

**Virginia Soil and Water Conservation Board**  
**Thursday, April 24, 2014**  
**DEQ Piedmont Regional Office, Glen Allen, Virginia**

**Virginia Soil and Water Conservation Board Members Present**

Herbert L. Dunford, Jr., Chair	Daphne W. Jamison, Vice Chair
Gary Hornbaker	Jerry L. Ingle
Stephen Lohr	Richard A. Street
Clyde E. Cristman, DCR Director, Ex Officio	
Chad Wentz for Jack Bricker, NRCS, Ex Officio	

**Virginia Soil and Water Conservation Board Members Not Present**

Thomas M. Branin	C. Frank Brickhouse, Jr.
Joan DuBois	Raymond L. Simms
Wanda J. Thornton	

**DCR Staff Present**

David C. Dowling	Michael R. Fletcher
Darryl Glover	Stephanie Martin
Barbara McGarry	Gary Moore
Matthew Gooch, Office of the Attorney General	

**Others Present**

Terri Bollinger, Peaks of Otter SWCD  
Derwin Booker, Northern Neck SWCD  
Kathy Clarke, Northern Neck SWCD  
Brad Copenhaver, Virginia Grain Producers Association  
Brent Fults, Chesapeake Bay Nutrient Land Trust  
Ann Jennings, CBF  
Adrienne Kotula, James River Association  
Darrell Marshall, VDACS  
Martha Moore, Virginia Farm Bureau Federation  
Ed Overton, VASWCD  
Ben Rowe, Virginia Grain Producers Association  
Gavin Sanderlin, Peaks of Otter SWCD  
Wilmer Stoneman, Virginia Farm Bureau Federation  
Jim Tate, Hanover-Caroline SWCD  
Kendall Tyree, VASWCD  
Julie Morris, Department of Planning and Budget  
Greg Wilchelns, Culpeper SWCD

**Call to Order and Introductions**

Chairman Dunford called the meeting to order and declared a quorum present. He asked Board members, staff, and members of the public to introduce themselves.

**Director's Update**

Mr. Cristman gave the director's report. He said that Monday he had attended a meeting of agency heads commemorating Governor McAuliffe's first 100 days in office. He said that the Governor had identified five major issues that he wanted to promote. Natural resources is one of those issues.

Mr. Cristman said that the Governor also applauded the Virginia Outdoors Plan which was launched by a video with the first lady. He also noted that the Governor recognized that Natural Bridge would be coming in to the State Park system in 2015.

Governor McAuliffe will also be reinstating the Climate Change Commission that began under Governor Kaine.

**Review of AG BMP Alternatives for FY15**

Mr. Dowling said that in the packet were several documents related to this item.

- Resource Management Plan Development Specification – RMP 1 R
- Resource Management Plan Implementation Specification – RMP 2 R
- Matrix of unapproved TAC recommended changes. M
- Summary of TAC teleconference S
- Letter from Virginia Grain Producer's Association L
- Program Year 2015 Draft Virginia Agricultural Cost-Share (VACS) BMP Manual, including text changes made to the guideline portions of the manual. P
- Board motion for consideration B

*Discussion of RMP1 and RMP2 BMP Specifications*

Mr. Dowling said that one of the key components of the Cost-Share Manual was detailed specification for each of the BMPs. He said that these two new specifications are associated with the RMP regulations which based on Board action have been submitted to the Town Hall for a July 1, 2014 effective date.

Mr. Dowling turned to Mr. Glover to present the specifications.

Mr. Glover reviewed the document. He noted the following sections:

Section B, Paragraph 2: This plan is required to be written to achieve a maximum soil loss rate to “T” as defined by the Natural Resources Conservation Service (NRCS) and to include best management practices (BMPs) necessary to address gross erosion or other severely eroding conditions on all acres included in the RMP. Additionally, the RMP must include 35’ wide buffers on cropland and hayland. Livestock must be excluded from perennial streams on pasture land.

Mr. Glover noted that the definition of Operator read: “means the person or persons with actual managerial controlling interest – which may differ from the named interest – in the land management unit.”

Mr. Dowling noted that the cost-share rates were yet to be determined. These will be brought forward to the Board and provided as an addendum insert to the manual.

