

**Virginia Soil and Water Conservation Board
Thursday, March 29, 2012
Richmond, Virginia**

MINUTES

Virginia Soil and Water Conservation Board Members Present

Susan Taylor Hansen, Chair

Thomas M. Branin

Herbert L. Dunford

Jerry L. Ingle

Stephen Lohr

David A. Johnson, DCR Director, Ex Officio

John A. Bricker, NRCS, Ex Officio

Raymond L. Simms, Vice Chair

Joan DuBois

Gary Hornbaker

Daphne W. Jamison

Richard A. Street

Virginia Soil and Water Conservation Board Members Not Present

Frank Blake, Jr.

C. Frank Brickhouse, Jr.

DCR Staff Present

Jeb Wilkinson, Chief Deputy Director

David C. Dowling

J. Michael Foreman

Carrie Hagin

Stephanie Martin

Reese Peck

Virginia Snead

Elizabeth Andrews, Office of the Attorney General

Robert Bennett

Michael R. Fletcher

Roberta Gargiulo

Ken Harper

John McCutcheon

Joan Salvati

Others Present

Wilkie Chaffin, VASWCD

Katie Frazier, Virginia Grain Producers Association

Ann Jennings, Chesapeake Bay Foundation

Donna Johnson, Virginia Agribusiness Council

Blain Krusz, Virginia Agribusiness Council

Ed Overton, VASWCD

Will Nash, Town of Farmville

Peggy Sanner, Chesapeake Bay Foundation

Wilmer Stoneman, Virginia Farm Bureau

Bill Street, James River Association

Kendall Tyree, VASWCD

Don Wells, VASWCD

Keith White, Henrico County

Call to Order

Chairman Hansen called the meeting to order and declared a quorum present. She welcomed new member, Joan DuBois.

Minutes from December 7, 2011 Meeting

MOTION: Mr. Dunford moved that the minutes of the December 7, 2011 meeting of the Virginia Soil and Water Conservation Board be approved as submitted by staff.

SECOND: Mr. Hornbaker

DISCUSSION: None

VOTE: Motion carried with Ms. DuBois abstaining

Director's Report

Mr. Johnson gave the Director's report.

Mr. Johnson said that while the General Assembly had adjourned from regular session, a budget decision had not been reached. He said that at the December Board meeting he had reviewed several agency bills that were moving forward. He said that Mr. Dowling would give a detailed legislative update (see Attachment #1).

Mr. Johnson said that two important pieces of legislation had moved forward. One was a nutrient trading bill which allows trading between point sources and non point sources. He said that this was important in terms of meeting obligations under TMDLs and particularly under the Chesapeake Bay TMDL.

Mr. Johnson said that the second bill was referred to as the stormwater integration bill. He said that when the stormwater regulations were approved, only those localities under the Chesapeake Bay Act and MS4 permits were required to operate stormwater management programs. He said that it was not efficient for DCR to administer programs in some parts of the Commonwealth and not in others. He said that DCR has a limited amount of staff to operate programs and perform inspections. He said that this legislation stipulates that as of July 2014 that all localities across the Commonwealth would operate a local stormwater management program which will be integrated with federal stormwater permit issuance. He noted that the permit fees were substantially higher than before and were engineered to pay for the program. He said that this would not be an unfunded mandate for localities. Mr. Johnson said that the reason for doing this was so that there were not two separate programs, a state and a local stormwater management program.

Mr. Johnson said that the legislation passed without opposition. He said that included in the legislation was the elimination of the Chesapeake Bay Local Assistance Board. The responsibilities of that Board will be incorporated into the Virginia Soil and Water Conservation Board.

Ms. Hansen asked if that would mean additional meeting time for the Virginia Soil and Water Conservation Board.

Mr. Johnson said that would have to be determined. He said that the Chesapeake Bay Local Assistance Board had a routine procedure that generally took about two hours. He said that while it might add time to the agenda that he did not see meetings extending beyond a full day. He noted that many areas on the Board agendas overlapped.

Mr. Johnson said that DCR had also been working on Phase II of the Chesapeake Bay WIP. He said that Phase II is the local implementation version of the WIP I which was submitted a year ago.

Mr. Johnson said that DCR is moving forward with MS4 permits, both individual and general permits. Arlington will be the first individual permit completed.

Legislative and Regulatory Update

Mr. Dowling gave the Legislative and Regulatory update. A copy of the legislative report is included as Attachment #1.

Mr. Hornbaker said that as dates are established for the rollout of stormwater regulations as well as other actions if the Board would be updated during the process and not just informed fourteen days prior the meeting.

Mr. Dowling said that request could be accommodated.

Mr. Branin suggested a website portal that would allow Board access to information and documents as they are developed.

Regulatory Action – Resource Management Plans

Staff Overview

Mr. Dowling gave the following presentation on the proposed Resource Management Plan Regulations for the Boards consideration and action. A full copy of Mr. Dowling's presentation with accompanying graphics is available from DCR.

Introductory Remarks and Overview

Before you today for consideration and action is a proposed stage regulatory action advancing for the Board's consideration new Resource Management Plan regulations. (Version dated Monday, March 19, 2012)

Before explaining the background and specifics regarding the action before the Board today, I wanted to take a minute and explain the status of the regulations before you. The regulations being recommended to you are proposed regulations and not final (See distributed Administrative Process Flowchart – last page - 21). The action before the Board is to allow us to advance this regulation into the formal stages of the regulatory process and to broaden continuing participation. With the Board's favorable consideration of the regulations at today's meeting, this regulation will only be at the mid-way point of a process that will involve additional public comment opportunities as it advances. The Department will be authorized to conduct an economic analysis of the regulations working with the Department of Planning and Budget and following this step, the proposed regulation will be published in the Virginia Register of Regulations and open for a 60-day public comment period. A public hearing will also be held during the comment period. At the conclusion of the comment period, DCR will analyze the comments received, prepare a comment summary/response, develop a final regulation, confer with the Administration, and perhaps hold an additional meeting(s) of the RAP. We are expecting to advance a recommended final regulation to Board in mid-November with supporting documentation for consideration at your December meeting. So again, this is not a final determination today, it is to advance a solid draft of the regulation formally into the public regulatory process so that the Board and Department may benefit from expanded public review and recommendations regarding this important regulation.

From a background perspective on this action, Chapter 781 of the 2011 Virginia Acts of Assembly (HB1830) authorized the Virginia Soil and Water Conservation Board to establish regulations that would specify the criteria to be included in a resource management plan. The concept was to encourage farm owners and operators to voluntarily implement a high level of BMPs on their farmlands in order to be protective of water quality and for them to then benefit from the following legal provision stating that “notwithstanding any other provision of law, agricultural landowners or operators who fully implement and maintain the applicable components of their resource management plan, in accordance with the criteria for such plans set out in § 10.1-104.[8] and any regulations adopted thereunder, shall be deemed to be in full compliance with (i) any load allocation contained in a total maximum daily load (TMDL) established under § 303(d) of the federal Clean Water Act addressing benthic, bacteria, nutrient, or sediment impairments; (ii) any requirements of the Virginia Chesapeake Bay TMDL Watershed Implementation Plan; and (iii) applicable state water quality requirements for nutrients and sediment”. The law continued with the following additional provisions that “[t]he presumption of full compliance provided in subsection A shall not prevent or preclude enforcement of provisions pursuant to (i) a resource management plan or a nutrient management plan otherwise required by law for such operation, (ii) a Virginia Pollutant Discharge Elimination System permit, (iii) a Virginia Pollution Abatement permit, or (iv) requirements of the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.)”.

Based on this legislative direction, on March 10, 2011, the Virginia Soil and Water Conservation Board authorized the Department to develop the Resource Management Plan regulations and as part of the regulation development process, the Board further directed the establishment of a stakeholder group to make recommendations to the Director and the Board on the contents of the proposed regulations. Pursuant to the law, the Board stipulated that the stakeholder group shall include representation from agricultural and environmental interests as well as Soil and Water Conservation Districts and the regulations shall be developed in consultation with the Department of Agriculture and Consumer Services and the Department of Environmental Quality

In accordance with the Board's direction, a nineteen member RAP (See attached list, 2nd to last page – page 20) composed of stakeholder organizations within the agricultural and environmental community, representatives from the Soil and Water Conservation Districts and the Association, as well as those with technical expertise in agricultural planning was assembled. The RAP and the Department were provided technical support from Natural Resources Conservation Service, Farm Service Agency, Virginia Tech, Virginia Department of Agriculture and Consumer Services, Virginia Department of Forestry, and the Virginia Department of Environmental Quality. I also do want to extend our thanks to the RAP members, to our state and federal partners, as well as to our DCR staff, for their assistance with this process, it has been greatly appreciated.

Between June 29, 2011, and February 14, 2012; the RAP held five meetings, and the RAP's three subcommittees met a total of six times. Additionally, two of the subcommittees held a joint meeting. The RAP was charged with helping to develop a set of regulations that would meet the following overarching guidelines:

- Must be protective of water quality
- Must be simple so it doesn't deter operators from participating
- Must be technically achievable
- Must take into consideration the economic impact to the agricultural landowner or operator

The proposed regulations before you today reflect the detailed discussions of the RAP and do set out a balanced process by which farmers may voluntarily implement a high level of BMPs that are protective of water quality and that may be applied towards necessary nutrient and sediment reductions associated with the Chesapeake Bay Watershed Implementation Plan and other TMDLs. As part of the draft Phase II Virginia Chesapeake Bay TMDL Watershed Implementation Plan it is noted "that the implementation of Resource Management Plans and voluntary data collection at the local level will significantly advance the agriculture strategies offered by local governments and SWCDs".

As you will note in the presentation, key elements of the regulations include:

- Establishment of minimum standards of a resources management plan;
- Processes for the development and approval of a resource management plan;
- Processes to ensure the implementation of a resource management plan and for issuance of a Certificate of Resource Management Plan Implementation;

- Processes associated with conducting inspections and ensuring RMP compliance after Certificate issuance; and
- Procedures for the review of duties performed by soil and water conservation districts.

This regulatory action is very important to the Department and the Administration, and we believe that the recommended regulations represent a well balanced program that will be utilized by and beneficial to the farm community and address Virginia's water quality objectives.

Legal Framework for Action

Chapter 781 of the 2011 Virginia Acts of Assembly (HB1830) authorized the Virginia Soil and Water Conservation Board to establish regulations that would specify the criteria to be included in a resource management plan and sets out the regulatory process by which they shall be promulgated. The proposed regulations meet the intent of § 10.1-104.7 and remain true to the regulatory criteria framework set out in § 10.1-104.8. The regulatory process we are following is in accordance with § 10.1-104.9.

ARTICLE 1.1: Resource Management Plans (§ 10.1-104.7 et seq.)

§ 10.1-104.7. Resource management plans; effect of implementation; exclusions.

A. Notwithstanding any other provision of law, agricultural landowners or operators who fully implement and maintain the applicable components of their resource management plan, in accordance with the criteria for such plans set out in § 10.1-104.8 and any regulations adopted thereunder, shall be deemed to be in full compliance with (i) any load allocation contained in a total maximum daily load (TMDL) established under § 303(d) of the federal Clean Water Act addressing benthic, bacteria, nutrient, or sediment impairments; (ii) any requirements of the Virginia Chesapeake Bay TMDL Watershed Implementation Plan; and (iii) applicable state water quality requirements for nutrients and sediment.

B. The presumption of full compliance provided in subsection A shall not prevent or preclude enforcement of provisions pursuant to (i) a resource management plan or a nutrient management plan otherwise required by law for such operation, (ii) a Virginia Pollutant Discharge Elimination System permit, (iii) a Virginia Pollution Abatement permit, or (iv) requirements of the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.).

C. Landowners or operators who implement and maintain a resource management plan in accordance with this article shall be eligible for matching grants for agricultural best management practices provided through the Virginia Agricultural Best Management Practices Cost-Share Program administered by the Department in accordance with program eligibility rules and requirements. Such

landowners and operators may also be eligible for state tax credits in accordance with §§ 58.1-339.3 and 58.1-439.5.

D. Nothing in this article shall be construed to limit, modify, impair, or supersede the authority granted to the Commissioner of Agriculture and Consumer Services pursuant to Chapter 4 (§ 3.2-400 et seq.) of Title 3.2.

E. Any personal or proprietary information collected pursuant to this article shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that the Director may release information that has been transformed into a statistical or aggregate form that does not allow identification of the persons who supplied, or are the subject of, particular information. This subsection shall not preclude the application of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) in all other instances of federal or state regulatory actions.

§ 10.1-104.8. Resource management plans; criteria.

A. The Soil and Water Conservation Board shall by regulation, and in consultation with the Department of Agriculture and Consumer Services and the Department of Environmental Quality, specify the criteria to be included in a resource management plan.

B. The regulations shall:

1. Be technically achievable and take into consideration the economic impact to the agricultural landowner or operator;

2. Include (i) determinations of persons qualified to develop resource management plans and to perform on-farm best management practice assessments; (ii) plan approval or review procedures if determined necessary; (iii) allowable implementation timelines and schedules; (iv) determinations of the effective life of the resource management plans taking into consideration a change in or a transfer of the ownership or operation of the agricultural land, a material change in the agricultural operations, issuance of a new or modified total maximum daily load (TMDL) implementation plan for the Chesapeake Bay or other local total maximum daily load water quality requirements, and a determination pursuant to Chapter 4 (§ 3.2-400 et seq.) of Title 3.2 that an agricultural activity on the land is creating or will create pollution; (v) factors that necessitate renewal or new plan development; and (vi) a means to determine full implementation and compliance with the plans including reporting and verification;

3. Provide for a process by which an on-farm assessment of all reportable best management practices currently in place, whether as part of a cost-share program or through voluntary implementation, shall be conducted to determine their adequacy in achieving needed on-farm nutrient, sediment, and bacteria reductions;

4. Include agricultural best management practices sufficient to implement the Virginia Chesapeake Bay TMDL Watershed Implementation Plan and other local total maximum daily load water quality requirements of the Commonwealth; and

5. Specify that the required components of each resource management plan shall be based upon an individual on-farm assessment. Such components shall comply with on-farm water quality objectives as set forth in subdivision B 4, including best management practices identified in this subdivision and any other best management practices approved by the Board or identified in the Chesapeake Bay Watershed Model or the Virginia Chesapeake Bay TMDL Watershed Implementation Plan.

a. For all cropland or specialty crops such components shall include the following, as needed and based upon an individual on-farm assessment:

(1) A nutrient management plan that meets the nutrient management specifications developed by the Department;

(2) A forest or grass buffer between cropland and perennial streams of sufficient width to meet water quality objectives and consistent with Natural Resources Conservation Service standards and specifications;

(3) A soil conservation plan that achieves a maximum soil loss rate of "T," as defined by the Natural Resources Conservation Service; and

(4) Cover crops meeting best management practice specifications as determined by the Natural Resources Conservation Service or the Virginia Agricultural Best Management Practices Cost-Share Program.

b. For all hayland, such components shall include the following, as needed and based upon an individual on-farm assessment:

(1) A nutrient management plan that meets the nutrient management specifications developed by the Department;

(2) A forest or grass buffer between cropland and perennial streams of sufficient width to meet water quality objectives and consistent with Natural Resources Conservation Service standards and specifications; and

(3) A soil conservation plan that achieves a maximum soil loss rate of "T," as defined by the Natural Resources Conservation Service.

c. For all pasture, such components shall include the following, as needed and based upon an individual on-farm assessment:

(1) A nutrient management plan that meets the nutrient management specifications developed by the Department;

(2) A system that limits or prevents livestock access to perennial streams; and

(3) A pasture management plan or soil conservation plan that achieves a maximum soil loss rate of "T," as defined by the Natural Resources Conservation Service.

