeks in advance of land disturbing activities by e-mail at the following address: MitigationBank@dcr.virginia.gov. The information to be provided is name, contact information and certification number.
 4. Install and maintain all erosion and sediment control practices in accordance with the 1992 Virginia Erosion and Sediment Control Handbook. Variance to Minimum Standard 6.a and 6.b is granted such that the project may employ constructed wetland cells as sediment trapping measures in lieu of sediment traps or basins. The constructed wetland cell shall either be surrounded by a berm approximately one (1) foot in height or is excavated at least six (6) inches into the soil and will have a dry storage volume of at least 202 cubic yards per acre of drainage.

SECOND: Ms. Jamison

DISCUSSION: None

VOTE: None

Approval of Annual Standards and Specifications: Linear Projects

Mr. Hill presented the recommendations for Holcomb Rock Company, Roanoke Gas Company and Colonial Pipeline Company.

MOTION: Mr. Hornbaker moved the following.

The Virginia Soil and Water Conservation Board receives the staff update concerning the review of the 2010 annual standards and specifications for Holcomb Rock Company Roanoke Gas Company and Colonial Pipeline Company. The Board concurs with staff recommendations for conditional approval of the 2010 specifications for these companies in accordance with the Erosion and Sediment Control Law. The Board requests the Director to have staff notify these companies of the status of the review and the conditional approval of the annual standards and specifications.

The four items for conditional approval are:

1. A revised list of all proposed projects planned for construction for 2010 must be submitted by January 1, 2010. The following information must be submitted for each project:
 - Project name (or number)
 - Project location (including nearest major intersection)
 - On-site project manager name and contact information
 - Project description
 - Acreage of disturbed area for project
 - Project start and finish dates
2. Project information unknown prior to January 1, 2010 must be provided to DCR two (2) weeks in advance of land disturbing activities by e-mail at the following address:
LinearProjects@dcr.virginia.gov.
3. Notify DCR of the Responsible Land Disturber (RLD) at least two (2) weeks in advance of land disturbing activities by e-mail at the following address: LinearProjects@dcr.virginia.gov. The information to be provided is name, contact information and certification number.
4. Install and maintain all erosion and sediment control practices in accordance with the 1992 Virginia Erosion and Sediment Control Handbook.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

2010 Annual Standards and Specifications for Dominion Virginia Power Electric Distribution Company and American Electric Power Company

MOTION: Ms. Hansen moved the following:

The Virginia Soil and Water Conservation Board receives the staff update concerning the review of the 2010 annual standards and specifications for Dominion Virginia Power Electric Distribution Company and American Electric Power Company. The Board

concur with staff recommendations for conditional approval of the 2010 specifications for these companies in accordance with the Erosion and Sediment Control Law. The Board requests the Director to have staff notify these companies of the status of the review and the conditional approval of the annual standards and specifications.

The five items for conditional approval are:

1. A revised list of all proposed projects planned for construction for 2010 must be submitted by January 1, 2010. The following information must be submitted for each project:
 - Project name (or number)
 - Project location (including nearest major intersection)
 - On-site project manager name and contact information
 - Project description
 - Acreage of disturbed area for project
 - Project start and finish dates
2. Project information unknown prior to January 1, 2010 must be provided to DCR two (2) weeks in advance of land disturbing activities by e-mail at the following address:
LinearProjects@dcr.virginia.gov.
3. Notify DCR of the Responsible Land Disturber (RLD) at least two (2) weeks in advance of land disturbing activities by e-mail at the following address: LinearProjects@dcr.virginia.gov. The information provided is name, contact information and certification number.
4. Install and maintain all erosion and sediment control practices in accordance with the 1992 Virginia Erosion and Sediment Control Handbook.
5. Variance to Minimum Standard 16a is granted such that the project may have more than 500 linear feet of trench length open at one time provided that at the end of each work day the open trenches are adequately backfilled, seeded and mulched and adjacent property and the environment are protected from erosion and sediment damage with the regulated land disturbing activity.

SECOND: Mr. Brickhouse

DISCUSSION: None

VOTE: Motion carried unanimously

Spotsylvania County's Erosion and Sediment Control Program and Corrective Action Agreement (CAA)

Mr. Hill presented the background for Spotsylvania County.

