

**Virginia Soil and Water Conservation Board
December 11, 2013**

Kingsmill Resort and Conference Center, Williamsburg, Virginia

Virginia Soil and Water Conservation Board Members Present

Herbert L. Dunford, Jr. Chair
Daphne W. Jamison, Vice Chair
Joan DuBois
C. Frank Brickhouse, Jr.
Gary Hornbaker
Jerry L. Ingle
Stephen Lohr
Raymond L. Simms
Richard A. Street
David A. Johnson, DCR Director, Ex Officio
John A. Bricker, NRCS, Ex Officio

Virginia Soil and Water Conservation Board Members Not Present

Thomas M. Branin
Wanda J. Thornton

DCR Staff Present

Jeb Wilkinson
Deborah Cross
David C. Dowling
Michael R. Fletcher
Darryl Glover
Mark Hollberg
Blair Krusz
Stephanie Martin
Rick Weeks
Matthew Gooch, Office of the Attorney General

Others Present

David Ball, Peter Francesco SWCD
Jean Burks, Big Sandy SWCD
Linda Campbell, Shenandoah Valley SWCD
Richard Chaffin, Peaks of Otter SWCD
Wilkie Chaffin, Piedmont SWCD
Jim Christian, Loudoun SWCD

Sharon Conner, Hanover-Caroline SWCD
Pete Farmer, New River SWCD
Laura Grape, Northern Virginia SWCD
Bobby Grisso, Virginia Cooperative Extension
James Jarvis, Robert E. Lee SWCD
Latonya Justice, Eastern Shore SWCD
Edna Justus, Big Sandy SWCD
Charlie Lively, Tri-County/City SWCD
Bob Lund, Colonial SWCD
Bonnie Mahl, Eastern Shore SWCD
Charles Newton, Shenandoah Valley, SWCD
Ed Overton, Colonial SWCD, VASWCD
Monira Rifaat, Culpeper SWCD
Ben Rowe, Virginia Grain Producers Association
Alyson Sappington, Thomas Jefferson SWCD
Chris Simmons, VASWCD
Kendall Tyree, VASWCD
Lou Wallace, VASWCD
Greg Wichelns, Culpeper SWCD

Call to Order and Introductions

Mr. Dunford called the meeting to order and declared quorum present. He welcomed members of the Virginia Association of Soil and Water Conservation Districts. He asked Board members, staff and guests to introduce themselves.

Minutes from June 6, 2013 and November 21, 2013

Minutes from June 6, 2013

MOTION: Ms. Jamison moved that the minutes from the June 6, 2013 meeting of the Virginia Soil and Water Conservation Board be approved as submitted by staff.

SECOND: Mr. Street

DISCUSSION: Mr. Ingle asked that the last paragraph on page 23 be amended to read “no additional funds available at this time.”

VOTE: Motion carried with Ms. DuBois abstaining. The minutes were approved as amended.

Minutes from November 21, 2013

MOTION: Ms. Jamison moved that the minutes of the November 21, 2013 meeting of the Virginia Soil and Water Conservation Board be approved as submitted by staff.

SECOND: Mr. Simms

DISCUSSION: None

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

Director's Report

Mr. Johnson gave the Director's report.

Mr. Johnson noted that on July 1, 2013, the regulated stormwater program moved to the Department of Environmental Quality. He said that this action involved moving the program as well as personnel.

Mr. Johnson noted that in July the remaining staff from the Department moved to Main Street Centre at 600 E. Main Street where Richmond based staff are consolidated in the same building for the first time in many years.

Mr. Johnson said that with regard to the Resource Management Plan program, those who sat in on the technical session in the Association meeting would have heard about what must be accomplished in the next six to eight months. He said that the RMP program was a leading edge program that few, if any, states have instituted.

Mr. Johnson said that the Agency had been preparing submissions for the Governor's proposed budget which would be announced the following week.

Mr. Johnson said that the Secretary of Natural Resources and DCR had conducted a second Summer Study of District operations. This study focused on key topics and a number of recommendations were made. He said that the report would be out within the next few days.

Mr. Johnson said that the General Assembly had also mandated a series of public meetings dealing with the question of whether District operations should stay with DCR or be moved to another agency. Seven meetings were held in October and November in each of the District Areas plus the Eastern Shore. He said that agency heads from DCR, DEQ and the Virginia Department of Agriculture and Consumer Services, along with area legislators attended each meeting. He said that attendance at the meetings was good. He noted that, at this time, there is no Administrative push to move the program to another agency.

Dam Safety and Floodplain Management

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

Mr. Bennett gave an update regarding the Dam Watch program. This is a program to monitor high and significant hazard dams. The program measures the rainfall within the watershed of the dam through weather data. The data alerts engineers to send a notice to owners or emergency responders to check the dam. This provides a significant level of safety for high and significant hazard dams. He noted that since many of these dams were earthen dams, that failure could occur quickly.

Mr. Bennett said that staff was working to delineate the watersheds for the dams. At this point notices are only going to regional engineers.

Mr. Bennett noted that nationally, NRCS is putting 12,000 of their dams into the system. He said that states are working to make sure the systems are consistent.

Mr. Bennett said that the system will make a significant difference in public safety. He said that the greater the warning time in the event of a failure, the more lives that can be saved.