§ 10.1-104.9. Regulations under this article.

Regulations adopted by the Board for the enforcement of this article shall be subject to the requirements set out in §§ 2.2-4007.03, 2.2-4007.04, 2.2-4007.05, and 2.2-4026 through 2.2-4030 of the Administrative Process Act (§ 2.2-4000 et seq.), and shall be published in the Virginia Register of Regulations. The Board shall convene a stakeholder group to assist in development of these regulations, with representation from agricultural and environmental interests as well as Soil and Water Conservation Districts. All other provisions of the

Administrative Process Act shall not apply to the adoption of any regulation pursuant to this article. After the close of the 60-day comment period, the Board may adopt a final regulation, with or without changes. Such regulation shall become effective 15 days after publication in the Virginia Register of Regulations, unless the Board has withdrawn or suspended the regulation or a later date has been set by the Board. The Board shall also hold at least one public hearing on the proposed regulation during the 60-day comment period. The notice for such public hearing shall include the date, time, and place of the hearing.

Board Direction and Action Items

In its motion of March 10, 2011, the Board authorized and directed the development of the Resource Management Plan Regulations. Specifically, the Board noted the following:

In accordance with HB1830 of the 2011 General Assembly Session, the Board authorizes the Director of the Department of Conservation and Recreation and the Departmental Regulatory Coordinator to develop proposed Agricultural Resource Management Plan Regulations for the Board's consideration.

The regulations shall at a minimum:

1. Be technically achievable and take into consideration the economic impact to the agricultural landowner or operator;
2. Include (i) determinations of persons qualified to develop resource management plans and to perform on-farm best management practice assessments; (ii) plan approval or review procedures if determined necessary; (iii) allowable implementation timelines and schedules; (iv) determinations of the effective life of the resource management plans taking into consideration a change in or a transfer of the ownership or operation of the agricultural land, a material change in the agricultural operations, issuance of a new or modified total maximum daily load (TMDL) implementation plan for the Chesapeake Bay or other local total maximum daily load water quality requirements, and a determination pursuant to Chapter 4 (§ 3.2-400 et seq.) of Title 3.2 that an agricultural activity on the land is creating or will create pollution; (v) factors that necessitate renewal or new plan development; and (vi) a means to determine full implementation and compliance with the plans including reporting and verification;
3. Provide for a process by which an on-farm assessment of all reportable best management practices currently in place, whether as part of a cost-share program or through voluntary implementation, shall be conducted to determine their adequacy in achieving needed on-farm nutrient, sediment, and bacteria reductions;
4. Include agricultural best management practices sufficient to implement the Virginia Chesapeake Bay TMDL Watershed Implementation Plan and other

local total maximum daily load water quality requirements of the Commonwealth;
and

5. Specify that the required components of each resource management plan shall be based upon an individual on-farm assessment. Such components shall comply with on-farm water quality objectives as set forth in item 4 above, including best management practices set out in HB1830 and any other best management practices approved by the Board or identified in the Chesapeake Bay Watershed Model or the Virginia Chesapeake Bay TMDL Watershed Implementation Plan.

As part of the regulation development process, the Board directs that a stakeholder group shall be established to make recommendations to the Director and the Board on the contents of the proposed regulations. The stakeholder group shall include representation from agricultural and environmental interests as well as Soil and Water Conservation Districts and the regulations shall be developed in consultation with the Department of Agriculture and Consumer Services and the Department of Environmental Quality.

It is believed that the proposed regulations being recommended to the Board today fully meet the Board's direction.

Regulatory Action Process

Actions taken to date:

- **March 10, 2011**, the Board authorized and directed the development of the Resource Management Plan Regulations and establishment of a RAP.
- Regulatory Advisory Panel
A regulatory advisory panel (RAP) was assembled to assist the Department with the development of the proposed regulations. The RAP met on 5 occasions.
June 29, 2011; West Reading Room, Patrick Henry Building
November 9, 2011; VCU Rice Center, Charles City
December 16, 2011; Virginia Farm Bureau Federation Office
January 3, 2012; Virginia Farm Bureau Federation Office
February 14, 2012; West Reading Room, Patrick Henry Building
- Three subcommittees which met individually or in joint session on 7 occasions were assembled to address the following key areas of the regulations:
Assessment – Who does it? What does it look like?
Plan development – Who writes it? What does it look like?
Compliance and auditing process – What makes it certifiable? Who does that?
- Plan Development Subcommittee

August 12, 2011; Dept. of Environmental Quality Piedmont Regional Office

September 30, 2011; Virginia Farm Bureau Federation Office

- Compliance Subcommittee
August 15, 2011; Dept. of Environmental Quality Piedmont Regional Office
September 28, 2011; Dept. of Environmental Quality Piedmont Regional Office
- Assessment Subcommittee
August 19, 2011; Dept. of Environmental Quality Piedmont Regional Office
September 30, 2011; Virginia Farm Bureau Federation Office
- Joint meeting of Assessment and Plan Development Subcommittees
September 30, 2011; Virginia Farm Bureau Federation Office

Throughout this period multiple drafts were circulated and opportunities for comment by members provided. The regulation has also benefitted from the review of the Deputy Secretary of Natural Resources and the Deputy Secretary of Agriculture and Forestry.

Tentative Next Steps for advancing the RMP regulation:

- **March 29, 2012**, Virginia Soil and Water Conservation Board will consider a “**Motion to approve, authorize and direct the filing of proposed regulations**”.
- **April 2012** – Department will complete development of required regulatory forms and analyses and post to the Regulatory Town Hall by the end of April initiating DPB 45-day review. DPB will complete its economic analysis by mid June.
- **June 27, 2012**, Target for submittal of the proposed regulation to the Registrar by submittal deadline.
- **July 16, 2012 - September 14, 2012**, The proposed regulation would be published on July 16th in Volume 28: Issue 23 initiating a 60-day public comment period. At least one public hearing will be held during the comment period, likely in early August.
- **September 2012 – October 2012**, DCR will analyze comments received, prepare comment summary/response, develop final regulation, and confer with the Administration. Recommended final regulation is mailed to Board in mid-November with supporting documentation.

- **Early December 2012**, Virginia Soil and Water Conservation Board will consider a “**Motion to approve, authorize and direct the filing of a final regulation**”.
- **January 2013**, DCR will likely file a final exempt action for publication in the Virginia Register of Regulations (Target January 9th submittal, January 28th publication; Volume 29: Issue 11).
- **February 12, 2013**, “Such regulation shall become effective 15 days after publication in the Virginia Register of Regulations...”

Additional Actions associated with implementing the regulations:

Concurrent to the development of the regulations and following their final adoption, the Department of Conservation and Recreation will be developing necessary implementation and reporting forms, guidance, and initiating RMP developer certifications. DCR will also be working with the local Soil and Water Conservation Districts and the RMP developers to develop program outreach plans for farm operators and owners. Additionally, DCR will be working with the Districts on standardized RMP review and site inspection procedures as well as developing its RMP final certification review procedures and District program review methodologies. We also recognize the funding and workload challenges implementation of these regulations represent.

Interest expressed by EPA and USDA in this regulatory action

Both the EPA and the USDA have been in contact with the Agency regarding this regulatory action and have voiced their support for a program such as this as well as it serving as a model nationally. It is recognized that progress towards agricultural nutrient and sediment reductions is largely going to be dependent on voluntary actions; however, a program such as this may address “ag certainty”.

The EPA has also noted that “[t]his program has great potential for providing substantial incentives to farmers to implement high priority water quality conservation practices that will help the Commonwealth meet its commitments outlined in the Phase II Watershed Implementation Plan. We commend the TAC in its efforts to find the balance in a credible program that engages farmers in a positive way in the Bay restoration efforts.

Resource Management Plan Regulations: Proposed Stage Action – Key Elements

- Establishes a new section (4VAC50-70-10) that sets out **definitions** to be utilized within the new Chapter. These include “Assessment”, “Best management practice”, “Board”, “Corrective action agreement”, “Department”, “Management unit”, “NRCS”, “Operator”, “Owner”, “Person”, “Resource management plan”, “Review authority”, “RMP developer”, “Soil and water conservation district”, “Technical Review committee”, and “Total maximum daily load”.
- Establishes a new section (4VAC50-70-20) that outlines the **purpose and authority** for the chapter and specifies that “these regulations are adopted to clarify and specify the criteria that must be included in a resource management plan and the processes by which a Certificate of RMP Implementation is issued and maintained”.
- Establishes a new section (4VAC50-70-30) that stipulates the **applicability of other laws and regulations** and specifies that “[n]othing in this chapter shall be construed as limiting the applicability of other laws, regulations, or permits, including but not limited to, a Virginia Pollutant Discharge Elimination System Permit, a Virginia Pollution Abatement Permit, a nutrient management plan otherwise required by law, any requirements of the Chesapeake Bay Preservation Act, and any requirements of the Agricultural Stewardship Act”.
- Establishes a new section (4VAC50-70-40) that sets out the **minimum standards of a resources management plan**. Depending on land use and whether the BMP requirements are applicable to the management unit and needed based on an on-farm assessment, the following requirements will apply:
 - For all cropland or specialty crops:
 - A nutrient management plan;
 - A forest or grass buffer between cropland and perennial streams with a minimum width of 35 feet;
 - A soil conservation plan that achieves a maximum soil loss rate to “T”; and
 - Cover crops, when needed to address nutrient management and soil loss requirements.
 - For all hayland:
 - A nutrient management plan;
 - A forest or grass buffer between cropland and perennial streams with a minimum width of 35 feet; and
 - A soil conservation plan that achieves a maximum soil loss rate to “T”.
 - For all pasture:
 - A nutrient management plan;
 - A pasture management plan or soil conservation plan that achieves a maximum soil loss rate of “T”; and
 - A system that limits or prevents livestock access to perennial streams.
- Establishes a new section (4VAC50-70-50) regarding **components of a resource management plan** that outlines:
 - The information to be collected by the RMP developer when developing the RMP,
 - Specifies the components to be included in a resource management plan such as the BMPs that are necessary to achieve the minimum standards set out in 4VAC50-70-40 and a schedule for the implementation of those BMPs, and
 - Includes RMP developer and owner or operator certifications.

- The RMP developers certify whether “the RMP is true and correct in their professional judgment”.
 - The owner or operator attests that they are the “responsible individual to be implementing the RMP in its entirety” and “shall adhere to the RMP”.
 - The owner or operator is also allowing “the review authority to conduct inspections of properties within the management unit as needed to ensure the adequacy of the RMP in accordance with 4VAC50-70-70” and agreeing to contact the RMP developer regarding “potential material changes” and the review authority regarding “a complete change in owner or operator of the management unit(s) under a RMP”.
- Establishes a new section (4VAC50-70-60) that outlines processes associated with making **revisions to a resource management plan**.
 - Upon notification of the RMP review authority of a change in owner or operator of the management unit with a signed RMP where it involves the complete transfer of one or more RMPs and any Certificate of RMP Implementation:
 - The review authority shall contact the new owner or operator within 60 days of the new owner or operator assuming control of the management unit regarding implementation of the RMP and any necessary revisions.
 - The new owner or operator, following consultation with the review authority may elect to:
 - Implement and maintain the provisions of the existing RMP;
 - Request a RMP developer revise the RMP; or
 - Choose not to continue implementing a RMP.
 - Upon notification of the RMP developer by the owner or operator with a signed RMP that changes in the management unit or implementation of the RMP may create needs for revision, the RMP developer shall review the RMP (within 30 days) to determine if material changes to the management unit require a revision of the RMP.
 - The section provides a listing of the material changes to the management unit that may require a revision of the RMP.
 - A RMP developer will determine if revision of the RMP is required.
 - When the RMP developer determines that revision of the existing RMP is not necessary, the RMP developer shall provide such determination to the requesting owner or operator in writing.
 - When the RMP developer determines that revision of the existing RMP is necessary, the owner or operator may elect to:
 - Request the RMP developer revise the RMP as necessary to fulfill RMP requirements; or
 - Choose not to continue implementing a RMP whereupon the RMP for the management unit shall no longer be valid.
 - The section specifies that when a new or modified watershed implementation plan is issued for the Chesapeake Bay or a new or modified local approved TMDL is issued which assigns a load to agricultural uses, a RMP covering land with waters that drain to such TMDL shall be deemed sufficient when the RMP has been revised to address the new or modified TMDL and the owner or operator agrees to implement the revised RMP, except when the owner or operator already holds a Certificate of RMP Implementation.
 - When an owner or operator holds a Certificate of RMP Implementation that has not expired, the owner or operator may continue operation of the RMP without such revisions

for the lifespan of the Certificate of RMP Implementation so long as the owner or operator is deemed to be fully implementing the RMP.

- When an owner or operator with a revised RMP fulfills all RMP and Certificate requirements, and the owner or operator holds a Certificate of RMP Implementation that has not expired for the management unit addressed by the revised RMP, the owner or operator may request that the department revoke the existing Certificate of RMP Implementation and issue a new Certificate of RMP Implementation. Upon verification that all requirements have been satisfied, the department shall issue a new Certificate of RMP Implementation in a timely manner.
- Revision of a RMP by a RMP developer requires:
 - If a Certificate of RMP Implementation has not been issued, the revised RMP shall be provided to the review authority and shall be subject to all specified review requirements.
 - If a Certificate of RMP Implementation has been issued by the department and its duration has not expired, such existing Certificate of RMP Implementation shall remain valid for the balance of time remaining since it was originally issued by the department or a new Certificate of RMP Implementation may be issued where appropriate.
 - An existing or new owner or operator shall sign a revised RMP.
 - When a valid Certificate of RMP Implementation has been issued by the department for the management unit, the RMP developer shall provide the review authority and the department with a copy of a revised RMP.
- Establishes a new section (4VAC50-70-70) that outlines the processes associated with **review of a resources management plan**. The process shall include the following:
 - Upon completion of a new or revised RMP, the owner or operator, or the RMP developer on behalf of the owner or operator, shall submit the RMP to the review authority.
 - Each soil and water conservation district shall establish a Technical Review Committee that will ensure the RMP fully meets the minimum standards of a RMP and the components of a RMP. The section also specifies the timelines for conducting the review and how the review will be handled if multiple districts are involved.
 - RMPs received by the department where no local soil and water conservation district exists must fully meet minimum standards of a RMP and the components of a RMP and shall be reviewed by the department. The section also specifies the timelines for conducting the review.
 - When a RMP is determined by the review authority to be insufficient to meet minimum standards set forth in 4VAC50-70-40 and the components specified in 4VAC50-70-50 such review authority shall work with the owner or operator and the RMP developer to revise the RMP.
 - Where a RMP is deemed sufficient the notification issued to the owner or operator and the RMP developer by the review authority shall include approval of the plan and its implementation.
 - When an owner or operator is aggrieved by an action of the review authority, the owner or operator shall have a right to appeal.
- Establishes a new section (4VAC50-70-80) establishing the process for the **issuance of a Certificate of Resource Management Plan Implementation**. The process shall include the following:
 - Prior to issuance of a Certificate of RMP Implementation for a management unit, confirmation shall be made by the RMP developer that no revision of the RMP is required and as such is adequate, and verification of the full implementation of the RMP shall be completed.
 - The owner or operator shall request the verification of RMP implementation by the review authority in a format provided by the department. Such verification submittal shall include a

complete copy of the RMP including any referenced plans and authorizations for the review authority and the department as specified to conduct onsite inspections.