Mr. Dunford asked for a clarification regarding local review.

Mr. Glover said that the review would be local except in cases where a District member or employee prepared the RMP. In those instances, DCR would review the plan.

Regarding implementation the question was asked whether the RMP rate would be per acre or a cost-share percentage.

Mr. Glover said that the final determination has not been made but that staff has been considering a per-acre rate.

A question was asked regarding the assignment of the payment issue.

Ms. Martin said that DCR was in discussions with the IRS concerning payments.

Mr. Cristman said that there had been an inquiry with regard to 1099 forms and IRS rules. DCR has asked the Attorney General, the Virginia Department of Taxation, and the IRS to clarify the issue. The IRS is the governing body.

Mr. Dowling said that the two specifications were before the Board for consideration. He said that the staff recommendation was for the Board to adopt and to direct the staff to include these specifications in the manual.

Mr. Lohr noted that there were mentions of hay, pasture, and cropland, but no mention of production facilities.

Mr. Dowling said that the law was very specific with regard to the three land uses.

Mr. Street suggested that with regard to formatting, that language be provided to better link the completion and implementation of RMP-1 with a producers ability to participate in RMP-2.

MOTION: Mr. Lohr moved that the Virginia Soil and Water Conservation Board adopt DCR Specifications for RMP-1 and RMP-2 as presented by staff and as edited by Board discussion.

SECOND: Mr. Street

DISCUSSION: None

VOTE: Motion carried unanimously

*Discussion of Agricultural BMP Technical Advisory Committee Recommendations related to reduction in cover crop payment rates.*

Mr. Dowling noted that the remaining recommendations on the draft matrix stood as recommendations to the Board. He said that several recommendations had been approved at the last meeting and noted that the TAC had since participated in a conference call for further discussion of the remaining four that were outlined on the updated draft matrix.

Mr. Cristman commended Mr. Moore for his work in organizing the conference call. He noted that over 60 people participated in the call. He said that there would not be unanimity with the issues, but recommended that the Board move forward.

Mr. Cristman said that the options before the Board were: 1) not to pass the recommendations, 2) pass the recommendations as presented, and 3) continue the FY14 rate for a new farmer who has not participated in the program for five years. However, he noted that he did not believe the compromise on the rates addressed the original concerns.

Mr. Dunford called for public comment with regard to the recommendations.

Mr. Overton, representing the Virginia Association of Soil and Water Conservation Districts, said that the Association appreciated the opportunity that had been provided for additional conversation. He said that the opinion of the Association was that the Board should move forward as they felt best. He said that in the ongoing TAC process the Association would ask if anomalies are noted that the Board share that with stakeholders and allow the opportunity for the TAC and stakeholders to help develop possible solutions. He said that the Association appreciated the opportunity to participate in the conference call. He said the summary of the discussion was very helpful.

Mr. Cristman said that he hoped that the discussions would strengthen the process. He said that DCR was committed to finding ways to improve the process.

Mr. Stoneman with the Virginia Farm Bureau Federation said that he supported the TAC process. He noted that most of the recommendations were for a year and could be addressed again. He said that the Farm Bureau would encourage the Board to ask the TAC to look at cover crops, specifically mixture cover crops and to consider a separate BMP for those.

Mr. Booker, representing the Northern Neck SWCD said that his District was one that dissented with regard to cover crops. He said that cover crops are very important to the Chesapeake Bay. He said that he would hope the Board not consider a change with regard to cover crops.

Mr. Rowe from the Virginia Grain Producers Association noted that a letter had been provided to the Board. He said that the Virginia Grain Producers Association had participated in the TAC process. He said that the TAC was charged with making cuts and finding the process to do so. He said that the VGPA Board felt the cuts should not be made because they would reduce participation.

Mr. Dunford asked for comments or questions from Board members.

Mr. Ingle asked Mr. Wentz how long NRCS provided funding to a producer for a practice.

Mr. Wentz said that the contracts could be written for one to three years.

Ms. Jamison noted that there was not unanimous agreement in Area V. She asked if the cover crop issue could be part of returning autonomy to Districts.

Mr. Cristman said that different rates for different areas could cause confusion and that the hope was to provide consistency.

Ms. Jamison asked if Districts could put a cap on funding.