DCR Staff completed the initial program review for Spotsylvania County's Erosion and Sediment Control Program and the scores for the individual components were as follows: Administration – 98; Plan Review – 65; Inspection – 50; and Enforcement – 100. As all program components did not receive a score of 70 or greater, staff recommends that the Virginia Soil and Water Conservation Board find the County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County.

At the May 2009 meeting, representatives from Spotsylvania County addressed the Board and provided a packet of information for Board members regarding the Spotsylvania County program. The County representatives took exception to the program review's findings in the areas of Plan Review and Inspection and requested that the Board delay at decision on the CAA to allow evaluation of the information provided. The Board directed DCR staff to reevaluate Spotsylvania County's program in consultation with downstream channel analysis and that staff bring a recommendation to a later Board meeting.

DCR staff and the representative from the Attorney General's Office met with County staff in Richmond on June 8, 2009 to discuss the County's issues with the program review. The discussion included the content and the scoring of the program review, inspection requirements including frequency and reporting requirements and the possible advantages of the County's adopting an Alternative Inspection Program. Spotsylvania staff agreed at the meeting to provide additional information to DCR regarding the plan review and inspection components of the County's program. DCR agreed to review the additional information, re-evaluate the results of the review and provide a response to Spotsylvania.

Spotsylvania submitted additional information through the Office of the Attorney General on August 31, 2009. The additional information also included a request for DCR to revise the language of the CAA to provide more specific direction to the County on the actions that need to be performed in order to achieve consistency with the state program. DCR staff reviewed the submittal and concluded that the information would not change the overall results of the program review. In accordance with the request of Spotsylvania County, DCR revised the CAA, providing more specific direction regarding actions required to achieve consistency.

Lola Rodrieguez-Perkins from Spotsylvania County thanked DCR staff for taking time to sit down and work through the County's questions. She said the County was in support of the proposed CAA and felt confident the changes could be made.

Mr. Hill said that if the County implements the changes before the proposed deadline that they could request an earlier review.

MOTION: Mr. Hornbaker moved that the Virginia Soil and Water Conservation Board accept staff recommendations and find Spotsylvania County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the County's CAA. Further that the Board direct DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

SECOND: Ms. Jamison

DISCUSSION: None

VOTE: Motion carried unanimously

Local programs previously found to be inconsistent and request for Board to extend Corrective Action Agreement (CAA)

MOTION: Mr. Hornbaker moved the following:

The Virginia Soil and Water Conservation Board accepts the staff recommendations and grants Clarke County an extension until May 20, 2010 to fully comply with the outstanding CAA. The Board further requests that the Director of DCR and his staff evaluate the County's compliance with the outstanding CAA and provide a report at the July 2010 Board meeting.

The Virginia Soil and Water Conservation Board accepts the staff recommendations and grants King William County an extension until May 20, 2010 to fully comply with the outstanding CAA. The Board further requests that the Director of DCR and his staff evaluate the County's compliance with the outstanding CAA and provide a report at the July 2010 Board meeting.

The Virginia Soil and Water Conservation Board accepts the staff recommendations and grants Lee County an extension until May 20, 2010 to fully comply with the outstanding CAA. The Board further requests that the Director of DCR and his staff evaluate the

County's compliance with the outstanding CAA and provide a report at the July 2010 Board meeting.

The Virginia Soil and Water Conservation Board accepts the staff recommendations and grants Northumberland County an extension until May 20, 2010 to fully comply with the outstanding CAA. The Board further requests that the Director of DCR and his staff evaluate the County's compliance with the outstanding CAA and provide a report at the July 2010 Board meeting.

The Virginia Soil and Water Conservation Board accepts the staff recommendations and grants Richmond County an extension until May 20, 2010 to fully comply with the outstanding CAA. The Board further requests that the Director of DCR and his staff evaluate the County's compliance with the outstanding CAA and provide a report at the July 2010 Board meeting.

The Virginia Soil and Water Conservation Board accepts the staff recommendations and grants Washington County an extension until May 20, 2010 to fully comply with the outstanding CAA. The Board further requests that the Director of DCR and his staff evaluate the County's compliance with the outstanding CAA and provide a report at the July 2010 Board meeting.