- When the local soil and water conservation district has determined the RMP to be adequate and fully implemented, the lead soil and water conservation district board shall affirm such adequacy and implementation, and submit the required documentation to the department for action. Upon receiving such documentation supporting that the plan is adequate and has been fully implemented, the department shall issue a Certificate of RMP Implementation.
 - Where the department is the review authority, the department shall determine adequacy and full implementation of the RMP. If the RMP is determined to be adequate and fully implemented, the department shall affirm such implementation by issuing a Certificate of RMP Implementation.
 - If the resource management plan is not adequate or has not been fully implemented, the review authority shall provide the owner or operator with written documentation that specifies the deficiencies of the RMP. The owner or operator may correct the named deficiencies and request verification of RMP adequacy or implementation at such time as the shortcomings have been addressed.
 - A Certificate of RMP Implementation shall be valid for a period of nine years.
 - Upon the expiration of the Certificate of RMP Implementation, a new RMP may be prepared by a plan developer for the management unit upon request by the owner or operator. The RMP must conform with all existing TMDL implementation plans applicable to the management unit to include the Chesapeake Bay and any local approved TMDL, which assign a load to agricultural uses and impact any portion of the management unit. The plan developer shall ensure the new RMP also complies with the current minimum standards of a RMP.
 - The department shall maintain a public registry on the agency's website of all current Certificates of RMP Implementation in accordance with confidentiality provisions specified in an exemption to the Freedom of Information Act.
- Establishes a new section (4VAC50-70-90) outlining how periodic **inspections** of a management unit that has been issued a Certificate of RMP Implementation shall be performed. The section specifies that:
 - Inspections may be performed by the review authority or the department.
 - Onsite inspections shall occur no less than once every three years but not more than annually on lands where an active Certificate of RMP Implementation has been issued provided that no deficiencies have been noted that require more frequent inspections or re-inspections.
 - Upon the completion of the inspection, an inspection report shall be completed in a format provided by the department, to document the implementation of the RMP on the management unit and shall identify any identified deficiencies that may need to be addressed through revision of the RMP.
 - Where deficiencies are noted it authorizes the department to proceed pursuant to the section on compliance.
 - All inspections or re-inspections conducted in accordance with this chapter shall occur only after 48 hours of prior notice to the owner or operator unless otherwise authorized by the owner or operator.
 - Establishes a new section (4VAC50-70-100) regarding **compliance** and outlines how deficiencies identified through an inspection shall be provided to the owner or operator and how a corrective action agreement shall be developed, reviewed, and subsequently agreed to unless otherwise revoked through

inability to reach an agreement, failure of the owner or operator to fully implement the agreed upon corrective action agreement, or upon a request from the owner or operator. Timelines for every step of the process are provided in the section.

- Establishes a new section (4VAC50-70-110) on **appeals** that sets out the process for an owner or operator that has been aggrieved by any action of a soil and water conservation district and any party aggrieved by and claiming the unlawfulness of a case decision of the department or of the board upon an appeal to it.
- Establishes a new section (4VAC50-70-120) on **reporting** and specifies when BMP data collection shall occur and how this information is reported in the Virginia Agricultural BMP Tracking Program or any subsequent automated tracking systems made available to soil and water conservation districts by the department. The section also specifies timelines for reporting data and the protections offered to specified data in accordance with the Freedom of Information Act. It also specifies what the department may do with the reported information.
- Establishes a new section (4VAC50-70-130) that speaks to the **review of duties performed by soil and water conservation districts**. The section specifies that:
 - The department shall periodically conduct a comprehensive review of the RMP duties performed by each soil and water conservation district to evaluate whether requirements set forth by this chapter have been satisfactorily fulfilled.
 - The department shall develop a schedule for conducting periodic reviews and evaluations.
 - Each district shall receive a comprehensive review at least once every five years; however, the department may impose more frequent, partial, or comprehensive reviews with cause.
 - The section also speaks to how programmatic deficiencies will be addressed.
- Establishes a new section (4VAC50-70-140) that sets out the **RMP developer qualifications and certification** process. The section also outlines certification revocation procedures.
- Establishes a new section (4VAC50-70-150) that **advances the adoption of RMPs** by directing the department and districts to encourage and promote the adoption of RMPs among the agricultural community.

Economic Impacts

As part of the regulatory submittal for this proposed regulation, the Department is required to prepare an economic impact analysis of the proposed regulation for DPB's review. The Department has requested the RAP to provide comments on economics impacts to the Agency by April 1st. The Code provision directing this analysis is appended below.

§ 2.2-4007.04. Economic impact analysis.

A. Before delivering any proposed regulation under consideration to the Registrar as required in § [2.2-4007.05](#), the agency shall submit on the Virginia Regulatory Town Hall a copy of that regulation to the Department of Planning and Budget. In addition to determining the public benefit, the Department of Planning and Budget in coordination with the agency shall, within 45 days, prepare an economic impact analysis of the proposed regulation, as follows:

1. The economic impact analysis shall include but need not be limited to the **projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and types**

of businesses or other entities particularly affected by the regulation; the projected number of persons and employment positions to be affected; the impact of the regulation on the use and value of private property, including additional costs related to the development of real estate for commercial or residential purposes; and the projected costs to affected businesses, localities, or entities of implementing or complying with the regulations, including the estimated fiscal impact on such localities and sources of potential funds to implement and comply with such regulation. A copy of the economic impact analysis shall be provided to the Joint Commission on Administrative Rules;

2. If the regulation may have an adverse effect on small businesses, the economic impact analysis shall also include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. As used in this subdivision, "small business" has the same meaning as provided in subsection A of § [2.2-4007.1](#); and

3. In the event the Department cannot complete an economic impact statement within the 45-day period, it shall advise the agency and the Joint Commission on Administrative Rules as to the reasons for the delay. In no event shall the delay exceed 30 days beyond the original 45-day period.

B. Agencies shall provide the Department with such estimated fiscal impacts on localities and sources of potential funds. The Department may request the assistance of any other agency in preparing the analysis. The Department shall deliver a copy of the analysis to the agency drafting the regulation, which shall comment thereon as provided in § [2.2-4007.05](#), a copy to the Registrar for publication with the proposed regulation, and an electronic copy to each member of the General Assembly. No regulation shall be promulgated for consideration pursuant to § [2.2-4007.05](#) until the impact analysis has been received by the Registrar. For purposes of this section, the term "locality, business, or entity particularly affected" means any locality, business, or entity that bears any identified disproportionate material impact that would not be experienced by other localities, businesses, or entities. The analysis shall represent the Department's best estimate for the purposes of public review and comment on the proposed regulation. The accuracy of the estimate shall in no way affect the validity of the regulation, nor shall any failure to comply with or otherwise follow the procedures set forth in this subsection create any cause of action or provide standing for any person under Article 5 (§ [2.2-4025](#) et seq.) or otherwise to challenge the actions of the Department hereunder or the action of the agency in adopting the proposed regulation.

To date the only anecdotal fiscal information that was provided in the one of the RAP meetings is as follows:

“The cost of having a resource management plan implemented was also discussed. As an example, a phase 1 conservation plan on 300 acres, may cost over \$30,000. The legislation requires that economic costs to the operator be taken into account when developing the regulations. It was stated that it needs to be very clear to the operator that there is a responsibility to maintain the best management practices over time. It was also noted that as best management practices are voluntarily maintained in the ground, the state would be potentially saving money on [agricultural BMP cost-share] implementation which would allow for funding to be available for oversight of the resource management plans.”

Potential Remaining Issues

While these regulations reflect the detailed discussions of the RAP they do not represent complete consensus on all of the components set out in the regulations before you.

Based on comments received from the RAP on the last version of the regulation prior to development of the proposed version before you today, we suspect that you may hear comments on a few key issues where consensus was not found. I would like to take a moment and share with you what some of those key issues are and why the department is advancing for your consideration the recommended language. Key issues include the following:

- 1) It has been suggested that the department needs to provide assurance that the BMPs specified in the minimum standards of a resources management plan (4VAC50-70-40) equate to reaching the load allocation for agriculture for the Chesapeake Bay TMDL and the requirements of the Chesapeake Bay TMDL WIP.
 - Where applicable to the RMP management unit and needed based on an assessment, the following practices shall be applied: a nutrient management plan; a forest or grass buffer between cropland and perennial streams with a minimum width of 35 feet; a soil conservation plan that achieves a maximum soil loss rate to “T”; cover crops when needed to address nutrient management and soil loss requirements; and a system that limits or prevents livestock access to perennial streams. This equates to an extremely high level of treatment on most farms. It is the intention of the regulations to allow a farmer flexibility in choosing a wide variety of specific BMPs offered to address nutrient management and soil loss requirements and the department is comfortable that if the program is widely voluntarily adopted that the practices employed will meet the necessary target reductions.
 - Additionally, to gain further insight into this request, DCR utilized the Virginia Assessment and Scenario Tool (VAST) to develop a Resource Management Plan Scenario using a series of assumptions.
 - Row Crop:
 - Nutrient Management – 95% (of acres available)
 - Grass Buffers – 35’ average width – 95%
 - Cover Crop – 50%
 - Conservation Tillage – 95%
 - Soil Conservation BMPs (Terraces, Diversions, etc) – 95% above fall line
 - Hay:
 - Nutrient Management – 95%
 - Grass Buffers – 35’ average width – 95%
 - Soil Conservation BMPs (Terraces, Diversions, etc) – 95% above fall line
 - Pasture:
 - Nutrient Management – 95%
 - Stream Access Control with Fencing – 35’ average width – 95%
 - Prescribed Grazing - 95%
 - Soil Conservation BMPs (Terraces, Diversions, etc) – 95% above fall line
 - When the VAST estimates for the RMP scenario are compared to WIP I scenario:
 - Nitrogen loads meet the WIP I.
 - Phosphorus loads meet the WIP I.
 - Sediment loads meet the WIP I.
 - When VAST estimates for RMP scenario compared to WIP I model outputs:
 - Nitrogen reductions are at 99.7% of WIP I.
 - Phosphorus loads meet the WIP I.

- Sediment reductions are at 72.4% of WIP I.
 - Conclusions
 - It is impossible to accurately predict the actual mix of BMPs that would be associated with broad RMP adoption. The scenario above is a conservative assumption and utilizes the lowest efficiency for types of practices that may be utilized (example – efficiency for grass buffer versus forested buffer).
 - The RMP scenario appears to be sufficient based on our analysis to meet the WIP I loads.
 - An official model run would be needed to fully verify the VAST estimates.
- 2) There is concern for the 9-year duration of the Certificate of Resource Management Plan Implementation.
- It should be noted that during the duration of this Certificate, material changes, non-TMDL related, are required to be addressed in a revised RMP. Additionally, CBF has suggested a 6-year Certificate. The department has recommended a 9-year certificate as first, it simply represents 3 nutrient management plan cycles. It should also be pointed out that this timeframe is not inconsistent with Board's stormwater general permit requirements that allow a permittee to operate up to two additional permit cycles under current standards (an additional 10 years) if they maintain general permit coverage. The 9 years was also viewed as a middle of the road approach as the agricultural community originally wanted a longer duration. Additionally, for a farmer to want to participate in this voluntary program which is key to its success, a longer certificate period was advisable.
- 3) It has been suggested that the requirement that “onsite inspections shall occur no less than once every three years on lands where an active Certificate of RMP Implementation has been issued” is an inadequate schedule to assure that Virginia is meeting its two-year milestones and 2017 commitments for reductions in nitrogen, phosphorus, and sediment loads from the agriculture sector in the Chesapeake Bay watershed.
- If the program is heavily prescribed for, a three year rotation is a very reasonable schedule from a workload perspective. The language also gives authority for more frequent inspections if the capability exists. CBF has requested inspections no less than once every two years or annual verification from the owner or operator that a RMP is being fully maintained.
 - The department and the agricultural community are not favorable to an annual verification as compliance would likely be low and enforcement of such a provision would be difficult. It is the object of the regulations to keep the program as simple as possible and have as little burden on the farmers as possible while still maintaining a sound voluntary program that will advance significant reductions.
 - As to the issue of three years versus two, again the regulations already provide authority to conduct inspections more frequently. Other compliance programs also have similar or greater inspection frequencies. For example, the AFO/CAFO inspection program includes a baseline inspection frequency of once every 3 years, which may become more frequent if compliance issues are present, or less frequent to no more than once every 4 years if all is in order.
- 4) There is concern that the regulations do not immediately “suspend” a certificate of an owner or operator when deficiencies in implementation of their plan have been observed during an inspection.
- Although the law prescribes that an owner or operator must fully implement and maintain an RMP to be afforded a Certificate, the department believes that instead of initially suspending a Certificate, that a preferred alternative to address maintenance of the RMP is to place the owner or operator

under an agreed upon corrective action agreement, through a prescribed process, until such time as the owner or operator is back in full compliance or it becomes necessary to revoke the certificate. Suspension of the Certificate would likely make the owner or operator subject to modifying their RMP to address new TMDLs, potentially result in additional costs to the owner of operator, and is not in keeping with the collaborative approach advanced in the regulations to implement this voluntary program.

Having outlined these key issues, the proposed regulations being recommended to you today by the Department reflect a reasonable balance and a sound process and the Department recommends that the Board approve and advance the proposed regulations as presented. This will allow for the regulations to be published and then be subject to a broader round of comments during a 60-day public comment period to see where further adjustments to the language may be warranted before the final regulations are advanced to the Board for consideration this fall. There is certainly time and opportunities for parties to come together on the items outlined above or those that you may hear during the comment period and we strongly feel that getting this regulation into a formal regulatory process and on the street will help advance those conversations.

With that overview of the regulations and the process, we are happy to answer any questions, or turn it back to you Madame Chairwomen for public comment and Board action. A motion for your consideration is provided.

Note: **§ 10.1-104.9. Regulations under this article.**

Regulations adopted by the Board for the enforcement of this article shall be subject to the requirements set out in §§ 2.2-4007.03, 2.2-4007.04, 2.2-4007.05, and 2.2-4026 through 2.2-4030 of the Administrative Process Act (§ 2.2-4000 et seq.), and shall be published in the Virginia Register of Regulations. The Board shall convene a stakeholder group to assist in development of these regulations, with representation from agricultural and environmental interests as well as Soil and Water Conservation Districts. All other provisions of the Administrative Process Act shall not apply to the adoption of any regulation pursuant to this article. After the close of the 60-day comment period, the Board may adopt a final regulation, with or without changes. Such regulation shall become effective 15 days after publication in the Virginia Register of Regulations, unless the Board has withdrawn or suspended the regulation or a later date has been set by the Board. The Board shall also hold at least one public hearing on the proposed regulation during the 60-day comment period. The notice for such public hearing shall include the date, time, and place of the hearing.

Requirements of §§ 2.2-4007.03, 2.2-4007.04, 2.2-4007.05, and 2.2-4026 through 2.2-4030:

§ 2.2-4007.03 – Board proposes regulation and publishes general notice of opportunity for oral or written submittals.

§ 2.2-4007.04 – DBP economic analysis.

§ 2.2-4007.05 – Completion and submittal of Town Hall form that discusses the regulatory action.

§§ 2.2-4026 through 2.2-4030 – Right for judicial review where specified.