Mr. Dowling said that staff would be discussing that with the Board later in the agenda. He said that staff had heard from several members the request to allow for cap adjustments.

Mr. Dowling noted that the issue of different rates for different areas was a tracking program issue. He said that staff would need to determine if this was technically feasible.

Mr. Hornbaker said that he respected the recommendations of the TAC. He said that rejecting the recommendations would send the wrong message. He said that he would vote in favor of the recommendations.

MOTION: Mr. Hornbaker moved that the Virginia Soil and Water Conservation Board approve the matrix of unapproved recommended changes to the 2015 VACS program as recommended by the TAC and as presented by DCR staff.

SECOND: Mr. Lohr

DISCUSSION: Ms. Jamison asked if it was feasible to dedicate funds for cover crops so that not all funding went to stream exclusion. She said that in the past year, decisions authority had been taken away from her District.

Mr. Cristman said that discussions could continue on matters such as these. He said that staff had noted the concerns with regard to SL-6. He said that one option was to go back to the General Assembly to request more funding.

VOTE: Motion carried with Ms. Jamison and Mr. Dunford voting no.

Mr. Cristman noted that the Board would have the opportunity to review this again next year.

*Review and approval to finalize and print the FY15 Virginia Agricultural Cost-Share (VACS) BMP Manual as a Guidance Document*

Mr. Dowling said that staff needed to finalize and print the Agricultural Cost-Share manual. He said time was becoming short to get this information to our partners and farmers. He said that this was the Board's document and that staff needed Board approval to continue.

Mr. Cristman said that he would like to see the document provided online.

Mr. Dowling said that it would be and would also be incorporated on Virginia Town Hall as an official guidance document.

MOTION: Mr. Lohr moved the following:

**Motion to approve the Program Year 2015 Virginia Agricultural Cost-Share (VDACS) BMP Manual as Board Guidance and to direct the Department to finalize and publish the document.**

The Board, in accordance with its program authority over the Virginia Agricultural Best Management Practices Cost-Share Program set out in § 10.1-546.1 of the Code of Virginia, adopts this draft document.

The Board recognizes that the key changes between the 2014 and 2015 version involved the inclusion the:

- 1) Resource Management Plan Specifications (rates pending future Board approval);
- 2) Rate changes for specified practices as approved by the Board;
- 3) Board Policy as Section 1 of the manual (Policy language has been removed from the manual's text); and
- 4) General updates to addresses, websites, nonpoint assessment tables, and other reference materials and administrative practices to keep the manual current.

The Board also understands that at the May meeting, they will approve the FY15 Cost-Share and Technical Assistance Funding Allocations Policy that will become Section 1 of this manual.

The Board authorizes and directs the Department to prepare the guidance document for publication making final administrative adjustments as needed, to have the document printed, and to distribute and train affected partners and stakeholders on its contents.

SECOND: Mr. Street

DISCUSSION: None

VOTE: Motion carried unanimously

### **District Director Resignations and Appointments**

Ms. Martin presented the list of district director resignations and appointments.

#### *Lord Fairfax*

Resignation of Marcus Adams, Jr., Frederick County, effective 2/5/14, elected director position (term of office expires 1/1/16).

Recommendation of Kitty Hockman Nicholas, Frederick County, to fill unexpired term of Marcus Adams, Jr., (term of office to begin on 5/24/14 – 1/1/16).

Resignation of Robert A. Clark, Shenandoah County, effective 3/29/14, appointed Extension Agent director position (term of office expires 1/1/17).

Recommendation of C. Corey Childs, Warren County, to fill unexpired term of Robert A. Clark (term of office to begin on 5/24/14 – 1/1/17).

#### *Mountain*

Resignation due to the death of Thomas B. McCaleb, Alleghany County, effective 11/13/12, elected director position (term of office expires 1/1/16).

Recommendation of Christine Hodges, Alleghany County, to fill the unexpired term of Thomas B. McCaleb (term of office to begin on 5/24/14 – 1/1/16).

#### *Shenandoah Valley*

Resignation of Matthew Yancey, Rockingham County, effective 2/28/14, appointed Extension Agent director position (term of office expires 1/1/17).