The Virginia Soil and Water Conservation Board accepts the staff recommendations and grants the Town of Christiansburg an extension until May 20, 2010 to fully comply with the outstanding CAA. The Board further requests that the Director of DCR and his staff evaluate the Town's compliance with the outstanding CAA and provide report at the July 2010 Board meeting.

SECOND: Mr. Simms
DISCUSSION: None
VOTE: Motion carried unanimously

Status of Local Program Reviews, July 1, 2005 through June 30, 2009

Mr. Hill said that staff had reviewed 163 of 165 programs. The Town of Hillsville had just recently adopted their program. The Town of Stephens City did not have any projects for review.

Mr. Hill said that roughly 90% of the localities are now consistent. The remaining localities are provisionally consistent because they now have Corrective Action Agreements.

Partner Reports

Department of Conservation and Recreation

Mr. Frye gave the report for the Department of Conservation and Recreation. A copy of the report is included as Attachment # 1.

Natural Resources Conservation Service

The report for the Natural Resources Conservation Service is included as Attachment # 2.

Virginia Association of Soil and Water Conservation Districts

Wilkie Chaffin spoke on behalf of the Virginia Association of Soil and Water Conservation Districts. He congratulated the new Board members.

Mr. Chaffin said that the Association was making final plans for the Annual meeting in December.

Mr. Chaffin said that the Association had been developing a strategic plan. He thanked Mr. Foreman and Mr. Meador for their assistance.

Public Comment

There was no further public comment.

New Business

Mr. Maroon reminded Board members that financial disclosure statements were due and should be submitted to the DCR Director of Human Resources.

Upcoming Meetings

The upcoming meetings for the Virginia Soil and Water Conservation Board are:

Wednesday, December 9, 9:30 a.m.

Sheraton Richmond West
6624 West Broad Street
Richmond, Virginia 23230

[This is a special called meeting for the purpose of considering the final Virginia Stormwater Management Regulations]

January 14, 2010
Association of Electric Cooperatives
Glen Allen, Virginia

New Business

Mr. Maroon said that on October 23, the principle staff committee of the Chesapeake Bay region met to discuss the upcoming TMDL. He said that the load reduction information that resulted from the revised Bay model had changed. This impacts the stormwater regulations, as the proposed phosphorus reduction had been based on the previous Tributary Strategy model.

Mr. Maroon noted that Tom Schuler, a leading stormwater expert had said that the Virginia method as proposed was one of the most advanced, scientifically defensible and practical set of stormwater regulations of any state in the watershed, and for that matter, any state in the nation.

Mr. Maroon said that, however, that based on the new information staff would be considering adjustments prior to the December 9 Board meeting.

Adjourn

There was no further business. Orientation occurred for new members of the Board. The meeting was subsequently adjourned.

Respectfully submitted,

Linda S. Campbell
Chairman

Joseph H. Maroon
Director

Attachment #1

Department of Conservation and Recreation

Report to the Virginia Soil and Water Conservation Board
November 19, 2009

1. DCR/SWCD Operational Funding:

All 47 SWCDs were issued a grant agreement with DCR in June, 2009 for operational funding this fiscal year (FY10). Each has returned a fully endorsed agreement to their CDC and each has been issued 25% of the approved operational funding for FY10. At the outset of this fiscal year (FY10), operational funding for all districts totals \$3,536,535. This amount reflects a decrease below the peak funding level experienced by districts in FY01 (\$4,301,000). However, over two thirds of the 47 districts are also receiving this fiscal year, funds that total \$1,800,000 to employ conservation specialists for the implementation of agricultural BMPs.

In addition to operational funding, districts receive funding for staff through a provision in state law that directs 8% of the amount deposited in the Virginia Natural Resources Commitment Fund (for FY10, \$20 million was deposited) to support technical staff of SWCDs that are performing assistance with implementation of agricultural BMPs.

On September 8, 2009, Governor Kaine announced reductions in state funds which include a 10% reduction in SWCD funding for FY10. The reduction amount totals \$587,454 this fiscal year. DCR in consultation with the VASWCD resolved the details for implementing reductions in district funding. Correspondence pertaining to administration of the reductions has been issued to all SWCDs by DCR. The reductions in operational funds will be imposed during the last two quarters of this fiscal year.