Board questions and discussions

Ms. Hansen said that the Board was being asked to give approval to the proposed regulations, not final regulations. She said that the Board would review the regulations again after the public comment period.

Ms. Hansen called for public comment regarding the proposed regulations. She informed speakers that they would have three minutes each to give their remarks.

Ann Jennings, Chesapeake Bay Foundation

Ms. Jennings gave the following statement:

On behalf of the Chesapeake Bay Foundation, I wish to extend our sincere appreciation for the opportunity provided by the Department of Conservation and Recreation to participate on the Technical Advisory Committee for the Resources Management Plan regulations. CBF finds that the RMP program presents a regionally unique opportunity to accelerate implementation of agriculture best management practices and Virginia's compliance with its Chesapeake Bay Watershed Implementation Plan.

We urge the Soil and Water Conservation Board, however, to consider the delicate balance between designing a program to both maximize farmer participation and assuring that intended water quality improvements do materialize. Today, as you vote to move these draft regulations forward in the review process, we ask you consider three critical issues necessary to build reasonable assurance into this program:

- 1) Ensure that the review authority is properly positioned to direct significant decisions.
- 2) Ensure that the life of a Certificate of RMP Implementation does not delay important revisions to the RMP.
- 3) Ensure that the RMP standards, as currently proposed, do in fact meet the load allocation for the Chesapeake Bay TMDL, as required by statute.

To address these concerns, we ask you consider, for the first issue, revising line 325 of the draft regulations to specify that the Department rather than the RMP developer, make the determination that an RMP is up-to-date and does not require any revisions prior to issuance of Certificate of RMP Implementation. We believe it is completely inappropriate to delegate that important duty to a third party.

For the second issue, we ask the Board to consider shortening the life of the Certificate of RMP Implementation from nine years to six years. As currently drafted, these regulations provide no triggers to require implementation of a revised RMP during the life of a valid Certificate. Therefore, the Commonwealth would have no authority to compel implementation of a modified RMP if for instance there is a material change in the farm operation. Nor could the Commonwealth require implementation of a modified RMP if revisions to Virginia's Chesapeake Bay Watershed Implementation Plan in 2017, as scheduled, calls for implementation of additional best management practices. We maintain that designing the program with a shorter lifespan of the Certificate of RMP Implementation would afford the Commonwealth a greater opportunity to ensure execution of those BMPs required to maintain the water quality benefits of the program.

Finally, we urge the Board to instruct the Department to seek review of the RMP standards by the Environmental Protection Agency to insure that the list of best management practices does in fact achieve the agriculture local allocation for the Chesapeake Bay TMDL. We ask that EPA's review be publicly vetted and discussed at the next quarterly meeting of the Board and prior to completion of the public review period for the regulations. Failure to ensure that this program meets the targeted nitrogen, phosphorus, and sediment reductions for the agriculture sector will result in failure to reach the Commonwealth's restoration goals for the Chesapeake Bay.

We thank you for this opportunity to comment and appreciate the Board's consideration of CBF's concerns.

Wilmer Stoneman, Virginia Farm Bureau Federation

Madame Chair, members of the Board. My name is Wilmer Stoneman. I represent the 38,000 producer members of the Virginia Farm Bureau Federation, many of which are in the Chesapeake Bay Watershed.

So, I'm going to begin my comments this morning in the same way that I'll end them. I'll ask you to please move these regulations forward. It's time to take the next step toward public comment.

I say that as a member of the Technical Advisory Committee that came to consensus on these issues. The regulations certainly are not perfect at this point. But I have never seen a perfect regulation.

So, it's time to move forward. It's time to attempt to put these practices in place.

I was probably one of the first to mention a resource management plan in the context of a watershed implementation plan by way of a panel discussion in the General Assembly building nearly two years ago. It was the intent to offer a systems approach to addressing water quality in our TMDL.

I clearly understand by way of my work twenty years ago with the Hanover-Caroline Soil and Water Conservation District, where they taught me, I think well, about how a system can address water quality instead of applying practice after practice after practice and then coming up with a new list of practices.

It's a systems approach that will address water quality and get us where we need to go. And we think this resource management plan is it.

I also know from that work twenty years ago that a resource management plan in the context and the way we're describing it today is not new. We've done universal soil loss equations for a long time. In fact, that's how we get to T. We've done nutrient management plans for a long time and that's how we address nutrients.

The law recognizes some of the areas of difference or the areas of fill in the blanks, just like Chris Lawrence described to us during our TAC, that you need a cover crop every now and then, you need a buffer to fill in and make T of the universal soil loss equation work.

Lean heavily on the law as your rule of thumb as to where this regulation goes. We think it has a lot of promise, especially giving farmers the self-determination and the ability to decide what best management practices are appropriate for them.

I think the list of BMPs has been thoroughly vetted. A nutrient management plan already describes what those are. Soil conservation, we already know what those are, either by the way of our BMP technical guide or the NRCS field service technical guide.

The practices are there. We're not looking for silver bullets. We're simply using the fundamentals that we know and combining them into a system.

Again I ask that you move these regulations forward to their next step. Thank you.

Katie Frazier, Virginia Grain Producers Association

Good morning, Madame Chair, members of the Board. Katie Frazier with the Virginia Grain Producers Association. I want to associate my comments with the remarks Mr. Stoneman with the Farm Bureau made.

We certainly agree that the Board should vote to move this regulation forward to the public comment process.

Our members over the past three years have been looking for several things to come out of the Chesapeake Bay TMDL process. That includes flexibility and certainty as to what they are supposed to do.

Many of our grain producers, to be honest with you, when I look at the requirements that this is set out for to qualify for resource management plans probably already check most of those boxes. But the important thing is getting them into systems that will allow them to continue to make flexible changes to their operations and still provide some certainty as to what they have to do to meet the TMDL goals.

We feel like there has been a lot of negotiation throughout this process. There are probably more changes that need to come. There are some more tweaks that need to be made to the regulations to make them work for everyone.

But we do feel like they are in the best shape possible to be able to go out for public comment. We would like to be able to get them out to our members and other members of the agricultural community, so that they can provide you with the comments about how important this is to move us forward in water quality compliance in a reasonable manner.

Thank you.

Donna Johnson, Virginia Agribusiness Council

Thank you Madame Chair. Donna Johnson with the Virginia Agribusiness Council and we represent agricultural, forestry, and eco-business interests across the state. We've been very intricately involved in the development of not just these regulations but also the legislation.

We do believe that they represent a general consensus of the RAP. As some have mentioned there are a few things within the regulations that we will be providing you, through the public comment process, some suggestions for changes. We are looking

forward to that process continuing. I would echo Mr. Stoneman's comment that it's time to move these forward to the public domain to see what the response is. Let all of our members participate in that process.

As Mr. Stoneman said, it's not new, the BMPs and the practices that our farmers will be looking to do. It is a new process and we do need to make sure that the process is not overly bureaucratic and does provide an incentive for our farmers to participate.

With that regard we are looking to DCR and also looking within the RAP to determine what incentives should be in place for farmers to participate. We anticipate that being a next step as well.

So I would encourage you today to move the regulations that you have before you to the public process. We look forward to working with you and the department in finalizing some of the issues that are still outstanding.

Thank you.

Bill Street, James River Association

Good afternoon members of the Board. Thank you very much for the opportunity to comment. I want to commend you for adding a Street to your ranks. There's no known relation, but there very well could be back in time.

James River Association sees the resource management plan as an important tool to reach our water quality goals. We supported the legislation as it was making its way through the General Assembly and through a lot of discussion with important stakeholders. We believe it still can be an important tool.

As David said, the real meat of the issue is what are those minimum standards? Are they sufficient to implement the WIP and meet our goals?

We believe that the legislation as it's laid out does achieve that. Some new language was added since the last meeting on the minimum standards, and particularly the cover crop that draws some question in our mind as to whether we will fully meet those practices and those water quality goals.

If the cover crops are specifically dependent on another element of the minimum standards we feel that effectively removes that as a minimum standard.

We urge the Board to ensure, one that the practices do fully meet the TMDL WIP requirements that the criteria are in place to ensure that cover crops are applied sufficiently. The WIP that the Commonwealth has submitted calls for fifty percent of crop land to be enrolled. That's a high level. Currently, cover crops are applied at about half the rate that we need under the current nutrient management plans.

So, certainly we see a need to increase in the adoption of that key practice. We encourage you to make sure that is going to happen. Make sure that's consistent with the law and the practices that are specified there.

We look forward to working with the Department and other stakeholders, and the Board to ensure that all of these "what ifs" Madame Chair referred to really address all of the situations that could occur and ensure that what we all envision. And I think there is a lot of agreement on what we envision, but it requires a lot of discussion to make sure that things don't fall through the cracks.

So, thank you very much. We look forward to working with you.

Chairman Hansen said that she appreciated the comments. She said that she agreed that periodic briefings would be helpful.

Mr. Branin asked if any consideration had been given to making the length of the plan six years as opposed to nine.

Mr. Dowling said that there were multiple ways of looking at the nine years. Nutrient management plans have a three-year planning cycle and nine years represents 3 cycles. Additionally, and more importantly, a farmer will take some time to get all of the BMPs in place and there are costs associated with that. The thought for the nine years was to give a farmer protection and to make the permit duration long enough to serve as a sufficient incentive for the farmer to participate. He said that also the nine years was not that different from the permit duration allowed in the stormwater management regulations.

Mr. Branin asked if a mandatory program had been considered.

Mr. Dowling said that the Department did look at a mandatory approach, but in discussions with stakeholders determined that was not the best approach. He said that the approach was to try the voluntary RMP approach first.

Ms. Hansen said that ultimately if the goals are not met through a voluntary program, there may need to be reconsideration.

Ms. Jamison asked if the economic impact for Soil and Water Conservation Districts was considered. She asked if practices were already implemented would the paperwork have to start from the beginning.

Ms. Hansen noted that the language referred to demonstrating compliance with existing practices.

Ms. Jamison asked what DCR envisioned that Districts would have to do to move this forward.

Mr. Johnson said that, as envisioned, an onsite farm visit is in order. If a farm is doing cost share practices, that would be captured immediately. The plan does review what farms already have in place. He said that the key element was that with the regulation there is a common foundation. The regulation makes the approach the same and predictable.

Mr. Lohr asked why a producer would want to participate on a voluntary basis. He asked what the incentive or reward was.

Ms. Hansen said that the general concept was the contribution to clean water and how to best get everyone to participate. She said in the future, a voluntary approach may not be appropriate.

Mr. Dowling said that with the certificate, the farm would be deemed in compliance and for the duration of the permit not be subject to any new load allocation in a TMDL or watershed implementation plan.

Mr. Hornbaker said that he supported the regulations, but had a question concerning the economic impact. He said that he would like to hear from the Soil and Water Conservation Districts regarding how many participants they would expect in the first year or so. He asked how many certified nutrient management plan writers were available in Virginia. He also asked whether the plan would go with the operator or the owner of the land.

Mr. Dowling said that the plan would remain with the operator. He said that if the operator changed, the regulations do specify the means to transfer the plan to a new owner or operator of the land.

MOTION: Mr. Hornbaker moved the following

Motion to approve, authorize and direct the filing of proposed regulations related to the Board's Resource Management Plan regulations (4VAC50-70-10 et seq.)

The Board approves these proposed regulations and authorizes the Director of the Department of Conservation and Recreation and the Departmental Regulatory Coordinator to submit on the Virginia Regulatory Town Hall the new proposed Resource Management Plan Regulations and any other associated documents to the Department of Planning and Budget for review and upon approval to the Registrar of Virginia for publication. The review of the regulations shall be conducted in accordance with modified Administrative Process Act procedures set out in § 10.1-104.9 of the Code of Virginia.

As part of the process, the Board further authorizes at least one public hearing to be held by the Department following publication of the proposed regulations in the Virginia Register of Regulations and that the Department make provisions to receive public

comment concerning the proposed regulations. Upon the closing of the public comment period, the Department is authorized to make revisions to the proposed regulations in response to the comments received and to hold additional stakeholder group meetings as it deems necessary.

The Department shall follow and conduct actions in accordance with the modified Administrative Process Act procedures set out in § 10.1-104.9 of the Code of Virginia, the Virginia Register Act, the Board's Regulatory Public Participation Procedures where applicable, the Governor's Executive Order 14 (2010) on the "Development and Review of Regulations Proposed by State Agencies" where applicable, and other applicable technical rulemaking protocols.

This authorization extends to, but is not limited to, the posting of the approved action to the Virginia Regulatory Town Hall and the filing of the proposed regulations and documents with the Virginia Registrar's Office, the holding of at least one public hearing during the 60-day public comment period, as well as the coordination necessary to gain approvals from the Department of Planning and Budget and the Virginia Registrar of Regulations.

The Board requests that the Director or the Regulatory Coordinator report to the Board on these actions at subsequent Board meetings.

SECOND: Mr. Branin

DISCUSSION: None

VOTE: Motion carried unanimously

Dam Safety and Floodplain Management

Mr. Bennett gave the Dam Safety and Floodplain Management Report.

Mr. Bennett referred to a press release announcing the interstate cooperation agreement with North Carolina to provide comprehensive floodplain information. He said that this program gives a platform to collect critical risk data including dam break inundation zones. A copy of the press release is available from DCR.

Mr. Bennett said that DCR would be announcing the 2012 grants available to dam owners and localities as well as flood prevention projects. The funding amount available is \$765,000. This is being announced on the DCR website and through newsletters. Applications are due on June 1.

Mr. Bennett reviewed the list of high hazard dams. A copy of that list is available from DCR. He said that the number of high hazard dams was increasing. He said that was due to the completion of inundation studies that raises awareness of downstream hazards.

Working with VDOT, DCR is continuing the dam dragnet to scan all of Virginia's water bodies in an attempt to locate dams not previously discovered.

Mr. Bennett gave the update on four high hazard dams.

Rainbow Forest Dam has lowered the lake level as a result of the Director's administrative order. The owners are having the necessary engineering work done and have requested funding through the state budget.

Mountain Valley Lake Dam in Henry County is one of several that does not have a permit. DCR is partnering with the Army Corps of Engineers and DEQ.

The Farmville dam recently changed ownership. DCR enforcement attorney Anne Crosier has met with the owners to set up a schedule of compliance.

Lowry Dam in Loudoun County is new on the enforcement list. This is a high hazard dam and little has been done to correct deficiencies.

Ms. Hansen said that she was particularly excited about the cooperation with North Carolina. She said that she had long been concerned about getting accurate data concerning high hazard dams.

At this time the Board recessed for lunch.

Following lunch, Ms. Hansen reconvened the meeting and turned to Mr. McCutcheon for the Erosion and Sediment Control actions.

Erosion and Sediment Control

Mr. McCutcheon presented the Erosion and Sediment Control report.

Local ESC Programs to be found Consistent

Mr. McCutcheon presented the programs to be found consistent. He suggested that the Board could vote in block for these items.