Mr. Bennett said that DCR continued to work to prepare the Dam First Aid trailers. He noted that one of the trailers was sent to the southwest for a dam that needed lowering.

Mr. Bennett said that early next year DCR will announce a grant round from the Dam Safety and Floodplain Protection Assistance fund. He noted that Districts were eligible to apply. The grants are given with a fifty percent match. In the past three years, close to three million dollars has been awarded to around 300 dam owners and localities.

Mr. Bennett reviewed the high hazard dams. He said that there were currently 320 high hazard dams in Virginia and that the list is growing. He said that as more and more dam owners complete inundation studies, dams are being reclassified as high hazard. He said of the 320 high hazard dams, 73 currently have no certificate.

Mr. Bennett said that DCR is still discovering dams through the Dam Dragnet Program.

Mr. Bennett said that there are currently 150 dams with conditional certificates. Staff is working with dam owners to develop a plan of action for each dam. There are 97 dams with regular certificates that meet the regulations and criteria.

Mr. Bennett said that Ms. Crosier continues to work on enforcement items. He said that DCR continues to work with the owners of the eleven Foley Dams, DEQ, and the Army Corps of Engineers to bring those dams into compliance. Of the eleven dams, ten were found to be not of size to be regulated or were found to be eligible for an agricultural exemption, leaving one dam that remains under review.

Mr. Dunford asked what was the minimum requirement for a dam to be regulated.

Mr. Bennett said that a dam must be regulated if it is greater than 25 ft. in height and has a volume of 15 acre-feet or if the dam is greater than 6 ft. in height and has a volume of 50 acre-feet behind it. He said that the 6 ft. criteria was added in 2001-2002 because in the coastal plain areas the dams are not necessarily as high but they do impound enough water volume that could be a threat to life if there is dam failure.

Ms. Jamison asked about dams that had received funding from the General Assembly to address problems. She specifically asked about Rainbow Forest Dam.

Mr. Bennett said that the process is taking longer than expected but is moving forward. Rainbow Forest is working with VDOT regarding abandoning a road that crosses the dam. The second payment of the allocation has been made. Rainbow Forest received over \$500,000 from the General Assembly to address dam repair.

Ms. Jamison said that there had been discussions that some dam owners who are not in compliance were asking for legislation that would lower the standards.

Mr. Dowling said that at this point the Agency had heard some of those discussions but had not seen any legislation filed or had any specific discussions with legislators. He said that staff would follow any legislation that is introduced regarding dams and would keep the Board informed.

Mr. Bennett said that Liberty University is moving forward regarding Ivy Hill dam.

Mr. Bennett said that regarding Lake Arrowhead and Little Lake Arrowhead dams in Stafford County there had been a public information meeting on December 3. He said that with regard to these dams, the property association which owned the dams disbanded in 2005. These are now referred to as "orphan dams" because there is no identified owner. Over the past eight years the dams have not been consistently maintained and have had no professional engineering inspections. Both are high hazard dams and there is concern that they will fail. He said that the first step in addressing the issue was the public information meeting.

Regarding District dams, Mr. Bennett said that a committee had previously been formed under Mr. Wilkinson's supervision. A presentation is being prepared for the Secretary of Natural Resources. There are 104 district owned dams of which 71 are considered to be high hazard. A total of 45 of those are in need of rehabilitation to meet the minimum standards.

Mr. Ingle said that in his area a dam owned by UVA Wise has been determined to be inadequate, but a visit by staff has been postponed until April 2014. He asked if this was a standard procedure.

Mr. Bennett said that many dams have inadequate spillways that were considered at the time of their construction to be low hazard. However, because of downstream development the dams are now considered high hazard. He said that a dam is not considered to be unsafe unless there are signs of imminent failure. In those cases DCR would take immediate action. He said that most

dams with inadequate spillways are stable and Agency engineers will work with dam owners in a prioritized manner.

An audience member asked about the Dam Watch Program and the list maintained by NRCS.

Mr. Bennett said that DCR has contracted with dam watch developers through a private company out of Connecticut. DCR has signed up to include all high and significant hazard dams. He said that NRCS initially signed up for the program in Oklahoma and in the last year nationally put 12,000 dams into the program. He said that because some dams are in both systems, DCR is working to coordinate information and notifications for consistency.

Ms. Connor from the Hanover-Caroline SWCD asked when her District would be notified if they were a part of the system.

Mr. Bennett said that the notification program was automatic. There is no cost to dam owners and the system includes all high and significant hazard dams. He said that as soon as the database is complete DCR will begin working to educate dam owners.

Nonpoint Pollution Prevention

Mr. Weeks gave the Division of Nonpoint Pollution Prevention report.

Mr. Weeks said that the 2013 Summer Study wrapped up in September. He said that one of the significant recommendations from the study is that Districts need technical assistance funds up to two years prior to the increase in cost share. He said that the study would be released soon and that copies would be distributed to the Board.

Mr. Weeks said that the Agricultural Needs Assessment is now part of a study being conducted by the Department of Environmental Quality. The report is under review and will be distributed soon.

Mr. Weeks said that the Agency, along with DEQ and the Virginia Department of Agriculture and Consumer Services participated in a series of seven public meetings in each of the SWCD Areas and on the Eastern Shore. The purpose for these meetings was the discussion of whether the agricultural programs should remain where they are, be moved to the Department of Environmental Quality, or be moved to the Virginia Department of Agriculture and Consumer Services. He said that there would be no formal report from the meetings but that Legislative Services did compile information. He said he would have that information distributed as available.