Recommendation of Jeremy L. Daubert, Rockingham County, to fill the unexpired term of Matthew Yancey (term of office to begin 5/24/14 – 1/1/17).

- MOTION: Mr. Ingle moved that the list of District Director Resignations and Appointments be approved as submitted by staff.
- SECOND: Mr. Hornbaker
- DISCUSSION: None
- VOTE: Motion carried unanimously

**Review and Discussion of District Cost-Share and Technical Assistance Policy Alternatives for FY15**

Mr. Dowling reviewed the District-Cost-Share and Technical Assistance Policy. He noted that while the budget had not yet been approved, staff needed to move forward with development of the policy. He said that staff would ask for Board approval at the May meeting contingent upon final approval of the budget.

Mr. Dowling said that the Governor's reintroduced budget with House amendments provided for the following:

- \$18,199,337 for Agricultural Best Management Practices Cost-Share Assistance [Surplus]
- \$1,500,000 for Agricultural Best Management Practices Cost-Share Assistance [Special GF Appropriation only in House Amendments]
- \$8,800,000 for Agricultural Best Management Practices Cost-Share Assistance [Recordation Fee] (We recommend budgeting to \$6,800,000 as recordation fee collections have declined significantly; this provides a conservative buffer)
  - TOTAL: \$26,499,337
- \$1,582,551 for Technical Assistance [Surplus]
- \$1,200,000 for Technical Assistance [Recordation]
  - TOTAL: \$2,782,551

Mr. Dowling said that the following options were available to the Board:

- 1) OPTION 1: After NP assessment adjustment, retain the use of 55-30-15.
- 2) OPTION 2: After NP assessment adjustment, use 50-30-20 (Potentially consider this strategy if TMDL earmarks cease).
- 3) OPTION 3: After NP assessment adjustment, retain the use of 55-30-15 but earmark \$3M to SL-6 in the OCB.
- 4) OPTION 4: After NP assessment adjustment, use 50-30-20 but earmark \$3M to SL-6 in the OCB. – **The Department recommends this allocation scenario.**
  - § In all four scenarios a \$60,000 RMP development earmark is included in the OCB.

Mr. Dowling said that the known issues were:

- 1) Distributions will change based on an updated nonpoint assessment (2010 info versus 2014)? – **Nonpoint assessment adjustments to District cost-share amounts were made.**
- 2) Should we continue to fund targeted TMDL's through C-S? – **No additional TMDL dollars from cost-share have been earmarked to specific TMDL projects in FY15. As was determined at the last Board meeting, currently allocated dollars will be granted extensions. TMDL operational dollars have been left in the Districts they were allocated to in FY14.**
- 3) Should there be an allocation made to the pending SL-6 applications? - **Yes, an allocation of \$3 million is being recommended in the OCB for SL-6; in the CB we anticipate funding being available for SL-6 from federal funding sources.**
- 4) How to handle SL-6 in FY15? (100%) – **As a commitment was made to continue SL-6 in FY15 at 100%, we recommend that this commitment be honored.**
- 5) If SL-6 is kept at 100% for FY15, what does FY16 and later look like? – **The Board will need to work with the Department and stakeholders to make this determination for FY16 policy development.**
- 6) Should there be an earmark for Resource Management Plan development and verification or should it be part of regular VACS? – **Given the \$120,000 in federal grant funds available for Resource Management Plan development in the CB and the \$60,000 in cost-share in the CB and \$40,000 in OCB available for RMP development from FY14 C-S/TA Policy allocations, we have earmarked an additional \$60,000 in the OCB for plan development in FY15. [Totals: \$180,000 CB; \$100,000 OCB]**
- 7) How should proportioning of VACS to H, M, and L HU areas work? [50-30-20; 55-30-15 (current); 60-30-10] – **A distribution percentage of 50-30-20 is being recommended so as to allow additional cost-share to be directed to potential TMDL needs in low HU's.**
- 8) Shall reallocation of unallocated VACS occur at the end of Q3 (March 31<sup>st</sup>)? – **The strategy seemed to work well in FY14 and is recommended to be continued in FY15.**
- 9) Should the reallocation trigger remain at 90% obligated? - **The strategy seemed to work well in FY14 and is recommended to be continued in FY15. Kudos to the Districts in the fantastic job they did in obligating C-S.**
- 10) Should 10% of the unobligated amount be left with the District? – **The strategy seemed to work well in FY14 and is recommended to be continued in FY15. However, of the four Districts that did not quite meet the 90% threshold (3 CB and 1 OCB) (only \$84,000 total), none saw a need to retain their 10% allowance and offered it up for reallocation.**
- 11) Should VACS caps be handled in a consistent manner between Districts? - **As the FY15 policy is completed in the coming weeks, we anticipate including language to allow Districts to adjust participant or VACS caps (not by practice) (not to exceed state maximums). Both SL-6 and RMP will remain outside the cap for FY15.**