City of Danville

Staff conducted a program review of the City of Danville's ESC Program on October 5, 2011 and conducted a close out meeting with the City. The scores for the individual program elements were as follows: Administration – 95 – Plan Review 80 – Inspection 80 – Enforcement 100. All program elements received a score of 70 or higher. Therefore, staff recommends that the Virginia Soil and Water Conservation Board find the City of Danville's Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

Rockingham County

Staff conducted a program review of the Rockingham ESC Program on October 27, 2011 and conducted a close out meeting with the County. The scores for the individual program elements were as follows: Administration 100 – Plan Review 80 – Inspection 100 – Enforcement 100. All program elements received a score of 70 or higher. Therefore, staff recommends that the Virginia Soil and Water Conservation Board find the Rockingham County Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

James City County

Staff conducted a program review of the James City County ESC Program on September 2, 2011 and conducted a close out meeting with the County. The scores for the individual program elements were as follows: Administration 100 – Plan Review 100 – Inspection 95 – Enforcement 100. All program elements received a score of 70 or higher. Therefore, staff recommends that the Virginia Soil and Water Conservation Board find the James City County Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

City of Buena Vista

Staff conducted a program review of the Buena Vista ESC Program on December 6, 2011 and conducted a close out meeting with the City. The scores for the individual program elements were as follows: Administration 95 – Plan Review 100 – Inspection 100 – Enforcement 100. All program elements received a score of 70 or higher. Therefore, staff recommends that the Virginia Soil and Water Conservation Board find the Buena Vista Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

King George County

Staff conducted a program review of the King George County ESC Program on October 6, 2011 and conducted a close out meeting with the County. The scores for the individual program elements were as follows: Administration 95 – Plan Review 75 – Inspection 70 – Enforcement 80. All program elements received a score of 70 or higher. Therefore, staff recommends that the Virginia Soil and Water Conservation Board find the King George County Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

Southampton County

Staff conducted a program review of the Southampton County ESC Program on January 10, 2012 and conducted a close out meeting with the County. The scores for the individual program elements were as follows: Administration 80 – Plan Review 80 – Inspection 100 – Enforcement 100. All program elements received a score of 70 or

higher. Therefore, staff recommends that the Virginia Soil and Water Conservation Board find the Southampton County Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

MOTION: Mr. Dunford moved that the Virginia Soil and Water Conservation Board commend the City of Danville, Rockingham County, James City County, the City of Buena Vista, King George County and Southampton County for successfully implementing their respective Erosion and Sediment Control Programs to be fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

SECOND: Mr. Simms

DISCUSSION: None

VOTE: Motion carried unanimously

CAA's to be found consistent

City of Covington

The Virginia Soil and Water Conservation Board approved the extension of the City of Covington's Corrective Action Agreement with a completion date of December 1, 2011 due to a lack of land disturbing projects. Since the extension, several projects have been submitted for construction with sufficient information to complete the requirements of the CAA. Department of Conservation and Recreation staff has reviewed Covington's progress on implementing the CAA. Based on that review, staff has determined that the City of Covington has completed all of the required items on the CAA and recommends that the Virginia Soil and Water Conservation Board find the City of Covington's Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

Town of Blacksburg

The Virginia Soil and Water Conservation Board approved the Corrective Action Agreement for the Town of Blacksburg at the December 8, 2011 meeting and found the Town to be inconsistent with the Virginia Erosion and Sediment Control Law and Regulations. The Town accepted and signed the CAA on January 26, 2012. Staff conducted a CAA review on March 9, 2012 and determined that the Town has completed the required item of the CAA and recommends that the Virginia Soil and Water Conservation Board find the Town of Blacksburg's Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

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Northumberland County

Northumberland County is currently under an administrative extension of its CAA which the Board adopted at the May 2011 meeting to allow staff to gather further documentation on the County's inspection program. Staff visited the County on two occasions, once on July 14, 2011 and again on August 19, 2011. During these visits staff discovered two unresolved complaints resulting from projects that started and are now complete without an approved Erosion and Sediment Control Plan. One project which had repeated violations of the approved E&S plan and Minimum Standards had not been elevated to any enforcement action. Staff updated the existing CAA to show that the Enforcement component of Northumberland's program, previously found consistent, was found again not consistent with the original CAA approved by the Board. Staff worked with Northumberland County to develop milestones to complete the CAA and achieve a consistent status in six months.

Staff conducted the final CAA review on March 5, 2012 and met with County officials on March 6, 2012 to discuss the findings. Northumberland appears to have completed all of the milestones presented to the Board and the remaining items on the CAA. Therefore, staff recommends that the Virginia Soil and Water Conservation Board find the Northumberland County Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

MOTION: Mr. Lohr moved that the Virginia Soil and Water Conservation Board commend the City of Covington, the Town of Blacksburg and Northumberland County for successfully implementing their respective Erosion and Sediment Control Programs to be fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

SECOND: Mr. Dunford

DISCUSSION: None

VOTE: Motion carried unanimously

Local Programs to be found Inconsistent, Approve CAA

Town of Stephens City

Staff conducted a program review of the Town of Stephens City ESC Program on October 13, 2011 and conducted a close out meeting with the Town. The scores for the individual program elements were as follows: Administration 65 – Plan Review 15 – Inspection 70 – Enforcement 100. All program elements did not receive a score of 70 or

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greater. Therefore, staff recommends that the Virginia Soil and Water Conservation Board find the Town's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the Town.

Town of Pulaski

Staff conducted a program review of the Town of Pulaski ESC Program on October 25, 2011 and conducted a close out meeting with the Town. The scores for the individual program elements were as follows: Administration 90 – Plan Review 100 – Inspection 30 – Enforcement 70. All program elements did not receive a score of 70 or greater. Therefore, staff recommends that the Virginia Soil and Water Conservation Board find the Town's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the Town.

Town of Farmville

Staff conducted a program review of the Town of Farmville ESC Program on September 27, 2011 and conducted a close out meeting with the Town. The scores for the individual program elements were as follows: Administration 75 – Plan Review 65 – Inspection 50 – Enforcement 80. All program elements did not receive a score of 70 or greater. Therefore, staff recommends that the Virginia Soil and Water Conservation Board find the Town's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the Town.

Town of Wytheville

Staff conducted a program review of the Town of Wytheville ESC Program on September 21, 2011 and conducted a close out meeting with the Town. The scores for the individual program elements were as follows: Administration 95 – Plan Review 30 – Inspection 40 – Enforcement 0. All program elements did not receive a score of 70 or greater. Therefore, staff recommends that the Virginia Soil and Water Conservation Board find the Town's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the Town.

Wythe County

Staff conducted a program review of the Wythe County ESC Program on September 28, 2011 and conducted a close out meeting with the County. The scores for the individual program elements were as follows: Administration 85 – Plan Review 10 – Inspection 65 – Enforcement 40. All program elements did not receive a score of 70 or greater. Therefore, 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.

Orange County

Staff conducted a program review of the Orange County ESC Program on December 1, 2011 and conducted a close out meeting with the County. The scores for the individual program elements were as follows: Administration 65 – Plan Review 80 – Inspection 60 – Enforcement 80. All program elements did not receive a score of 70 or greater. Therefore, 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.

Amelia County

Staff conducted a program review of the Amelia County ESC Program on October 18, 2011 and conducted a close out meeting with the County. The scores for the individual program elements were as follows: Administration 95 – Plan Review 10 – Inspection 25 – Enforcement 0. All program elements did not receive a score of 70 or greater. Therefore, 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.

Ms. Hansen asked if there were comments from the localities.

Will Nash from Farmville said that he appreciated the DCR team that performed the audit. He said that the Town understood what was necessary and that they had already initiated corrective actions.

MOTION: Mr. Lohr moved that the Virginia Soil and Water Conservation Board accept the recommendations to find the respective Erosion and Sediment Control Programs of the Town of Stephens City, the Town of Pulaski, the Town of Farmville, the Town of Wytheville, Wythe County, Orange County, and Amelia County inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approves the respective CAAs as drafted for each locality. The Board directs DCR staff to monitor the implementation of the CAAs by each locality to ensure compliance.

SECOND: Mr. Simms

DISCUSSION: None

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VOTE: Motion carried unanimously

Changes of Status for Rappahannock County-upgrade to Conditionally Consistent.

Mr. McCutcheon said that this change of status was for the purposes of notifications and that no Board action was required.

Linear 2012 Annual Standards and Specifications

Mr. McCutcheon said that the following actions were submitted by utility and railroad companies regarding their linear projects.

Ms. Hansen said that at the last meeting the Board had expressed concern about the inspection and oversight. She asked for an update.

Mr. McCutcheon said that the Division had made a decision that it would be more efficient if inspectors in the regional offices did the inspections of linear projects. Staff is moving forward in that regard. He said that a secondary issue was that local governments had not always been notified of projects. That is also being corrected.

2012 Annual Standards and Specifications for Utility and Railroad Companies

MOTION: Mr. Simms moved the following:

The Virginia Soil and Water Conservation Board receives the staff update concerning the review of the 2012 annual standards and specifications for electric, natural gas, telecommunication, and railroad companies. The Board concurs with staff recommendations for conditional approvals of the 2012 specifications and the request for variances listed below for the utility companies in accordance with the Erosion and Sediment Control Law. The Board requests the Director to have staff notify said companies of the status of the review and the conditional approval of the annual standards and specifications and the request for variances.

Companies recommended for conditional approval with the following 4 conditions are:

- CSX Railroad
- Dominion Gas Transmission/Resources
- First Energy
- Va. Association of Electric Cooperatives
- Virginia Natural Gas
- Washington Gas
- Williams/Transco

The four items for conditional approval are:

1. A revised list of all proposed projects planned for construction from January 01, 2012 to December 31, 2012 must be submitted by April 30, 2012. 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 April 30, 2012 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: Mr. Hornbaker

DISCUSSION: None

VOTE: Motion carried unanimously

2012 Annual Standards and Specifications for Utility and Railroad Companies and Request for Variance – Norfolk Southern Railroad

MOTION: Ms. Jamison moved the following:

The Virginia Soil and Water Conservation Board receives the staff update concerning the review of the 2012 annual standards and specifications for Norfolk Southern Railroad. The Board concurs with staff recommendations for conditional approval for the 2012 specifications and the request for variances listed below for the railroad company in accordance with the Erosion and Sediment Control Law. The Board requests the Director to have staff notify said company of the status of the review and the conditional approval of the annual standards and specifications and the request for variances.

1. A revised list of all proposed projects planned for construction in 2012 must be submitted by April 30, 2012. 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 April 30, 2012 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.
 5. Minimum Standard 16.a: The project may have more than 500 linear feet of trench length opened at one time provided that all trenches in excess of 500 feet are adequately backfilled, seeded, and mulched; or backfilled and covered with crushed stone at the end of each work day and adjacent property and the environment are protected from erosion and sediment damage associated with the regulated land disturbing activity.

SECOND: Mr. Dunford

DISCUSSION: None

VOTE: Motion carried unanimously

2012 Annual Standards and Specifications for Utility and Railroad Companies and Request for Variances – Virginia Cable Telecommunications Association

Mr. McCutcheon presented the requested variances.

Mr. Dunford asked if there had been complaints and whether this Association covered projects across the entire state.

Mr. McCutcheon said that utility companies use annual standards and specifications because they work in multiple jurisdictions and preparing specific plans for review and

approval by each locality is not practical. Companies do prepare Erosion and Sediment Control plans and Stormwater plans for each project that are kept on site.

Ms. Hansen said that she would be interested in seeing a history of inspections related to these projects.

Ms. Jamison suggested a representative of the Association could speak to the Board.

MOTION: Mr. Simms moved the following:

The Virginia Soil and Water Conservation Board receives the staff update concerning the review of the 2012 annual standards and specifications for Virginia Cable Telecommunications Association. The Board concurs with staff recommendation for conditional approvals of the 2012 specifications and the request for variances listed below for the utility company in accordance with the Erosion and Sediment Control Law. The Board requests the Director to have staff notify said company of the status of the review and the conditional approval of the annual standards and specifications and the request for variance.

1. A revised list of all proposed projects planned for construction in 2012 must be submitted by April 30, 2012. 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 April 30, 2012 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.
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.

6. Minimum Standard 16.b: The variance to this minimum standard is not necessary due to Minimum Standard 16.f which allows applicable safety regulations to supersede the Virginia Erosion and Sediment Control Regulations.

SECOND: Mr. Hornbaker

DISCUSSION: None

VOTE: Motion carried unanimously

Request for Variance – Williams/Transco 1551 Project

Mr. McCutcheon said that this was a request for 1000 feet of open trench. He said that DCR staff was recommending approval but with some additional conditions. The project is located in Culpeper County.

Mr. Ingle asked why a trench would need to be longer and open for 21 days.

Mr. McCutcheon said that this was a gas line and he believed the request was due to the nature of the work.

Mr. Dunford asked the general rule.

Mr. McCutcheon said that the regulations specify 500 feet. Up to 2 miles has been approved in the past.

Mr. Street asked about safety protocols and suggested that be added to the motion.

Ms. Hansen suggested that language be added to the effect that, where indicated and because of surrounding areas, additional safety measures will be taken.

MOTION: Mr. Street moved the following:

The Project Specific Variance request is for the MLA/MLB MP 1551 Pipeline Replacement Project Located in Culpeper County. It is scheduled to commence in May of Calendar Year 2012. Williams/Transco is requesting a variance to Minimum Standard 16a. which allows no more than 500 linear feet of trench to be open at one time.

1. Williams-Transco will fund and provide a DCR Certified Erosion and Sediment Control Inspector in addition to the normal Environmental Project Inspectors. The DCR Certified Inspector will provide inspection services per the DCR approved scope of work. The scope of work shall include provisions that inspections will be conducted and documented at the following frequency: during

- or immediately following the installation of erosion and sediment control measures, at least once every seven days, within 24 hours of a runoff producing event (0.25-inch rainfall event) and following completion of the project till adequate vegetative cover is fully established. Inspection reports will be e-provided weekly to staff in DCR's Warrenton Office.
2. Individual sections of excavated open trench shall not exceed 1,060 linear feet in length and individual sections of excavated open trench shall not remain open for longer than 21 days.
 3. A pre-construction site reconnaissance visit with Williams-Transco personnel and DCR Warrant Office staff shall be jointly conducted.
 4. Where indicated, because of surrounding areas and uses, additional safety measures will be taken as determined by DCR staff or DCR Certified inspectors.

SECOND: Ms. DuBois

DISCUSSION: None

VOTE: Motion carried with Mr. Dunford voting no.

2012 Wetland and Stream Restoration Bank Annual Standards and Specifications

2012 Annual Standards and Specifications for Wetland and Stream Restoration Banks and Request for Variance – Falling Springs, LLC.

MOTION: Mr. Street moved the following:

The Virginia Soil and Water Conservation Board receives the staff update concerning the review of the 2012 annual standards and specifications for wetland and stream restoration bank construction by Falling Springs, LLC. The Board concurs with staff recommendations for conditional approval of the 2012 specifications for Falling Springs, LLC in accordance with the Erosion and Sediment Control Law. The Board requests the Director to have staff notify Falling Springs, LLC 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 2012 must be submitted by April 30, 2012. 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 April 30, 2012 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.
 5. Variances to Minimum Standard 6.a. and 6.b. are granted such that projects may utilize a modified sediment trap for drainage areas less than three acres and a modified sediment basin for drainage areas three acres and greater.
 6. A variance to Specification 3.32 of the Virginia Erosion and Sediment Control Handbook is granted to allow the use of an acceptable native herbaceous wetland seed mixture.