Mr. Weeks said that no direct recommendation came from the meetings but that the purpose was to continue the discussion. He said that participation from the Districts as well as the legislators was good. He said that there was no consensus among the Districts.

Mr. Weeks said that with regard to the RMP program, DCR is working to fill the positions that have recently been authorized. Scott Ambler has been working on program developments and DCR is hoping to soon hire a second RMP planner and an individual to oversee RMP module development.

Ms. Connor asked if the RMP efforts were addressing local ordinances.

Mr. Dowling said that DCR was aware of those concerns and through regular meetings with the Agency RMP team and Counsel that this issue is being worked on.

Soil and Water Conservation District (SWCD) Assessments

Ms. Martin addressed the SWCD assessments. A copy of this report is available from DCR.

Ms. Martin said that the assessments were based on grant agreement deliverables approved by the Board. She said that she was happy to report that Districts are doing a good job. She said that there were no Districts that did not fulfill requirements. All Districts met the requirements or are in the process of doing so.

Ms. Martin said that one area of concern was the conservation planning certification. She said that the certification is only good for three years and planners are required to take continuing education credits as well as demonstrate proficiency. She said that DCR relies on NRCS for those classes.

Ms. Martin said that the availability of the actual coursework depended on when NRCS could offer the classes. She noted that not all classes have room to accommodate everyone.

Ms. Jamison asked how DCR was working to improve that situation.

Ms. Martin said that at this point the class work must come through NRCS. She said that part of the data initiative was for DCR to develop a conservation planning module. She noted that conservation planning was not just for addressing RMPs. She said that she anticipated that DCR also would have to develop training and certification.

District Director Resignations and Appointments

Ms. Martin presented the district director resignations and appointments.

Culpeper

Resignation of Jocelyn Lampert, Culpeper County, effective 3/28/13, appointed director position (term of office expires 1/1/15).

Recommendation of Steve Morris, Greene County, to fill unexpired term of Jocelyn Lampert, (term of office to begin on 1/1/14 – 1/1/15).

Lord Fairfax

Resignation of Kenneth R. Cruise, Shenandoah County, effective 8/13/13, elected director position (term of office expires 1/1/16).

Recommendation of Mary L. Gessner, Shenandoah County, to fill unexpired term of Kenneth R. Cruise (term of office to begin on 1/1/14 – 1/1/16).

Robert E. Lee

Resignation of Robert Habel, Amherst County, effective 2/15/13, elected director position (term of office expires 1/1/16).

Recommendation of John J. Petchul, Amherst County, to fill unexpired term of Robert Habel (term of office to begin on 1/11/13 – 1/1/16).

Scott County

Resignation of Charles Carter, Scott County, effective 7/2/13, elected director position (term of office expires 1/1/16).

Recommendation of Larry Huff, Scott County, to fill unexpired term of Charles Carter (term of office to begin on 1/11/14 – 1/1/16).

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

SECOND: Mr. Brickhouse

DISCUSSION: None

VOTE: Motion carried unanimously

Regulatory Action

NMP Regulations

Mr. Dowling gave the following remarks:

Nutrient Management Training and Certification Regulations Final Stage Actions

Before you today for consideration and action are two final stage regulatory actions for the Board's consideration that amend the Nutrient Management Training and Certification Regulations. (Versions dated December 11, 2013)

The version mailed to you incorporated two issues into one fast-track action. However, based on recent conversations with Counsel in the Attorney General's Office, we have learned that the transfer of authority issue which involves a renumbering of the regulations could be handled through an exempt action that will expedite the process. The second item, a clarification regarding the duration of golf course nutrient management plans, will remain a fast-track action.

Accordingly I offer the following brief background information for each action.

EXEMPT ACTION (Transfer of Authority and Renumbering)

House Bill 2209 and Senate Bill 1309 (Chapters 593 and 658 of the 2013 Virginia Acts of Assembly respectively) shifted the authority for the promulgation of the Nutrient Management Training and Certification Regulations from the Department of Conservation and Recreation to the Virginia Soil and Water Conservation Board. The current Nutrient Management Training and Certification Regulations, promulgated under the Department's authority, now need to be moved under the authority of the Board. The exempt action recommended for your consideration re-numbers the regulations to accomplish this transfer (4VAC5-15-10 et seq. to 4VAC50-85-10 et seq.)

Existing Citation	
Title 4	CONSERVATION AND NATURAL RESOURCES
Agency 5	DEPARTMENT OF CONSERVATION AND RECREATION
Chapter 15	NUTRIENT MANAGEMENT TRAINING AND CERTIFICATION REGULATIONS
New Citation	
Title 4	CONSERVATION AND NATURAL RESOURCES
Agency 50	VIRGINIA SOIL AND WATER CONSERVATION BOARD
Chapter 85 (new)	NUTRIENT MANAGEMENT TRAINING AND CERTIFICATION REGULATIONS

The action is exempt pursuant to Enactment Clause 3 of the legislation that states "[t]hat the initial actions of the Virginia Soil and Water Conservation Board to adopt, with necessary amendments, the nutrient management training and certification regulations transferred by this act from the Department of Conservation and Recreation to the Board shall be exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia. Such regulations shall remain in full force and effect until altered, amended, or rescinded by the Virginia Soil and Water Conservation Board."