Mr. Dowling noted that May 2<sup>nd</sup> would be the date when we pull from the Agriculture BMP Database the SL-6 pending list for developing policy allocations for pending SL-6 practices.

Ms. Jennings asked if the \$3 million suggested for SL-6 was coming from cost-share.

Mr. Cristman said that DCR was hoping there would be additional federal funding.

Mr. Wichelns asked if recordation fees were to rebound and be reallocated if there would be an adjustment of technical assistance.

It was noted that under current budget language that this would not be the case.

MOTION: Mr. Hornbaker moved that the Virginia Soil and Water Conservation Board support Option 4 as presented by staff.

SECOND: Mr. Street

DISCUSSION: None

VOTE: Motion carried unanimously

At this time the Board recessed for lunch.

Following lunch, Mr. Dowling continued with the discussion of Technical Assistance.

Mr. Dowling shared the following Technical Assistance Distribution Strategies.

- 1) OPTION 1: In proportion to District budget template TA information provided for FY15.
- 2) OPTION 2: Look at FY15 TA proportional to FY15 C-S distribution.
- 3) OPTION 3: Use FY14 as base and distribute remainder proportional to FY15 C-S.
- 4) OPTION 4: Use FY13 as base and distribute remainder proportional to FY15 C-S. - **The Department recommends this allocation scenario.**

§ **Options 2-4 are based on Cost-Share OPTION 2 as this scenario does not reduce OCB Districts TA based on SL-6 funds being earmarked. It recognizes that Districts still have a workload associated with finalizing the pending SL-6 projects being awarded the \$3 M.**

Mr. Dowling said that the known issues were:

- 1) We have had reminders that TA is supposed to follow VACS but other Districts have suggested that reductions in TA will hurt current program support levels? – **We continue to try and balance District funding stability with changes in C-S distributions by ensuring that no District receives less TA than received in FY13 TA allocations but that the remaining TA sum is distributed based on FY15 C-S allocations.**
- 2) When VACS funds are reallocated in Q4, should any TA accompany funds? – **We recommend continuing the policy that TA does not follow C-S reallocations in Q4.**
- 3) What should be the timing of TA disbursements to Districts? (50% Q1; 25% Q2; 25% Q3) - **As the FY15 policy is completed in the coming weeks, this issue will be considered.**

Mr. Cristman emphasized that the work of the Districts on the budget template was extremely valuable. He said that the hope was that in future years that would become an even more

important part of the discussion. He said that part of the goal of the budget template was to show the General Assembly where more funding was needed.

Ms. Moore said that the chart was helpful (handout available from the DCR). She said that she hoped the process of the budget template would continue. She said that the process needed to be refined before it was relied upon to establish funding numbers.

Mr. Sanderlin from Peaks of Otter SWCD asked how historical earmarked funds were reflected in the numbers.

Mr. Dowling said that those numbers were reflected in the operations and administration policy.

Mr. Street asked the time constraint on approval of the process.

Mr. Dowling said that staff needed to write a final policy for Board review within the next two weeks.

At this time the Board deferred discussion regarding Technical Assistance to allow time to review the Administration and Operations Policy.

### **Review and Discussion of District Administration and Operation Policy Alternatives for FY15.**

Mr. Dowling reviewed the Operations and Administration Policy options.