SECOND: Ms. Jamison

DISCUSSION: None

VOTE: Motion carried unanimously

2012 Annual Standards and Specifications for Wetland and Stream Restoration Banks – Angler Environmental

MOTION: Mr. Dunford moved the following:

The Virginia Soil and Water Conservation Board receives the staff update concerning the review of the 2012 annual standards and specifications for wetland and stream restoration bank construction by Angler Environmental. The Board concurs with staff recommendations for conditional approval of the 2012 specifications for Angler Environmental in accordance with the Erosion and Sediment Control Law. The Board requests the Director to have staff notify Angler Environmental 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 2012 must be submitted by April 30, 2012. 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 April 30, 2012 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 by e-mail at the following address: MitigationBank@dcr.virginia.gov. The following 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. – 6.b. and Specification 3.05 and 3.13 is granted such that the project may use reinforced silt fencing in lieu of a sediment trap in areas with slopes less than 2% and when the contributing drainage area is three acres or less, and use a modified sediment trap in lieu of a temporary sediment basin when the contributing drainage area exceeds three acres as proposed in the 2012 Annual Specifications.

SECOND: Mr. Lohr

DISCUSSION: None

VOTE: Motion carried unanimously

Submission of Alternative Inspection Programs

Greensville County

Greensville County is currently under an extended CAA with one item in the Inspection component remaining to complete. The remaining item is inspection of land disturbing projects within the frequency required by the Virginia Erosion and Sediment Control Regulations. Greensville County has submitted this proposed alternative inspection program to allow the County to establish a system to prioritize inspections in order to more effectively utilize its program staff to meet the requirements of the regulations.

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Amelia County

The program review completed for Amelia County found that the program did not provide inspections of land disturbing activities at the frequency required by the Virginia Erosion and Sediment Control Regulations. Amelia County is requesting to implement this proposed alternative program to allow the County to establish a system to prioritize inspections in order to more effectively utilize its program staff to meet the requirements of the regulations.

Henrico County

Henrico County submitted this proposed alternative inspection program in order to eliminate the requirement that the program inspect its land-disturbing activities within 48 hours following any runoff producing storm event. The County feels that this inspection requirement is not feasible given the number of projects the program is responsible for. This request is the result of a recent review of the County's program by the EPA.

MOTION: Mr. Street moved that the Virginia Soil and Water Conservation Board accept for review the Alternative Inspection Programs for Greensville County, Amelia County, and Henrico County and request that staff review these programs in order to make recommendations at the next meeting of the Board.

SECOND: Mr. Dunford

DISCUSSION: None

VOTE: Motion carried

Program Reviews for Fiscal Year 2013

Mr. McCutcheon said that staff planned to conduct plan reviews in the following localities during Fiscal Year 2013:

Big Sandy SWCD, Bland County, Dickenson County, Galax City, Tazewell County, Pulaski County, Town of Dublin, Charlotte County, Giles County, Henry County, Lunenburg County, City of Martinsville, Town of Narrows, Bedford County, Patrick County, Dinwiddie County, Goochland County, Richmond City, Louisa County, Nottoway County, Albemarle County, Page County, Nelson County, City of Staunton, Accomack County, Town of Cape Charles, Northampton County, City of Emporia, City of Newport News, City of Norfolk, Charles City County, City of Fredericksburg, Lancaster County, Mathews County, City of Williamsburg, City of Alexandria, Greene County, Town of Berryville, Culpepper County, Loudoun County

Division Director's Reports

Division of Stormwater Management

Mr. Peck gave the following report:

Office of Conservation and Restoration Programs

Conservation Partner Employee Development

The conservation partners continue to work through the Joint Employee Development (JED) system which relies on four 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 August 2, 2011.

The state level JED team continues to focus on the delivery of three core courses. The short course "Conservation Selling Skills" has been held at least annually for the past 10 years. The course was delivered on November 9-10, 2011, at the Frontier Culture Museum in Staunton, Virginia with 18 attendees representing SWCDs and DCR. The state JED committee has recommended that the delivery of the EP&I ("Effective Presentation and Instruction") short course be contracted out to the private sector. Due to retirements and job changes there currently is an inadequate number of trainers to deliver the course by staff from the partner agencies. The third core course – "Conservation Orientation for New Employees" – is now available at a regional scale. Since the course was last offered in February 2007, sufficient turnover of SWCD and conservation partner staff will mean that a week-long course will be offered. The state level JED team will revisit a discussion about delivery of this course in 2012-2013. Delivery in the Richmond area would minimize travel by the majority of trainers from NRCS and conservation partners.

Virginia Agricultural BMP Cost Share (VACS) Program Development

The Virginia Agricultural BMP Cost Share Program Technical Advisory Committee (TAC) is continuing its consideration of Agricultural RMP specifications. The TAC met January 4, and February 16, 2012. The final meeting was held on March 8. The TAC is working to generate consistent language between BMPs that provide similar benefits. Another project involves crafting consistent lifespan language and specifications formats for all BMPs. A 2012 supplemental cost share allocation has been finalized and was mailed March 5. Soil and Water Conservation Districts provided DCR with estimates of the amount of the amount of cost share funds that could be used to implement stream exclusion practices, animal waste practices, and selected priority practices.

Nutrient Management Program Activities

The nutrient management section recently conducted two examinations for nutrient management certification, one for agricultural and one for Turf and Landscape. Over 50 people participated in this examination which is a record number of applicants.

Currently, Virginia has a record of 906,754 acres under current nutrient management in the state. The Bay watershed now has 759,448 acres under nutrient management, also a record. This acreage currently exceeds our 2013 goal established in Virginia's Watershed Implementation Plan (WIP).

The program manager also participated on three different expert panels to address efficiencies or nutrient reductions in the input into the Bay model. The Expert panels will have reports to EPA before the end of the year on what the scientific research supports. The program manager also met with three separate biosolids groups to discuss issues they have in applying biosolids during winter months. He has asked for opinions and options from Virginia Tech and the USDA ARS for opinions on proper management of organics to small grains in the October to January time frame.

TMDL Activities

DCR is continuing work on a TMDL bacteria implementation plan in the following watersheds across the Commonwealth: Lower Banister River, Sandy Creek, and Polecat Creek in Halifax County. IP development is underway in the Spout Run and Page Brook watersheds in Clarke County. The first public meeting will be in April.

DCR and NRCS staff held a TMDL implementation projects coordination meeting on February 22 at the NRCS state office to discuss various implementation topics and to discuss the start-up of some new implementation projects in 2012 and the close-out of several projects at the end of December.

Staff developed a draft report on the water quality improvement progress for 14 TMDL implementation projects started back in 2007 with eight Soil and Water Conservation Districts using WQIF funds for agricultural BMPs. The findings of this report are being used to determine which projects will be continued beyond June 30, 2013.

Staff developed a draft report on the implementation progress for all 25 TMDL Implementation projects active in 2011 using federal 319H for agricultural, urban and residential septic BMPS as well as state WQIF and VNRCS for agricultural BMPs. This report is part of Virginia's Nonpoint Source Management Plan and will be shared with the Environmental Protection Agency.

Office of Regulatory Programs

Chesapeake Bay TMDL

Phase I of Virginia's Watershed Implementation Plan (WIP) to address the Chesapeake Bay TMDL was approved by EPA in December 2010. The Phase II WIP, required for

each Bay state, carries the implementation planning to a smaller scale to supplement the information in the Phase I WIP. DCR staff met with Planning District Commissions, Soil and Water Conservation Districts, localities, and federal facilities within Virginia's Chesapeake Bay Watershed to engage and assist them in the Phase II process. The local stakeholders were asked to gather and verify BMP information, evaluate the Bay Model's land use data, develop potential strategies to implement additional BMPs to meet the Bay TMDL local reduction goals, and identify resources needed to execute the plan. Ninety-five percent of the localities responded either locally or regionally to the data request, thirty-nine percent of the federal landholding agencies responded. Based on these responses, staff has drafted the Phase II WIP. The document was reviewed by a Stakeholder Advisory Group March 15, is currently completing executive review, and is due to EPA by March 30. A public comment period on the document will run from April 1 through May 31. To learn more about EPA's expectations of the Bay states, visit the official EPA website for Bay TMDL information at www.epa.gov/chesapeakebaytmdl/. Details of the Phase II WIP can be found on DCR's website for the Bay TMDL at <http://www.dcr.virginia.gov/vabaytmdl>.

Concurrent Chesapeake Bay Preservation Act and Erosion and Sediment Control Local Program Reviews

Beginning in the Fall of 2011, DCR Regulatory Programs staff initiated a pilot program to evaluate how conducting local Bay Act and E&S programs can work. Stafford County is currently undergoing a concurrent review, which should be finalized by April. The other localities that will undergo concurrent reviews are Accomack and Northampton Counties on the eastern shore (not only will the program reviews be done concurrently, but the localities will be done together as well) and the City of Alexandria. Staff is also considering doing a concurrent review for the County of Hanover. During these reviews staff will evaluate the following:

- Savings in time for both DCR and local staff in conducting the reviews concurrently,
- Possible impediments such as inability of localities to commit the resources necessary for a concurrent review, as these reviews will take longer than doing the program reviews separately,
- Any process changes to make the reviews work better.

Staff is also preparing a survey to be sent to the local governments to determine what benefits the local governments identify and options for conducting the reviews. The results of the concurrent reviews and the survey will be reported to Department leadership in December of this calendar year.

Stormwater Management Program

Revised Stormwater Management Regulations

The revised Virginia stormwater regulations became effective September 13, 2011, with an implementation date of July 1, 2014. DCR has initiated a “Stormwater Regulation Roll-Out” process that includes the development of a comprehensive, multi-phased education and training program for local staff and private sector engineers and the development of a tool box for local governments to use in the establishment of their local stormwater programs. Included in this tool box will be a model ordinance, checklists of minimum local program provisions, and template plan review checklists among other items. Working with the Center for Watershed Protection, DCR has developed a Runoff Reduction Method spreadsheet tool to use in revised regulation compliance. A User’s Guide is under development. A Stormwater Enterprise Website to facilitate locality tracking and reporting is also under development. A Stormwater Local Government Advisory Board has been established to work with DCR in the “Stormwater Regulation Roll-Out”. In addition, the Agency is identifying funding sources to assist with local government program “start up” costs.

Nutrient Trading Program

DCR, working with the Department of Environmental Quality, currently run the Commonwealth’s nutrient trading and offsets program. The 2012 General Assembly passed legislation (HB176 and SB77) that will greatly expand the current program. The legislation provides clarity to the existing non-point offsets program and creates the Nutrient Trading Act. DCR expects to begin the regulatory process in July 2012.

Virginia Stormwater Management Permits (VSMP)

Division staff has issued VSMP permit coverage to 346 land disturbing projects since January 1. This is compared to 248 VSMP permit coverages issued during the same time period in 2011. Regional office staff continues to conduct inspection and follow-up to ensure compliance with the VSMP permit.

Erosion and Sediment Control (E&S)

Local Program Review status:

- Six programs recommended to be found consistent from the program reviews completed
- Two programs completed corrective action agreements and are recommended to be found consistent
- Six programs recommended to be found inconsistent and have a corrective action agreements approved
- Three localities have submitted alternative inspection programs for consideration
- Nine utility and railroad companies have submitted annual standards and specifications recommended for approval. One company that already has approved annual specifications is requesting a variance for a specific project.

Two wetland and stream restoration banks have submitted annual standards and specifications for approval.

Training

In 2012, there have been five E&S classes taught by DCR staff and preparations are underway for the Certification examination in May. In anticipation of revised stormwater management regulations implementation in 2014, training and certification staff has begun developing plans for expanding the E&S training program to include post-construction stormwater management.

Central Office staff has been working with the Regional Managers and regional staff to transfer the inspection of utility and railroad projects operating under annual standards and specifications to the regional offices. The regional offices are notifying local governments of these linear projects going on in their jurisdictions.

Municipal Separate Storm Sewer System (MS4) Permits

Review is continuing of the 91 Phase II MS4 Annual Reports. When necessary, Division staff conducts site visits to follow-up on concerns raised during Annual Report review. Recently EPA has begun conducting audits at selected Phase II MS4s. To date, EPA has audited Charlottesville, Fort Lee, George Mason University, Lynchburg, Richmond, and Spotsylvania. Additional audits are expected in the future. Division staff attends all EPA audits.

In September 2011, EPA conducted a review of Virginia's urban stormwater programs. At the same time, the organizational management of the programs was undergoing an internal restructuring. EPA's draft assessment of Virginia's urban stormwater programs as presented in December 2011, failed to capture the changes in program management and resulting progress made in program implementation as a result of the restructuring. After discussion with EPA, Virginia submitted comments on the draft assessment in December 2011, and currently awaits a final assessment. As a result of the EPA discussions and upon receipt of a final assessment from EPA, Virginia expects to work with EPA on a document that outlines the current status and future expectations of Virginia's urban stormwater programs. The document may include:

- A strategy and schedule for the development of proposed permits for all eleven administratively continued Phase I MS4s. Significant progress toward the issuance will be made in 2012.
- A process and schedule for revising the Phase II MS4 general permit.
- A schedule for development of a compliance management strategy for the MS4 program.
- A compliance management strategy for the stormwater program.

Continuing improvements and progress in Virginia's Stormwater Management Programs, along with the commitments embodied in the MOU and in this document, sufficiently address the improvements EPA requested in their review of Virginia's Draft Phase II WIP.

Regional Operations

Healthy Waters Initiatives in Virginia

DCR and DEQ met on February 7 to discuss how to collaborate to advance the healthy waters program. Discussion centered around finding ways to complete the Healthy Waters identification model (INSTAR) and to better include this information in local decision making. EPA is interested in hosting the next national Conference in Virginia which is scheduled to occur in fall 2012. The Chowan Healthy Waters Project is now started. Three priority watersheds have been chosen for data gathering and the use of the INSTAR data collection system. Data will be collected this spring. A stakeholder outreach program for both North Carolina and Virginia will begin later this month.

Division of Stormwater Management Metrics Reporting

To track daily activities, staff in the division has been reporting activities on both weekly reports and monthly spreadsheets that were then compiled quarterly. This process was very time consuming and accessibility of final data was somewhat limited. After completion of a successful trial period, the division is moving to a secured access, Internet (cloud) based system on April 1, 2012. This application will provide the ability for individual managers to customize and standardize reports for their particular needs. Data entry is performed via a customized webpage using input fields created by the division. Additional enhancements or reports can be configured, tested, and implemented at any time. Also, the data is immediately available to all users, in the form of preconfigured reports. A webinar was conducted and a customized user's guide has been created to provide staff assistance with how to use this new application.

Division of Dam Safety and Floodplain Management

Mr. Bennett gave the report for the Division of Dam Safety and Floodplain Management.

Mr. Bennett said that staff was working on the procurement of the dam break early warning system. Bids were due earlier in the week. The Department received two bids. The system allows the user to note the watershed area for the dams. The system also has live feeds from the weather service to calculate amounts of rainfall in the watershed area.

Ms. Hansen said that she would like to point out for the benefit of new members that many aspects of the Board's responsibilities relate to public safety issues as well as environmental issues. She asked Mr. Bennett if the dam owner should be on the notification list.

Mr. Bennett said the owner would be on the list but would not be the only person notified.

Local Soil and Water Conservation District Operations

Ms. Martin presented the list of Soil and Water Conservation District Director Resignations and Appointments

Eastern Shore

Resignation of William E. Shockley, Jr. Northampton County, effective 1/11/12, appointed Extension Agent director position (term of office expires 1/1/13).

Recommendation of Theresa Long, Northampton County, to fill unexpired Extension Agent term of William E. Shockley, Jr. (term of office to begin 4/28/12 – 1/1/13).

Halifax

Resignation of S. Baxter Wilson, Halifax County, effective 12/13/11, appointed director position (term of office expires 1/1/15).