FAST-TRACK ACTION (Addresses Duration of Golf Course Management Plans)

The second item involves adding to the regulations a clarification regarding the duration of golf course nutrient management plans. Page 6 of the fast-track final regulations includes an amendment to state that site-specific nutrient management plans developed for a period of up to five years would apply to golf courses, in addition to sites in permanent pasture and continuous hay.

This brings the regulations in agreement with §10.1-104.5 of the Code of Virginia that requires golf course owners and operators to develop and implement nutrient management plans on or before July 1, 2017, with such plans being revised and resubmitted to the Department for review **every five years**. The recommended regulatory revision ensures that the provisions of the law are also clearly stated in the regulations.

With that overview of the two issues and the Department's recommendations, we are happy to answer any questions, or turn it back to you Mr. Chairman for Board action. A motion for each action is provided on the subsequent pages for your consideration.

Mr. Hornbaker asked Mr. Dowling to address the definition of promulgation. He noted that under the regulations there was no definition of the Board.

Mr. Dowling said that promulgation was a regulatory body creating or amending a set of regulations based on the authority that exists in the Code of Virginia. He said that the Board is defined elsewhere in the Code and that these regulations fall under that particular section.

MOTION: Ms. Jamison moved the following:

Motion to approve, authorize and direct the filing of a final exempt regulation that transfers and rennumbers the Nutrient Management Training and Certification Regulations

The Board approves this final exempt regulation that transfers from the Department of Conservation and Recreation to the Virginia Soil and Water Conservation Board, and rennumbers within a new Chapter, the Nutrient Management Training and Certification Regulations and authorizes the Director of the Department of Conservation and Recreation and the Departmental Regulatory Coordinator to submit the final exempt regulation to the Virginia Town Hall and to the Registrar of Virginia.

This authorization is related to those changes that are exempt from the Administrative Process Act pursuant to Enactment Clause 3 of Chapters 593 and 658 of the 2013 Virginia Acts of Assembly.

This authorization extends to, but is not limited to, the drafting of the documents and documentation as well as the coordination necessary to gain approvals from the Virginia Registrar of Regulations for this final regulatory action publication.

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

SECOND: Mr. Lohr

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Mr. Lohr moved the following:

Motion to approve, authorize and direct the filing of a final fast-track regulation amending 4VAC5-15-150 of the Nutrient Management Training and Certification Regulations

The Board approves this final regulation that addresses the duration of golf course nutrient management plans and authorizes the Director of the Department of Conservation and Recreation and the Departmental Regulatory Coordinator to submit the Nutrient Management Training and Certification fast-track regulation and any other required documents to the Virginia Town Hall and upon approval by the Administration to the Registrar of Virginia.

This authorization is related to those changes that are subject to the Administrative Process Act and to the Virginia Register Act. The Department shall follow and conduct actions in accordance with the Administrative Process Act, the Virginia Register Act, the Board's Regulatory Public Participation Procedures, and the Governor's Executive Order 14 (2010) on the "Development and Review of Regulations Proposed by State Agencies".

This authorization extends to, but is not limited to, the drafting of the documents and documentation as well as the coordination necessary to gain approvals from the Department of Planning and Budget, the Secretary of Natural Resources, the Governor, the Attorney General, and the Virginia Registrar of Regulations for the fast-track final regulatory action publication.

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

SECOND: Mr. Brickhouse

DISCUSSION: None

VOTE: Motion carried unanimously

RMP Regulation Update

Regarding the RMP Regulations, Mr. Dowling noted that at their November 21 special meeting, the Board voted to delay implementation of the RMP program. Staff will report back to the Board and the Board will reassess the timeline at the first regular meeting in 2014, tentatively scheduled for March.

Bylaws

Mr. Dunford said that members were provided copy of the Board Bylaws with staff recommendations for edits. He said that he would like to conduct a thorough review of the Bylaws in 2014.

Mr. Dowling said that the revisions provided were largely to make the Bylaws consistent with the Code and practices as well as to update the address information following the Agency move. He said that, as edited, the Bylaws now accurately reflected the law.

Mr. Street asked about the number of Board members referenced in the Bylaws.

Mr. Dowling said that legislation in the 2013 General Assembly changed the membership number of the Board from twelve to nine. He said that the number would be obtained as terms of the at-large members expired.

Mr. Hornbaker asked about the possibility of inviting a representative from the Virginia Cooperative Extension. The Board agreed to issue the invitation without a specific reference in the Bylaws.

MOTION: Mr. Hornbaker moved that the Virginia Soil and Water Conservation Board adopt the Bylaws with revisions provided by staff.

SECOND: Mr. Simms

DISCUSSION: None

VOTE: Motion carried unanimously

A copy of the revised Bylaws as adopted is included as Attachment #1.

Election of Officers

Mr. Dunford turned the chairmanship of the meeting to Mr. Simms for the purpose of entertaining nominations for officers.

Mr. Brickhouse moved that that Mr. Dunford retain his position as chair and Ms. Jamison retain her position as vice chair. Mr. Street seconded and the motion was approved unanimously.

Mr. Simms turned the chairmanship back to Mr. Dunford.