The Governor's re-introduced budget provides for essentially level funding:

- \$6,841,091 available, to be distributed:
- \$6,209,091 core administration and operations
- \$312,000 dam maintenance
- \$150,000 small dam repairs
- \$170,000 District support

Mr. Dowling shared the following distribution strategies with the Board:

- 1) OPTION 1: In proportion to District budget template information provided for FY15.  
“...the general fund shall be distributed to the districts for core administrative and operational expenses (personnel, training, travel, rent, utilities, office support, and equipment) based on identified budget projections and in accordance with the Board's financial allocation policy...”

Although this is not the distribution strategy that we recommend for this coming fiscal year (largely due to concerns expressed by the Districts themselves), we believe that the 2013 budget template exercise was beneficial and represented a solid first attempt at quantifying District baseline funding needs to support program delivery. From it we learned a number of lessons and we appreciated the assistance of District and Association representatives in working with the Department to develop the revised 2014 budget template that we will be releasing in the coming days. We do suggest that moving towards the use of the template results will be a desired approach for FY16 distributions.

- 2) OPTION 2: Proportional distribution to last year after any specified earmarks.

While every District receives additional funding, we feel the approach taken in Option 3 is the fairest alternative.

- 3) OPTION 3: If no earmarks, identical distribution as last year with any remainder utilized to address historical inequities.

Option 3 is the Department's recommendation for the allocation of FY15 administrative and operational expenses. It takes \$160,518 in funding allocated in FY14 to RMP and engineering support earmarks and distributes this to the thirteen Districts that were not benefiting from special historical or TMDL funding. This approach represents a continuation of District funding level rebalancing to support essential functions.

Mr. Dowling said that the known issues were:

- 1) Whether to continue TMDL staff support from this funding source? – Maintains the funding levels originally provided for TMDL staff support in FY14.
- 2) Whether to carve out an earmark for RMP to be potentially distributed based on plans approved? – No carve out is made for RMP functions.
- 3) Whether to keep Director travel and training at current levels? – Maintains current levels of \$500 per Director.
- 4) Whether to earmark monies for engineering services support – We anticipate this will be provided for in the budget and did not provide for any earmarks for this purpose. The language remained in the Governor's Re-Introduced budget (\$225,000 GF and \$150,000 NGF appropriation to support 4 engineers).
- 5) What should be the timing of funding disbursements to Districts? (In FY14 all was disbursed in Q1.) – This still needs to be determined prior to finalizing the policy next month with the Board, but it remains unlikely that all funds will be distributed in the 1<sup>st</sup> quarter pursuant to concerns raised by DPB and the APA.
- 6) Whether to address inequities in District support created over the years? – The recommended funding scenario does begin to address some of the inequities created by historical funding strategies. The budget template results provided in the coming months will be utilized to advocate for additional funding to properly support each District's base functions.

MOTION: Mr. Dunford moved that the Virginia Soil and Water Conservation Board approve Option 3 with regard to the Operations and Administrations Policy as presented and recommended by staff.

SECOND: Ms. Jamison

DISCUSSION: None

VOTE: Motion carried with Mr. Ingle voting no.

The discussion returned to Cost-Share Technical Assistance.

Mr. Dowling reviewed the options as presented.

Ms. Moore inquired that in order to address technical assistance shortfalls associated with the delivery of SL-6 cost-share, whether there was the possibility of employees working with multiple districts.

MOTION: Mr. Lohr moved that the Board concur with staff recommendation regarding Technical Assistance Option 4 to use FY13 as the base and to distribute the remainder proportional to FY 15 Cost-Share.

SECOND: Mr. Street

DISCUSSION: None

VOTE: Motion carried unanimously

### **New Business**

There was no new business

### **Next Meeting**

Mr. Dowling noted that the items for the next meeting would include:

- Review and approval of District funding allocation policies and grant agreements
- Approval of Dam Safety and Floodplain Protection Assistance Fund Grants

The next meeting of the Virginia Soil and Water Conservation Board was scheduled for May 21, 2014 at the Department of Forestry in Charlottesville.

The Board agreed that another meeting should be scheduled in late July or early August.

The Board will meet together with the Virginia Association of Soil and Water Conservation District Directors Board at the conclusion of the Association annual meeting in December. The meeting will be held on December 10 at Hotel Roanoke.

### **Public Comment**

There was no additional public comment.

### **Adjourn**

Respectfully submitted,

Herbert L. Dunford, Jr.  
Chair

Clyde E. Cristman  
DCR Director