Recommendation of Dr. Bobby R. Hall, Halifax County, to fill appointed director position term of S. Baxter Wilson (term of office to begin on 4/28/12 – 1/1/15).

Peaks of Otter

Recommendation of Corey K. Crompton, City of Bedford, to fill elected director position. The position is vacant. Mr. Crompton was elected to the seat as a result of the November 8, 2011 General Election, however he failed to take the required oath of office before January 1, 2012 and did not qualify for the position (term of office to begin on 4/28/12 – 1/1/16).

Peanut

Resignation of Rexford Cotton, City of Suffolk, effective 2/21/12, appointed Extension Agent director position (term of office expires 1/1/13).

Recommendation of Glenn Slade, Surry County, to fill unexpired Extension Agent term of Rexford Cotton (term of office to begin 4/28/12 – 1/1/13).

Prince William

Resignation of Steven M. Danziger, Prince William County, effective 12/31/11, appointed director position (term of office expires 1/1/15).

Recommendation of Jim Gehlsen, Prince William County, to appointed director position term of Steven M. Danziger (term of office to begin on 4/28/12 – 1/1/15).

Skyline

Resignation of James Pratt, Pulaski County, effective 1/4/12, appointed Extension Agent director position (term of office expires 1/1/13).

Recommendation of Jon Vest, Floyd County, to fill unexpired Extension Agent term of Jason Pratt (term of office to begin 4/28/12 – 1/1/13).

Tri-County/City

Resignation of John Howe, Spotsylvania County, effective 3/16/12, appointed Extension Agent director position (term of office expires 1/1/13).

Recommendation of Michael G. Broaddus, Caroline County, to fill unexpired Extension Agent term of John How (term of office to begin 4/28/12 – 1/1/13).

Virginia Dare

Recommendation of Thomas Jones, City of Chesapeake, to fill elected director position. The position is vacant. Mr. Jones was elected to the seat as a result of the November 8, 2011 General Election, however he was failed to take the required oath of office before January 1, 2012 and did not qualify for the position (term of office to begin on 4/28/12 – 1/1/16).

MOTION: Mr. Ingle moved that the list of District Director Resignations and Appointments be approved as submitted by staff.

SECOND: Mr. Dunford

DISCUSSION: None

VOTE: Motion carried unanimously

FY13 Funding

Mr. Peck addressed FY13 funding for Soil and Water Conservation Districts. He distributed three handouts. Copies of those handouts are available from DCR. Mr. Peck said at this point details regarding the budget were unknown because the General Assembly had not yet passed a budget.

Mr. Peck reviewed the history of Board support with regard to Districts. He noted that state level support in FY11 was a little over \$6 million. He said that although funding

levels had decreased from FY10, staffing levels had not. He said that funding for the current year had exceeded \$8 million.

Mr. Peck said the Governor's proposed budget would provide \$6.2 million in support for Districts. He noted that the Senate version included an additional million dollars.

Mr. Peck noted that Districts were being asked to do more than ever. He said with additional funding for technical assistance and other sources, funding of more than \$50 million would flow through the Districts.

Mr. Peck said that funding had been distributed to Districts based on the Board policy. A copy of that budget is available from DCR. He said that until the state budget was finalized, it could not be determined if the Board policy was in compliance with the budget. He noted that the Board policy was generally updated by June 1 of each year.

Mr. Peck said that staff would request that the Board policy be amended to a date of July 15 for just this year so that recommendations could be made prior to the next meeting.

MOTION: Mr. Simms moved that the Board Financial Policy for Assistance to Districts be amended to say that an update must be provided by July 15, 2012. This amendment is for this year only.

SECOND: Ms. Jamison

DISCUSSION: Ms. Jamison asked if the date should be July 1 since the date of the next meeting was July 28.

Mr. Peck said the next item concerned Technical Assistance (TA) guidance regarding how the Director proposes to allocate TA funds related to the Agricultural BMP Cost Share Program. He said that the current statute allowed the Director to develop the methodology with consultation with the Board.

Mr. Peck said that the proposal was to use a system that tied the payment of TA to the placement of best management practices. He said that was to be distinguished from other TA money that the Districts receive from the Department general fund. He said that another provision of the law was that from the recordation fees, 8% or a minimum of \$1.2 million should be used for technical assistance.

Ms. Hansen noted that the Board was not being asked to approve the guidance document but to provide comments to the Director for consideration. She asked Board members who were District Directors to comment.

Ms. Jamison said that prior to the legislation regarding the recordation; the TA was not limited to 8%. She said that she was concerned that would not be enough funding.

Mr. Peck said that the general fund cost share was not covered by this policy. He said there were other funds available for technical assistance.

Ms. Jamison said that she was concerned that the 8% number would be etched in stone.

Mr. Johnson said that the procedure was in the Code. He said that this procedure had been in the statute for three years or more. He said that while he understood that Districts were concerned about the amount of money that this was what was currently available.

Mr. Hornbaker clarified that there was no Board action required.

Mr. Ingle expressed concern that while the policy says the Department will consult with the Board that this appeared that decisions were already made.

Ms. Hansen said that this meeting was the actual consultation.

Mr. Johnson said that members should feel free to express additional concerns with Mr. Peck and other staff.

Ms. Jamison expressed a concern regarding funding coming from multiple sources. She said that would be an additional accounting burden for district staff.

Mr. Johnson said that was a legitimate concern. He said however, that the General Assembly appropriated a certain amount of money and that DCR was committed to getting money to the Districts.

Mr. Dunford referred to the essential funding listed on the policy. He noted that the policy said that the District's basic needs were \$123,815. He said that Districts were not receiving that amount.

Mr. Peck noted that Districts receive other funds for technical assistance.

Mr. Dunford asked if, in DCR's opinion, all 47 districts were getting \$124,000 in essential district operations.

Mr. Peck said that was the average. Some received more. Some less.

Ms. Jamison said that was not enough funding.

Mr. Johnson said that he would like to give Board members the chance to meet with DCR financial staff to review funds available and distribution.

Ms. Hansen agreed that there was confusion regarding the numbers and the sources of funding.

Mr. Ingle said that this was not a consultation and suggested that language be removed from the policy.

Ms. Hansen said that there was a disconnect between the establishment of the policy and the perception of the policy from the community. She said that there was not a common understanding of the tools available.

Mr. Peck said that staff had been discussing this for some time and had received feedback from the Districts. He said that this was an attempt to bring consistency and predictability to the process.

Ms. DuBois said that it would be helpful to have additional information concerning funding. She suggested a cross section of four Districts and their funding would be a helpful example.

Mr. Johnson said that would be a helpful exercise.

Ms. Hansen said that it would be helpful if Board members collaborated with staff regarding the parameters.

Mr. Hornbaker suggested that a subcommittee of the Board be appointed to address the issue.

Ms. Hansen requested that Mr. Dunford, Ms. Jamison, Mr. Lohr, Mr. Ingle and Ms. DuBois serve on a subcommittee regarding District funding. She asked Mr. Dunford to chair the subcommittee and to work with staff regarding a meeting. She said that the subcommittee could report at the next meeting.

Lake Barcroft WID Budget

Ms. Martin presented the request for approval of the Lake Barcroft Watershed Improvement District budget. She noted that the statutory language allows the WID to levy a tax. She said the budget was supported by Lake Barcroft members and the Northern Virginia Soil and Water Conservation District.

MOTION: Ms. DuBois moved that the Virginia Soil and Water Conservation Board approve the Lake Barcroft Watershed Improvement District FY 2013 budget as submitted by the Northern Virginia Soil and Water Conservation District and as presented by DCR staff.

SECOND: Mr. Street

DISCUSSION: None

VOTE: Motion carried unanimously

Virginia Association of Soil and Water Conservation Districts' recommendations to the SWCB regarding gubernatorial appointments

VASWCD President Ed Overton presented the following recommendations:

Area III Raymond L. Simms
 7 Bainbridge Land
 Fredericksburg, VA 22407

Cindy Smith
9485 Golansville Road
Ruther Glen, VA 22546

Area II Gary Hornbaker
 90 Lord Fairfax Highway
 Berryville, VA 22611

Paul D. Davis
408 Hearthstone Lane
Nellysford, VA 22958

MOTION: Mr. Ingle moved that the Virginia Soil and Water Conservation Board receive the nominations for Board appointments as presented by the Virginia Association of Soil and Water Conservation Districts and request that the Director forward these recommendations to the Secretary of the Commonwealth.

SECOND: Ms. Jamison

DISCUSSION: None

VOTE: Motion carried unanimously

Partner Reports

Natural Resources Conservation Services

Mr. Bricker gave the report for the Natural Resources Conservation Service. A copy is included as Attachment #2.

Virginia Association of Soil and Water Conservation Districts

Mr. Overton gave the report for the Virginia Association of Soil and Water Conservation Districts. Mr. Overton said that the Association was appreciative of the long history of association with the Board. He thanked members who attended the Association quarterly Board meeting the previous day.

Mr. Overton said that the Association was collaborating with DCR, the Department of Forestry, NRCS, and the Virginia Association of Conservation District Employees to hold a District training for new Directors. He said that trainings had been held in Williamsburg and Charlottesville. One more training was scheduled for Wytheville.

Mr. Overton said that Dominion Virginia Power had provided a grant in support of the 2012 Envirothon. This is an environmental science competition for students held at James Madison University in the summer. He said that association staff was working with Districts to plan the youth conservation camp that will be held at Virginia Tech.

Mr. Overton said that the Association was cautiously optimistic that the Senate would restore funding to the Districts.

Mr. Overton said that Districts were concerned about the FY13 general operations agreements and the language in the agreements. He said there was also a concern regarding the Agricultural BMP Cost Share program. He expressed appreciation for the establishment of the Board subcommittee to review District funding.

New Business

Ms. Jamison asked about the mileage reimbursement policy.

Mr. Johnson said that the reimbursement at the lower rate had been established during the previous Administration. He said that he would review that policy and will consult with other agencies.

Adjourn

There was no further business and the meeting was adjourned.

Susan Taylor Hansen
Chairman

David A. Johnson
Director

Attachment #1

Virginia Department of Conservation and Recreation
2012 Legislative Session Update
March 28, 2012

LEGISLATION

Stormwater Management

- **HB1065 (Sherwood) and SB407 (Hanger) - Erosion & Sediment Control, Stormwater, & Chesapeake Bay Preservation Acts; integration of programs. GOVERNOR's BILL**

Integrates elements of the Erosion and Sediment Control Act, the Stormwater Management Act, and the Chesapeake Bay Preservation Act so that these regulatory programs can be implemented in a consolidated and consistent manner, resulting in greater efficiencies (one-stop shopping) for those being regulated. The bill also eliminates the Chesapeake Bay Local Assistance Board and places its responsibilities with the Virginia Soil and Water Conservation Board.

- This Governor's Bill builds on previous General Assembly efforts to develop local stormwater management programs and eliminates the need for duplicate local and state implementation of programs.
- It is a government streamlining bill that is both good for business and the environment and leaves control for construction activities at the local level.
- Passage of this legislation will enhance the state's ability to protect its waters from harmful stormwater runoff by integrating three existing programs (the Erosion and Sediment Control Law, Stormwater Management Act and Chesapeake Bay Preservation Act) and creating a comprehensive locally implemented stormwater management program. The bill does not expand the Chesapeake Bay Act.
- Program compliance will increase with no expansion of regulatory requirements.
- This legislation also provides clarity to the construction and development community in seeking permits and provides for one set of standards.
- Every locality is already operating an Erosion and Sediment Control Program and these additional stormwater elements will complement those existing programs on a statewide basis often without the need for additional staff.
- Overall this bill will lead towards better compliance through a streamlined process.

- It is important to note that the program is designated to be funding-neutral for localities:
 - Localities keep fees to cover implementation
 - The fees were set based on a cost analysis and were developed with a stakeholder committee that included significant local government participation
 - Localities can request a fee increase if inadequate
 - In the Governor's budget is funding for local program development assistance
 - DCR has promised to work with localities in developing geographical solutions that will ensure program success and further reduce local costs
- DCR is committed to providing technical assistance, training, and program guidance to localities.

Status: Enrolled; Signed by Speaker; Signed by President (we anticipate a handful of Governor's technical amendments).

The Board will need to initiate several regulatory actions to amend the stormwater management regulations; to amend the erosion and sediment control regulations; and to repeal, promulgate the repealed regulations with new numbers under the VSWCB, and to amend the Chesapeake Bay Preservation Area Designation and Management Regulations.

- **HB176 (Knight) and SB77 (Watkins) - Nutrient credit; expansion of exchange program, procedures for certification, etc.**

In order to meet the goals of the Chesapeake Bay Watershed Implementation Plan, and other TMDLs statewide, this legislation is intended to expand the Nutrient Credit Exchange Program. This bill (i) amends the State Water Control Act; (ii) amends current law regarding stormwater nonpoint nutrient offsets; (iii) establishes the Nutrient Trading Act; and (iv) contains enactment clauses. The bill allows the Virginia Soil and Water Conservation Board and the State Water Control Board to adopt regulations governing the certification of specified nutrient credit types and sets out certain requirements of the regulations. It also permits the Department of Conservation and Recreation to establish an online registry of certified credits.

Nonpoint credits established by the Virginia Soil and Water Conservation Board would include credits generated from agricultural and urban stormwater best management practices, incineration or management of manures, land use conversion, stream or wetlands restoration, shellfish aquaculture, algal harvesting, and other established or innovative methods of nutrient control or removal. Point source credits established by the State Water Control Board would include credits generated from activities associated with the types of facilities or practices historically regulated by the Board, including but not limited to water withdrawal and treatment and wastewater collection, treatment, and beneficial reuse.

The legislation also allows municipal separate storm sewer systems to acquire, use, and transfer credits under certain specified conditions.

Status: Enrolled; Signed by Speaker; Signed by President

- **HB1210 (Lingamfelter) - Lawn maintenance fertilizer; nitrogen application rates, labeling.**

This legislation requires that beginning July 1, 2014, lawn maintenance fertilizer list on its directions for use, its nitrogen application rates. If such fertilizer does not list on its directions for use nitrogen application rates that are consistent with rates recommended in the Virginia Nutrient Management Standards and Criteria, it cannot be registered, sold, distributed, or used in Virginia. The bill also requires the Department of Conservation and Recreation to adopt fast-track regulations to incorporate the application rates recommended by the Virginia Department of Agriculture and Consumer Services in their 2011 report on Slow Release Fertilizers.

These regulations will require approval of the VSWCB also. In accordance with § 10.1-104.2, “[t]he Department shall, with the approval of the Virginia Soil and Water Conservation Board, adopt regulations... [p]roviding for criteria relating to the development of nutrient management plans for various agricultural and urban agronomic practices.

Status: Enrolled; Signed by Speaker; Signed by President

- **HB932 (Lingamfelter) - Voluntary Nutrient Management Plan Program; DCR to develop training and certification program.**

This legislation makes minor modifications to the authority for and the process by which the Department of Conservation and Recreation shall develop and operate a voluntary nutrient management program to assist owners and operators of agricultural land and turf to effectively manage and apply nutrients to their land. In developing the program, the Department is directed to begin testing the software for assisting owners and operators of agricultural lands and turf by July 1, 2013, and begin full implementation by July 1, 2014. However, as the funding mechanism was stripped from the bill as introduced, an enactment clause was added that stipulates that development of the software may be deferred until funds become available.