Discussion with Virginia Association of Soil and Water Conservation Districts Board of Directors

Mr. Dunford invited members of the Association Board to join the Soil and Water Conservation Board at the table.

Mr. Dowling distributed the following:

DISTRICT OPERATIONAL FUNDING REQUEST

- The 2012 Summer Study called for DCR to develop a District budget template.
- In July of 2013, DCR received from the Districts funding needs estimates utilizing a new budget template.
- A Soil and Water Conservation District Budget Partner Review Committee was assembled to work with the Department in reviewing and compiling the results.
- The results were utilized by the Department in developing an FY15 District Operations rebenchmarked funding request.

Calculation of Funding for District Operations and Administration (September 12, 2013 Version)

	1	2	3	4	5	6
1	Funding Categories	District Essential Services (Board approved May 2010)	2014 Appropriations Awarded	District Budget Template 2013	Base Funding Recommendation (Total)	Notes
2	Essential Funding (core expenses) (rows 3-8)	\$123,852 x 47 = \$5,821,044	\$86,922 x 47 = \$4,085,333	\$7,722,224	\$5,952,078	
3	Total Personnel and Fringe Benefits	\$4,411,044		\$5,994,791	\$4,518,533	
4	Total Staff Training and Meetings	\$68,150		\$305,884	\$124,550	
5	Total Travel/ Vehicles	\$258,500		\$243,957	\$249,993	
6	Office Rent and Utilities	\$564,000		\$458,136	\$459,000	
7	Total Office Support	\$371,300		\$449,670	\$400,017	
8	Total Equipment	\$148,050		\$269,786	\$199,985	
9	Director Travel and Training	\$500 per Director = \$166,500	\$166,500	\$234,777	\$233,100	\$700 per each of the 333 directors
10	Additional Salary and Fringe	\$0	\$0	\$0	\$1,514,583	1 FTE = \$52,227 29 FTE
	SUB TOTALS	\$5,987,544	\$4,251,833	\$7,957,001	\$7,699,761	
11	Dam Maintenance		\$312,000		\$312,000	\$3,000 per each of the 104 dams
12	Dam Repair Small & Major		\$90,303		\$150,000	
13	Total Dams		\$402,303	\$497,753	\$462,000	
14	Other Expenses		\$0	\$503,112	\$0	
15	Historical Allocations Based on Agricultural Land use		\$221,740		\$0	
16	Historical Special Support Allocations		\$1,300,000		\$0	
17	Special Support for TMDLs: Targeted TMDLs		\$275,000		\$0	
18	Special Support for TMDLs: RMP and engineering services		\$325,000		\$0	
19	DCR Managed Funds for District Support (Audits, Bonding, Assoc		\$165,215	\$0	\$170,000	

Contract, Training, etc.)					
20	TOTALS		\$6,941,091	\$8,957,866	\$8,331,761
21					++\$1,390,670

- An increase of \$1,390,670 in operational funding over FY14 funding levels was requested by the Department resulting in a request for \$8,331,761.
 - \$7,699,761 would be distributed to Districts for core administrative and operational expenses (personnel, training, travel, rent, utilities, office support, and equipment);
 - \$312,000 would be distributed at a rate of \$3,000 per dam for maintenance;
 - \$150,000 would be distributed for small dam repairs of known or suspected deficiencies; and
 - \$170,000 would be available to the Department to provide District support in accordance with Board policy, including but not limited to services related to auditing, bonding, contracts, and training.
- The Governor’s budget will be released on Monday, December 16th.
- The Board will revise the Policy on Soil and Water Conservation District Administration and Operations Funding Allocations to reflect appropriations approved during the General Assembly Session.
- Based on experience gained through this first budgeting exercise, the Department is already working with the District committee to prepare a much more streamlined budget template and more detailed guidance for completing the template.

OTHER BUDGET REQUESTS

- Of the \$9.1 M generated by the recordation tax and deposited to the Virginia Natural Resources Commitment Fund, \$1,200,000 would be appropriated for Technical Assistance for Soil and Water Conservation Districts and the balance would be for Agricultural Best Management Practices Cost-Share Assistance.
- Of the ~\$31.5 M available from the surplus and deposited to the Virginia Water Quality Improvement Fund, DCR apportionments were requested as follows:
 - \$1,150,000 would be appropriated to the Department for Nonpoint Pollution Prevention
 - § \$100,000 would be utilized as cost-share for the development of NMPs for golf courses,
 - § \$250,000 would be provided to the Department of Forestry for water quality grants, and
 - § \$800,000 would be used for the Commonwealth’s match for participation in the federal Conservation Enhancement Reserve Program
 - \$22,762,500 would be authorized for transfer to the Virginia Natural Resources Commitment Fund.
 - § \$1,821,000 would be appropriated for Technical Assistance for Soil and Water Conservation Districts and
 - § \$20,941,500 for Agricultural Best Management Practices Cost-Share Assistance.
- Ensure that interest earnings from the Water Quality Improvement Fund and the Virginia Natural Resources Commitment Fund may be utilized by DCR to support one position to administer grants from the fund.
- Ensure that financial policies of the Virginia Soil and Water Conservation Board will be utilized to establish District fiscal year allocations of administrative and operational support, technical assistance, and agricultural best management practices cost-share assistance.
- Ensure that language authorizing Soil and Water Conservation Districts to recover a portion of the direct costs of services rendered to landowners within the District and to recover a portion of the cost for use of district-owned conservation equipment is maintained. Such recoveries shall not exceed the amounts expended by a district on these services and equipment.
- Requested Agricultural engineer positions funding: 2 GF FTE and 2 NGF FTE; \$225,000 GF and \$150,000 NGF year 1; \$225,000 GF and \$150,000 NGF year 2