The VASWCD Annual Meeting is being held December 6-8, 2009 at the Sheraton West Hotel on West Broad Street in Richmond, Virginia.

2. Conservation Partner Employee Development

The conservation partners continue to work through the “JED” –Joint Employee Development system which relies on 4 regional teams (coordinated through a separate state level JED team) to address training and development of SWCD and other partner agency field staff. The last quarterly meeting of the state JED group was held as a conference call on November 18th, 2009.

The state level JED team is focusing on the delivery of 3 “core courses”. The short course “Conservation Selling Skills” has been held at least annually for the past 8 years. The course was recently delivered on November 4th and 5th, 2009 at the Central Virginia Community College in Lynchburg. The class of 16 participants consisted of SWCD and NRCS staff. Anonymous evaluations provided ratings of “very good” and “outstanding” by all members of the class. NRCS is supporting delivery of the EP&I (Effective Presentation and Instruction) short course. Teams of trainers to deliver the course have been established with 4 trained teams, each consisting of 3 individuals. Two of the 4 teams have delivered the course within their region of the state. The other 2 teams will deliver the course in their regions during the months to come. The third “core course” –Conservation Orientation for New Employees is delivered regionally when sufficient need exists to justify the sessions. Broader training needs of the staff of the conservation partners are being addressed regionally through the 4 regional JED teams.

3. SWCD Dams:

The SWCD dam owner work group comprised of representatives from the 12 SWCDs that own dams, DCR, NRCS and others continue to meet approximately every 3 months (a quarterly annual schedule). Of the roughly 4 meetings per year, one session is focused on Emergency Action Plans (EAPs), another addresses routine annual maintenance of district dams and the remaining two meetings address the priority topics identified by the group. The group last met on October 15th, 2009 and focused on the Break Inundation Studies (BIS) and mapping that are being completed through DCR's Design and Construction staff (DAC). The group received instruction on the interpretation and use of the completed BIS documents. Presentations were delivered by staff of DAC, the DCR Division of Dam Safety, Schnabel Engineering and DCR's Soil and Water Conservation Division. Continuation of this topic was requested by the group for their next meeting (scheduled January 28, 2010 in the DOF State Office training room in Charlottesville). Ultimately members of the group want to ensure that localities incorporate the information in their planning processes.

4. Agricultural BMP Cost-Share Program:

The Cost Share Program Technical Advisory Committee (TAC) held its last meeting on October 28th, 2009. The group revisited the list of areas of focus that is serving as a "plan of work" to explore refinements and revisions to the program and to specific BMPs that may be recommended for the next, 2011 Agricultural BMP Cost Share Program. Subcommittees of the TAC continue to work on specific topics and practices. They will report their findings and recommendations during upcoming meetings of the full TAC. The next scheduled meeting of the TAC is January 7th in Charlottesville.

DCR staff in partnership with representatives from SWCDs, the VASWCD and NRCS continue to advance work towards "modernizing" the automated Ag BMP Tracking Program. The initial phase of the completely revised program is now being used by district staff. Training on the use of the new program began through 6 regional training programs held during June, 2009. Four additional training sessions were delivered during September (Williamsburg, Culpeper, Danville and Wytheville). A webinar for program users unable to attend one of those sessions was conducted on September 28. Another webinar is being scheduled for delivery in December. Discussion and planning are fully underway to resolve priorities for use of an additional \$500,000 that supports expenses for the second phase of the modernized program. A short survey has been developed by the project partners. The survey was posted on the internet during October. At the close of the survey deadline 90 district users provided needed input on their priorities for program improvements and enhancements during the second phase of program development.

5. Erosion and Sediment Control & Stormwater Management Programs: As of the September 17, 2009 Soil & Water Conservation Board meeting, 163 local programs reviews were completed and 146 or 90% found consistent with state law. On July 1, 2009, the construction general permit was reissued by DCR and 2,933 construction activities renewed coverage under the construction general permit. A total of 828 new construction activities have registered for coverage under the construction general permit from July 1, 2009 through November 6, 2009. A total of 3,761 construction general permits, permit reissuance plus new projects, have been issued through November 6, 2009.