Status: Enrolled; Signed by Speaker; Signed by President

- **HJ333 (Sherwood and Hanger) - Commending the 10 River Basin Grand Winners of the Clean Water Farm Award Program.**

Commending the 10 River Basin Grand Winners of the Clean Water Farm Award Program.

Status: House and Senate agreed to

- **HB302 (E.T. Scott) and SB52 (Watkins) - Environmental laboratory certification program; exempts certain laboratories.**

This legislation exempts laboratories from the Division of Consolidated Laboratory Services' environmental certification program when the laboratories are using the protocols established by the Department of Conservation and Recreation's voluntary nutrient management training and certification program in determining soil fertility, animal manure nutrient content, or plant tissue nutrient uptake.

Status: HB302 - Enrolled; Signed by Speaker; Signed by President

Status: SB52 - Approved by Governor- Acts of Assembly Chapter text (CHAP0099) (effective 07/01/12)

Dam Safety

- **HB293 (E.T. Scott) and SB253 (Reeves) - Dam safety; consultation with Department of Emergency Management. SECRETARIAL BILL IN RESPONSE TO A RECOMMENDATION OF THE GOVERNOR'S COMMISSION ON GOVERNMENT REFORM & RESTRUCTURING**

This legislation requires the Virginia Soil and Water Conservation Board to consult with the Department of Emergency Management in implementing the Board's dam safety program, and makes clarifying amendments.

In order to protect life during potential emergency conditions at an impounding structure, and to ensure effective, timely action is taken, the impounding structure owner is responsible to develop, maintain, exercise, and implement a site-specific Emergency Action Plan. The Emergency Action Plan shall be coordinated with the Department of Emergency Management and incorporated into local emergency plans. The goal of increased cooperation between the Department of Conservation and Recreation and Department of Emergency Management is to improve this process and public safety from potential dam failures.

Status: HB293 - Approved by Governor- Acts of Assembly Chapter text (CHAP0230) (effective 07/01/12)

Status: SB253 - Approved by Governor- Acts of Assembly Chapter text (CHAP0070) (effective 07/01/12)

- **SB560 (Stuart) - Sanitary districts; authorizes board of supervisors to construct and maintain dams within district.**

Authorizes the board of supervisors of a sanitary district to construct and maintain dams within the district. Current law does not address dams but permits such boards

to construct and maintain water supply systems, drainage systems, lighting systems, and other facilities. The bill will become effective upon its passage.

Status: Enrolled; Signed by Speaker; Signed by President

Government Reorganization

- **HJ49 (Gilbert) and SJ66 (McDougle) - Governor's Executive Reorganization Plan; approval by each house of General Assembly.**

Sets out the Governor's executive reorganization plan dated November 25, 2011, for approval by each house of the General Assembly and subject to the enactment of a bill by the 2012 Session of the General Assembly. The resolution sets out the pertinent details of the plan.

Status: Conference report agreed to by House and Senate

- **HB1291 (Gilbert) and SB678 (McDougle) Governor's reorganization of executive branch of state government.**

Reorganizes the executive branch of state government and certain local transportation entities. The bill contains numerous technical amendments to accomplish this reorganization.

DCR related items include:

Moves the responsibility of providing environmental education programs from the Department of Environmental Quality to the Department of Conservation and Recreation.

Moves the Municipal Separate Storm Sewer System (MS4) Program from the Virginia Soil and Water Conservation Board to the State Water Control Board. The bill has to be reenacted to become effective; except that the assessment by the Secretary of Natural Resources of the water quality programs of the Commonwealth can begin July 1, 2012.

“That the Secretary of Natural Resources, working with the Directors of the Department of Environmental Quality and the Department of Conservation and Recreation, shall assess the organization of water quality programs in the Commonwealth and report his findings to the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources by no later than November 1, 2012. As part of this assessment the Secretary of Natural Resources shall consider organizational measures that may streamline water quality permitting in the Commonwealth as well as changes that may provide for improved long-term and strategic planning for water quality improvements.”

Abolishes the Chippokes Plantation Farm Foundation and transfers any interests in any real or tangible personal property of the Foundation to the Department of Conservation and Recreation.

Eliminates the Virginia Scenic River Board and transfers its duties to the Board of Conservation and Recreation.

Eliminates the Foundation for Virginia's Natural Resources.

Status: Enrolled; Signed by Speaker; Signed by President

State Parks

- **HB240 (Cline) - Amherst County; conveyance of certain property by Department of Conservation and Recreation. AGENCY BILL**

This bill authorizes the Department of Conservation and Recreation to transfer state owned land upstream of James River State Park to Amherst County. Currently, the 31-acre parcel is rented to Amherst County in a long-term lease as a local park that provides access to and protection of the James River. The County would be required to maintain the property and to keep it open to the public for recreational use or the property will revert back to the Department.

Status: Approved by Governor- Acts of Assembly Chapter text (CHAP0014)
(effective 07/01/12)

- **HB522 (Farrell) - Statewide system of trails; use of wheelchairs or other power-driven mobility devices permitted. AGENCY BILL**

This bill would allow for the use of wheelchairs or power driven mobility devices by disabled individuals on the statewide system of trails in compliance with the federal Americans with Disabilities Act provided that the user can provide credible assurance that the mobility device is required because of person's disability in accordance with the federal Americans with Disabilities Act and other applicable state and federal laws. Currently, the use of any motorized vehicles by the public along any of the scenic, recreation, connecting trails or side trails is prohibited within the Code. It also contains a provision authorizing the use of electric power-assisted bicycles and electric personal assistive mobility devices on any bicycle path or trail designated by the Department of Conservation and Recreation for such use, provided such allowance is in accordance with applicable state and federal law.

Status: Enrolled; Signed by Speaker; Signed by President

- **HB1113 (Toscano) - Biscuit Run; DCR to negotiate land exchange of certain acres in Albemarle County.**

This legislation would authorize the Department of Conservation and Recreation to negotiate an exchange of parcels of land it owns within Biscuit Run State Park for interest in adjacent property owned or acquired for the purposes of the exchange by a private company in Albemarle County, Virginia.

In the fall, Habitat for Humanity of Greater Charlottesville presented to the Department of Conservation and Recreation a land exchange proposal that they characterized would benefit all parties. The Department acknowledged that the exchange concept had merit and if the details could be worked out it could result in a win-win-win collaboration. Accordingly, the transaction authorized by the legislation when fully implemented, would create an opportunity for Habitat to begin eliminating old house trailers and replacing them with modern, efficient, affordable housing units; provide for the protection of streams and wildlife habitat for Biscuit Run State Park; and result in Albemarle County obtaining land for recreational fields for the County Park System.

The transaction is a complicated legal process that will require the mutual agreement of all parties and the exchange will have to be approved by the Governor, the acreage and boundaries by the Director of Department of General Services, and in a form approved by the Attorney General. Additionally, the Biscuit Run deed has some restrictive language that will require a judicial review.

As a portion of the costs associated with purchasing the Biscuit Run State Park property was funded through a VDOT grant, the legislation also contains provisions that stipulate that VDOT shall review and concur that the property being received complies with all applicable federal requirements for conversion of property acquired with federal funds.

Status: Enrolled; Signed by Speaker; Signed by President

Land Conservation

- **HB336 (Wilt) - Virginia Land Conservation Fund; distribution of revenues. SECRETARIAL BILL**

This legislation provides that in distributing the revenues in the Virginia Land Conservation Fund generated by the sale of land conservation tax credits, funds shall not be distributed to federal governmental entities. Currently, § 58.1-513C.2 directs this fund to be disbursed for the stewardship of conservation easements to all public or private conservation agencies and land trusts that are responsible for monitoring and enforcement of easements recorded in Virginia within the past three years. This bill would exclude federal agencies from that list of eligible entities.

In conversations with staff from a federal agency regarding the potential impacts of this bill, DCR became aware that the federal agencies would not be able to utilize the

funds for their intended purpose, but would have to submit the funds to the U.S. Treasury.

Status: Approved by Governor- Acts of Assembly Chapter text (CHAP0232)
(effective 07/01/12)

Attachment #2

NRCS REPORT
Virginia Soil and Water Conservation Board Meeting
Richmond, VA
March 29, 2012

EQIP, CBWI, CSP, and WHIP Programs

- After first batching period which ended Feb. 3, 2012:
 - EQIP - \$6,368,809 in contracts or approved applications
 - \$4,124,357 funds remaining
 - \$6,540,436 backlog
 - CBWI - \$9,116,992 in contracts or preapproved applications
 - \$3,379,319 in remaining funds
 - \$1,665,837 backlog
- Program batching deadlines for Farm Bill programs:
 - March 30, 2012 – Second Batching Period
 - June 1, 2012 – Third Batching Period
- Virginia is processing 191 new CSP applications.
- Five percent of EQIP funds will be targeted to three 12-digit watersheds for a National Water Quality Initiative. These funds may be a precursor for more targeting of EQIP funds in FY-13 and future years.
- A special WHIP Initiative will soon be rolled out for habitat enhancement for Golden Winged Warblers. This is an 8-state initiative from Georgia to New York.

CCPI

Funded 7 existing CCPI projects under WHIP (2), EQIP (2), and CBWI (3) for a total of \$1,837,458.

Conservation Initiative Grants

NRCS in Virginia has issued a request for proposals for new CIG projects up to about \$150,000 in FY-12. Pre-proposals are due March 30, 2012.

Dam Rehabilitation

- Completed financial close-out of Pohick Creek 2 – Lake Barton in Fairfax County. Final construction cost was \$2,788,715.52 and in-kind credit of \$817,194.80 for a total project cost of \$3,605,910.32.
- Fairfax County has issued a preliminary design for Pohick Creek 8 – Huntsman Lake. The review is in progress.
- South River 10A – Mills Creek in Augusta County. County has agreed to pay local share. NRCS Engineers have addressed comments received from the Fort Worth review and submitted final design to NHQ for approval.
- Working on draft rehabilitation plan for Upper North River site 10 – Todd Lake in Augusta County. Public meeting on April 12.
- Received applications for Federal assistance from HSWCD for the rehabilitation of Hearthstone Dam and Canada Run Dam in Augusta County.

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Easements

Farm and Ranchlands Protection Program

- Three applications received equaling \$2,930,000 (64% of our \$4.6 allocation)
- \$1.65 left uncommitted for FY12

Grassland Reserve Program

- 33 applications received for 4,910 acres equaling \$13,198,865
- Initial allocation was \$90,584

Wetlands Reserve Program

- 19 WRP applications received for 1,514 acres equaling \$3.8 million.
- Initial allocation was \$879, 118

Watershed Programs

Smith Creek is a showcase watershed. Two Smith Creek breakfasts were held for landowners and farmers to encourage implementation of conservation techniques.

North Fork Powell – Project is complete and financial close-out was completed on December 20, 2011. Archive materials have been sent to SWCD.

Little Reed Island Creek – Construction is scheduled to be completed in December 2012.

Chestnut Creek – Construction is scheduled to be completed in August 2013.

Soils/NRI/GIS

As of January 10, Virginia was notified that two of the three Major Land Resource Area (MLRA) Soil Survey offices in Virginia would be consolidated. The Roanoke Ridge and Valley MLRA Soil Survey Office covers part of the Southern Appalachian Ridges & Valleys MLRA and the Northern Blue Ridge MLRA. This Roanoke office covers parts of five States from TN to PA. The other effected office is the Richmond Piedmont MLRA Soil Survey Office which covers the northern part of the Southern Piedmont MLRA. This region is fully within the State of VA. The details of this consolidation have not been worked out although the plan is expected to take at least six to nine months to place personnel. The Richmond Coastal Plain MLRA office that covers the northern part of the Southern Coastal Plain region from VA to NC is not being considered for consolidation.

Information and data layers used for Wise County Soil Survey maps were developed and sent to the Digital Map Finishing Site to assist with the production of the hard-copy publication. Additionally, data layers and information were developed for Highland and Rockbridge Soil Survey maps and will be produced later this year. The National Resources Inventory for VA data collection for the years of 2009 and 2010 was completed February 2. The East Remote Sensing Lab is currently running the final checks on all of the data.

Conservation Planning/Programs

Meetings with DCR regarding the **Resource Management Plan** or “Safe Harbor” regulations are ongoing.

VA policy for **Comprehensive Nutrient Management Plans (CNMPs)** and the content and criteria associated with development of CNMPs has been released. A CNMP is a conservation plan that is unique to animal feeding operations. It is a grouping of practices and management activities which, when implemented as part of a conservation system, help ensure that both production and natural resources goals are achieved. The NRCS goal is for owners and

operators to take voluntary actions to minimize potential soil and water resource concerns associated with storage facilities, animal confinement areas, and land application areas. CNMPs account for this nutrient flow through the farm system and document utilization and management of nutrients according to science-based strategies to ensure efficient and safe use of those nutrients.

Conservation Delivery Streamlining Initiative (CDSI) is new software that will introduce three new planning/contracting tools: Client Gateway, Conservation Desktop, and FA Desktop. Client Gateway allows a landowner access to their folder and contracts from a personal computer. Conservation Desktop incorporates all our planning tools into one system and FA Desktop will replace Protracts. Release is scheduled for early FY13 and will replace our current conservation planning software called Toolkit. Mobile Planner, which will be released in FY14, will allow for planning in the field.

Partnership Meetings/Events

In January, NRCS reached nearly 2,000 farmers and landowners by manning booths at five statewide meetings including CASA, the Winter Farm Show, VANTAGE Conference, Virginia Forage Conferences and the Wildlife Society Chapter Meeting. In February, we participated in the Biological Farming Conference, the Beef and Dairy Conference, and the Beginning Farmer and Coalition Quarterly meeting.

VA Department of Game and Inland Fisheries (VDGIF)

NRCS entered an agreement for the second year with VDGIF and Virginia Tech's Conservation Management Institute (CMI) to utilize five new private lands biologist positions to support Virginia's Quail Recovery Initiative and the Longleaf pine restoration.

Housed in NRCS offices, the biologists made 791 site visits, wrote 374 management plans, conducted 207 outreach sessions and created 6,522 new habitat acres in FY11. Half of the acres were funded through VDGIF wildlife BMP money. The other half (approximately 3,023 acres) were funded through NRCS WHIP program.

Customer Service Surveys

Customer Service Surveys were sent to 352 active contract holders in Area III. Of the 53% that were returned, 98% of the responses rated the quality of service from very satisfactory to excellent.

Office Closings

The Warm Springs Service Center will be closed down. The process will begin sometime this month. Highland County has been reassigned to the Verona SC and Bath and Allegheny counties to the Lexington SC.

Planning for the Field Office of the Future

On March 1, 2012 David White, Chief of NRCS and Gene Schmidt, President of NACD addressed a letter to NRCS State Conservationists and SWCD State Association Presidents asking for our vision of the field office of the future. Change agents such as challenge of pressures on our budget, a new Farm Bill and the advancement of internet based tools by our employees and customers will impact how we conduct business in the future. We have been asked to strategize how the office of the future will utilize new technology, divide or coordinate duties among NRCS and SWCDs, explore cost saving opportunities and determine the best locations for serving the public. To gather input at the local level NRCS in Virginia will be facilitating meetings during April, May and June with NRCS and SWCD employees in the four NRCS administrative areas. The Assistant State Conservationists in each Area will be contacting

some of their SWCD boards for comments. NRCS will also gather input from the State Technical Committee and a questionnaire will be mailed to our partners. All of this gathered information will aid NRCS in strategizing a plan of our vision for Virginia which will be submitted to NRCS and NACD prior to the September 1, 2012 deadline.