- Requested Resource Management Plan position funding; 1 GF FTE; \$89,100 GF year 1; \$85,050 GF year 2
- Requested Shore Line Advisory Service Program position funding; 1 GF FTE; \$90,090 year 1; \$90,090 year 2
- Rename "Stormwater Management" Program to "Nonpoint Pollution Prevention (50301)"

Mr. Dowling said that this was public information as submitted to the Governor. He said that the information could change with the Governor's budget announcement on December 16th. He said that the Agency put together the best scenario given economic considerations. Mr. Dowling explained the report.

Mr. Street asked if Association members were working with DCR.

Mr. Dowling said that Ms. Tyree, Mr. Wells, and others were working with the Agency.

Ms. Jamison asked if expenses were covered for District employees who participate in the Budget Template committee discussions. She noted that Districts may not have anticipated this expense.

Mr. Weeks said that the Board would be adopting a new operations and administration funding policy. He said one of the options would be to address travel concerns in that policy.

Ms. Rifaat from the Culpeper SWCD asked the Board to consider a new formula for District allocations.

Laura Grape with Northern Virginia SWCD asked why the additional salary and fringe benefits for staff were shown as separate items.

Mr. Dowling said that it was just a matter of presentation.

Ms. Wallace, Association President, said that the original template had been confusing and that a number of Districts had difficulty understanding the bottom line.

Mr. Weeks said that staff was working on revised guidance for the Districts that should better explain how to complete the updated Budget Template.

Mr. Dowling said that it was not likely that the FY14 Appropriation levels would be reduced for FY15 and that the District templates support a need for higher funding levels. He said that if the template was going to be the determining factor on the distribution of funding absent an increase in funding in FY15, there may need to be some proportioning of funds.

Mr. Street said that there was no allocation for total financial contribution from localities. He asked if contributions from localities would hinder state funding.

Mr. Weeks said that local funding shows up as information but not as part of the final tally. He said that there was a concern about disincentivizing localities from giving money. He said that it could be made as a separate request for information but not as part of the budget template.

Mr. Johnson said that the template is a useful tool for budgeting and may be a useful tool in advocacy for District funding. He said he understood the concern of not noting funding by localities.

Mr. Simmons with the VASWCD said that he understood the concern with regard to using information regarding funding from localities, but noted that local elections were often volatile and that the numbers may not be consistent.

Mr. Weeks said that it seemed the consensus would be to put the locality funding in a separate document.

Mr. Hornbaker said that ultimately this was the Board's decision but that he would welcome recommendations from the Association.

Mr. Dowling said that the Department wanted to work with the Association and with Districts to make sure that there was an equitable distribution of funding.

Ms. Tyree said that she had served on the Budget Template information review committee and that there had been substantial input from the Districts. She said that a lot of Districts were concerned about the inclusion of local funding in the template when the information ultimately was not used. Districts would prefer not to have to submit the information that is not being used. She said that the purpose was to simplify the document and that there is a need for better guidance.

Ms. Jamison asked how in-kind services to Districts would be quantified.

Mr. Hornbaker said that he would like to hear more from the Districts regarding the funding distribution.

Mr. Johnson said that the Board would hear from both the Districts as well as the Association. He said that the staff presentation is based on observations of comments received but that the ultimate responsibility falls to the Board.

Ms. Jamison said that she would like to see a recommendation as soon as possible.

Mr. Street asked about the possibility of the summer study group remaining together to fine tune the template and the distribution formula.

MOTION: Mr. Hornbaker moved that the Virginia Soil and Water Conservation Board direct DCR staff to continue to refine the budget templates and

distribution formula and to bring that to the Board at the March meeting for final consideration.

SECOND: Mr. Street

DISCUSSION: Ms. DuBois noted that the discussion began with a motion to look at the entire financial policy.

Mr. Dowling asked if there was a time table associated with the motion.

Mr. Street said the March meeting or before if possible.

Mr. Dowling said that the March meeting would be right after the General Assembly. He said that it would be difficult to have a full policy by that point. He said there could be continued discussions.

Mr. Brickhouse noted that the concept was to set up a formula that would apply each year as budget numbers changed. He said the formula would not change with differing budget amounts.

Mr. Street said that the intent of the motion was to send a request to the review committee to assist in fine tuning the template but to also help create a distribution formula.

VOTE: Motion carried unanimously

Mr. Overton expressed concern regarding positions that were previously funded with the additional \$2 million. He asked if there was a policy change, based on the presentation that would mean those positions were no longer supported.

Mr. Dowling said that was not the intent. He said ultimately the Board would determine the distribution.

Public Comment

There was no further public comment.

Partner Agency Reports

Natural Resources Conservation Service

Mr. Bricker said that he did not prepare a formal report for the Board. He said that he had given an update from NRCS at the Association meeting earlier in the week. He noted that the Farm Bill still had not passed in Congress but that there was a budget.