6. Chesapeake Bay TMDL: The U.S. Environmental Protection Agency is developing a Chesapeake Bay Total Maximum Daily Load (TMDL) for nutrient and sediment impaired segments in the watershed. EPA likens the TMDL to putting the Bay on a "pollution diet." In the Commonwealth, the Virginia Department of Environmental Quality and the Virginia Department of

Conservation and Recreation will have to develop a Watershed Implementation Plan to detail how the reductions will be achieved. While this is similar in some respects to the past voluntary tributary strategy efforts, the development of the TMDL and associated watershed implementation plans is required by EPA, not voluntary. An EPA led meeting/webinar was held October 2 to help kickoff the TMDL process here in Virginia. The official EPA website for Bay TMDL information is: www.epa.gov/chesapeakebaytmdl/ . Four additional Bay TMDL public meetings are scheduled as follows:

VIRGINIA

December 14 — from 6:30 p.m. to 8:30 p.m. at [Falls Church High School](#), Little Theater, 7521 Jaguar Trail, Falls Church, VA 22042.

December 15 — from 6:30 p.m. to 8:30 p.m. at [2007 Legacy Hall](#), 4301 New Town Avenue, Williamsburg, VA 23188.

December 16 — from 6:30 p.m. to 8:30 p.m. at [Spotswood High School](#), 368 Blazer Drive, Penn Laird, VA 22846.

December 17 —from 6:30 p.m. to 8:30 p.m. at [Wingate Inn](#), 20 Sanford Drive, Fredericksburg, VA 22406

Attachment #2

**NRCS REPORT
VA Soil & Water Conservation Board Meeting
November 19, 2009
Patrick Henry Building
Richmond, VA**

BUDGET

We received our 2010 allocation last week. This is a slight increase over last year, with major increases coming in for the Chesapeake Bay Watershed Initiative.

NEW RIVER-HIGHLANDS RC&D WINS CONSERVATION INNOVATION GRANT

The New River-Highlands RC&D was awarded a Conservation Innovation Grant (CIG) of \$110,000, entitled, "The Extreme Forest Makeover in the United States". This grant is one of six Forest Health grants approved nationwide. The purpose of this grant is to expand knowledge of sustainable Forest Management in the Appalachian Hardwood Region of Virginia by teaching landowners best management practices in the Mathews State Forest.

FARM BILL PROGRAMS

Stewardship:

Conservation Stewardship Program (CSP). The first Statewide sign-up closed on September 30 and NRCS received 176 applications. Applications were submitted for Cropland and Pastureland combined (106 applications), or for Forestland (70 applications). Staff has been busy completing the initial landowner surveys and determining eligibility. We will have until December 30, 2009 to complete the field verifications and develop Stewardship plans and contracts. Virginia will receive an allocation for approving the highest ranked applications. This is a continuous sign-up with the next ranking period ending on January 14, 2010.

Easement Programs:

Farm and Ranchland Protection (FRPP). In FY-09, NRCS closed five easements on 756 acres in Clarke, Northampton, and Rockingham Counties. Federal cost was \$1,473,471. We received \$1,587,170 in FY-10 funding.

Grassland Reserve Program (GRP). In FY-09, NRCS closed one easement for 40 acres for \$380,000, allocated \$568,705 for two easements for 159 acres, and allocated \$2,250 for one rental agreement on 25 acres. We have eight applications on file for funding in FY-10. We received \$634,720 in funding for FY-10.

Wetland Reserve Program (WRP). In FY-09, NRCS has closed four wetland easements for a total of 69 acres for \$238,201, allocated \$268,868 for three easements on 101.93 acres, and allocated \$84,642 for the restoration of two sites. We sent letters to 130 potential landowners in Caroline County as part of a pilot outreach effort. We received over \$4.6 million in funding for FY-10.

Financial Assistance Programs:

Environmental Quality Incentive Program (EQIP). NRCS received 1,036 applications for \$29,015,264 on 99,597 acres. We signed 322 contracts for \$10,419,329 on 30,922 acres. We have a huge backlog for FY-10 funding. We received a total of \$9,907,236 in FY-10. This is a decrease of \$464,921 from last year's funding level.