Virginia Association of Soil and Water Conservation Districts

Ms. Wallace expressed appreciation on behalf of the Association for the opportunity to meet with the Board.

Ms. Tyree thanked members for attending the Association Annual meeting.

New Business

Mr. Dunford said that following the General Assembly Session he would be interested in a Board retreat to cover Board policies and responsibilities.

Mr. Dowling said that it would be helpful to have a working session on policy.

Ms. Jamison said that she would like the Board to revisit the issue of 100% cost-share for SL6. She also noted a concern that there was no funding cap on conservation services.

Next Meeting

The next meeting was tentatively set for March 20, 2014. However, there were concerns the date may conflict with other meetings. Staff was directed to review the dates and consider necessary adjustments.

Adjourn

There was no further business and the meeting was adjourned.

Respectfully submitted,

Herbert L. Dunford, Jr.
Chair

Clyde Cristman
DCR Director

Attachment #1

1 **VIRGINIA SOIL AND WATER CONSERVATION BOARD**

2 **By-Laws**

3 **Adopted: May 15, 1997**

4 **Revised: ~~March 19, 2004~~ December 11, 2013**

5
6
7 ARTICLE I NAME

8
9 The name of this organization is the Virginia Soil and Water Conservation
10 Board hereinafter referred to as the ~~Board~~ "Board".

11
12 ARTICLE II AUTHORIZATION

13
14 The Board was established pursuant to Title 10.1, Chapter 5, Article 2,
15 Sections 10.1-502, 10.1-503, 10.1-504 and 10.1-505 of the *Code of Virginia*
16 (1950) as amended, hereinafter referred to as the *Code*.

17
18 ARTICLE III MISSION

19
20 The Board shall provide for the conservation of soil and water resources;
21 control and prevention of soil erosion, flood water and sediment damage;
22 oversee and support the programs of the soil and water conservation districts;
23 and preserve the natural resources of the Commonwealth as set forth in
24 ~~Section~~ §10.1-505 and elsewhere in the *Code of Virginia*. The Board shall
25 have the authority to promulgate regulations necessary for the execution of the
26 Administrative Process Act, of Chapter 1.1.1 (9-6.14:1 et seq.) of Title 9; the
27 Virginia Register Act of Chapter 1.2 (9-6.15 2.2-4100 et seq.) of Title 9; the
28 Erosion and Sediment Control Law, Article 4 (10.1-560 et seq.) of Chapter 5,
29 of Title 10.1; and, the Dam Safety Act, Article 2 (10.1-604 et seq.) of Chapter
30 6 of Title 10.1 or as may be conferred elsewhere in the *Code* or in the Virginia
31 Acts of Assembly.

32
33 ARTICLE IV LOCATION

34
35 The office of the Board shall be in the Department of Conservation and
36 Recreation (DCR) at 203 Governor Street, Suite 302-600 East Main Street,
37 24th Floor, Richmond, Virginia.

38
39 ARTICLE V POWERS AND DUTIES

40
41 The Board shall have all of the rights, powers, and duties bestowed by and be
42 subject to the limitations and restrictions set forth in ~~Sections~~ §§10.1-502,

43 10.1-503, 10.1-504 and 10.1-505 of the *Code*, or as may be conferred
44 elsewhere in the *Code* or in the Virginia Acts of Assembly.

45
46 ARTICLE VI MEMBERSHIP
47 Section 1 Number, Appointment

48
49 The Board shall consist of ~~10~~ nine voting members (See Note). The Director
50 of the Department of Conservation and Recreation, or his designee, shall be a
51 nonvoting ex officio member of the Board. Three at-large members of the
52 Board shall be appointed by the Governor. After the initial staggering of
53 terms, nonlegislative citizen members shall be appointed for a term of four
54 years to serve at the pleasure of the Governor, for a term coincident with that
55 of the appointing Governor; vacancies in the office of such appointed
56 members shall be filled by the Governor. At least two of the three at-large
57 members should have a demonstrated interest in natural resource conservation
58 with a background or knowledge in dam safety, soil conservation, or water
59 quality protection, or urban point or nonpoint source pollution control. Four
60 members shall be farmers and two members shall be farmers or district
61 directors, appointed by the Governor from a list of two qualified nominees for
62 each vacancy submitted by the Board of Directors of the Virginia Association
63 of Soil and Water Conservation Districts, in consultation with the Virginia
64 Farm Bureau Federation and the Virginia Agribusiness Council, and the
65 Virginia Soil and Water Conservation Board and the Soil and Water
66 Conservation Board in joint session, each for a term of four years. Appointed
67 members shall not serve more than two consecutive full terms. Appointments
68 to fill vacancies shall be made in the same manner as described above, except
69 that such appointments shall be for the unexpired terms only. The Board may
70 invite the Virginia State Soil Conservationist, Natural Resources Conservation
71 Service, as an advisory nonvoting member. (Note: Enactment Clause 3 of
72 Chapters 756 and 793 of the 2013 Virginia Acts of Assembly states “[t]hat the
73 provisions of § 10.1-502, as amended by this act, shall not be construed to
74 affect existing appointments for which the terms have not expired. However,
75 any new appointments or appointments to fill vacancies made after the
76 effective date of this act [July 1, 2013] shall be made in accordance with the
77 provisions of this act.”)