Wildlife Habitat Incentive Program (WHIP). We received 133 applications for \$1,047,216 on 7,256 acres. We signed 89 contracts for \$673,128 on 46,868 acres. We received \$210,425 in our initial allocation but this is expected to go up with additional allocations, to about the same level as FY-09.

Chesapeake Bay Watershed Initiative (CBWI). We received 313 applications for \$7,024,004 on 61,623 acres. We funded 237 contracts for \$5,662,434 on 46,868 acres. Our allocation increased 68% in FY-10 to \$9,530,802; therefore, we expanded the priority watershed areas that will receive extra ranking points within the Bay watershed.

DAM REHABILITATION:

Pohick Creek Site 3 (Woodglen Lake) in Fairfax County – The design of this project has been completed. About \$2,000,000 in federal funds will be obligated for construction in December. Fairfax County will solicit bids and award a contract by April 2010. Construction is scheduled to be completed in September 2010.

Pohick Creek Site 2 (Lake Barton) in Fairfax County – A final plan has been developed for this dam rehabilitation project. The Chief of NRCS has authorized the plan for implementation. The design should be completed by June 2010. About \$2,040,000 in federal funds will be obligated by September 2010 and construction will be completed by September 2011.

The Fairfax County Board of Supervisors and the Northern Virginia SWCD sponsors both Pohick Creek rehabilitation projects. Funding is provided by the American Recovery and Reinvestment Act (ARRA) for these projects.

Pohick Creek Site 8 (Huntsman Lake) in Fairfax County – NRCS received funding in FY-10 to assist Fairfax County and the Northern Virginia SWCD to initiate planning for dam rehabilitation on this site. A final plan is expected in 2011.

South River Site 25 (Toms Branch) in Augusta County – Construction is ongoing on Toms Branch and should be completed in December 2009. The contract was awarded to Adams Contracting Company from Robbinsville, NC for \$1,098,917. Project sponsors include Augusta County, the City of Waynesboro, and the Headwaters SWCD.

South River Site 10A (Mills Creek) in Augusta County – NRCS is assisting Augusta County to develop a dam rehabilitation plan for this site. The planning process is ongoing with a final plan expected by September 2010.

Assessments for High Hazard Dams – NRCS has completed an assessment of Upper North River Watershed Site 10 - Todd Lake in Augusta County and copies will be distributed soon. This dam is now classified as a “High” hazard structure.

NRCS has awarded a contract to URS Corporation for \$210,000 to assess nine dams in Virginia.

WATERSHED OPERATIONS

Buena Vista Flood Control Project – NRCS is assisting the City of Buena Vista with the acquisition of environmental permits for the channel modification of Chalk Mine Run

NRCS has hired an A&E firm to design the channel modification project for Chalk Mine Run. The design will be completed in May 2010.

NRCS has reimbursed the City of Buena Vista for the cost of acquiring a house located in the floodplain of Chalk Mine Run. The demolition of the house should be completed by the end of December 2009.

North Fork Powell River Watershed – ARRA funding has been received to design and construct five abandoned mine land sites in this watershed. This project will address water quality problems from abandoned mines in this watershed. The project is sponsored by the Lee County Board of Supervisors, the Daniel Boone SWCD, and the Virginia Department of Mines, Minerals and Energy. The five sites will be designed and constructed in 2010.

Chestnut Creek Watershed - \$220,000 in financial assistance dollars from ARRA funding have been received to develop new long-term contracts with landowners in this watershed in Carroll and Grayson Counties. This project will address water quality problems caused by grazing in the watershed. Two new contracts totaling \$139,046 have been signed and the funds obligated.

Little Reed Island Creek Watershed - \$120,000 in financial assistance dollars from ARRA funding has been received for new long-term contracts with landowners in this watershed in Carroll, Pulaski, and Wythe Counties. This project will address water quality problems caused by grazing in the watershed. One new contract for \$82,065 has been signed and the funds obligated.

Lower Shenandoah River – NRCS staff in Virginia and West Virginia have completed the final draft of a watershed assessment of the Lower Shenandoah River Watershed. This is the third watershed assessment completed in VA. The South Fork Shenandoah River Watershed was completed in 2007 and the North Fork Shenandoah in 2008. The completion of the Lower Shenandoah assessment has finished the entire Shenandoah River basin in VA and WV.