78
79 Section 2 ~~The Board members appointed to serve at the pleasure of the Governor shall~~
80 ~~serve for a term coincident with that of the appointing Governor. The other~~
81 ~~Governor appointed members shall serve for a term of four years each.~~
82 ~~Appointed members shall not serve more than two consecutive full terms.~~
83 ~~Appointments to fill vacancies shall be for the unexpired term only. A Board~~
84 ~~Member whose term has expired shall continue to serve until their successor~~
85 ~~has been appointed.~~

86
87 ARTICLE VII OFFICERS

88

89 Section 1 The Board shall elect from its membership a Chairman, Vice-Chairman and
90 such other officers as it deems appropriate and such officers shall serve until
91 the end of the fiscal year and thereafter shall be elected annually.

92

93 Section 2 DUTIES OF THE CHAIRMAN

94

95 The Chairman shall preside at all meetings of the Board at which he is present
96 and shall vote as any other member. He may appoint committees and call
97 special meetings as required and shall in general act as the Board's spokesman
98 and perform such other duties as it may direct.

99

100 Section 3 DUTIES OF THE VICE-CHAIRMAN

101

102 The Vice-Chairman shall serve as Chairman under resignation or death of the
103 Chairman until the Board elects a new Chairman.

104

105 The Vice-Chairman shall, in the absence of the Chairman, have authority to
106 perform all duties and exercise all powers of the Board Chairman and shall
107 perform other duties as the Board may direct.

108

109 Section 4 DUTIES OF THE SECRETARY ADMINISTRATIVE OFFICER

110

111 The Director of the Department of Conservation and Recreation shall serve the
112 Board as Secretary provide technical experts and other agents and employees
113 necessary for the execution of the functions of the Board. The Secretary
114 Administrative Officer will be responsible for administrative requirements of
115 the Board and for maintaining the official minutes and other records of the
116 Board.

117

118 ARTICLE VIII REIMBURSEMENT OF EXPENSES

119

120 The Board members shall be reimbursed pursuant to applicable state
121 reimbursement regulations for actual expenses incurred in the discharge of
122 their duties.

123

124 ARTICLE IX MEETINGS

125

126 Section 1 The Board shall meet at a time and place to be determined by the Board.
127 Additional meetings may be held as determined by the Chairman or the DCR
128 Director. The Board shall meet at least four times per year. The first regular
129 meeting shall be held in the period from July 1 to December 31 of each year.
130 All meetings of the Board shall be conducted in accordance with the Virginia
131 Freedom of Information Act.

132

133 Section 2 NOTICE

134
135 Meeting notices will be published on the Virginia Regulatory Town Hall in the
136 Virginia Register of Regulations by the DCR director or his designee. At least
137 three weeks' notice will be given to all Members in writing or by telephone,
138 FAX or electronic mail stating the time, place, and purpose of the meeting.
139 Special called meetings shall provide at least one week's notice of meeting to
140 all Members, the DCR Director, DCR staff as necessary, and to those
141 members of the public who have requested notification. Special meeting
142 notice shall be given in writing, or by telephone or by FAX or electronic mail
143 stating the time place and purpose of the meeting.
144

145 Section 3 MINUTES OF MEETINGS

146
147 Draft minutes shall be provided by the Executive Secretary Administrative
148 Officer within 10 working days following any meeting using the a DCR
149 prescribed format in the Department of Conservation and Recreation Policy
150 and Procedure Number 116. Final minutes will be available within 3 working
151 days of approval.
152

153 ARTICLE X QUORUM

154
155 Six Five members of the Board shall constitute a quorum and a majority of
156 those present and voting shall be required for all determinations.
157

158 ARTICLE XI INDEMNIFICATION

159
160 Every Board member (including heirs, executors, and administrators) shall be
161 indemnified by the *Risk Management Plan of the Commonwealth of Virginia*
162 according to the terms and requirements of that Plan and its enabling statutes.
163 against all judgements, fines, settlements and costs including attorney's fees
164 imposed upon or incurred by such Board Member in connection with or
165 resulting from any action, suit, proceeding or claim to which such Board
166 Member is or may be made a party by reason of being or having been a
167 member of the Board except in relation to matters as to which such Board
168 Member shall have been finally adjudged in such action, suit or proceeding to
169 be guilty or a malum per se or liable for gross negligence, fraud or self dealing
170 in the performance of such Board Member's duties.
171

172 ARTICLE XII AUDIT

173
174 The accounts and records of the Board shall be subject to audit by the DCR
175 Director or his designee and by the Auditor of Public Accounts or his legal
176 representative on an annual basis. The Board's fiscal year shall be the same as
177 the Commonwealth's.

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ARTICLE XIII APPOINTMENTS

The Board may request the DCR Director to appoint competent individuals to assist the Board in carrying out its duties.

ARTICLE XV AMENDMENTS

These By-laws may be amended by a two-thirds vote of the entire membership at any regular meeting provided that the members are notified of the nature and effect of any proposed amendment in advance or the meeting.

These by-laws will be reviewed on a biennial basis by the Board and the DCR Director. The by-laws shall be on file, available for review and copying at the Virginia Department of Conservation and Recreation, 203 Governor Street 600 East Main Street, Suite 302, 24th floor, Richmond, VA 23219.