

**Virginia Soil and Water Conservation Board  
Friday, April 4, 2014  
Senate Room 3, Virginia State Capitol  
Richmond, Virginia**

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

Herbert L. Dunford, Chair	Daphne W. Jamison, Vice Chair
Joan DuBois	Gary Hornbaker
Jerry L. Ingle	Stephen Lohr
Raymond L. Simms	Wanda J. Thornton
Clyde E. Cristman, DCR Director, Ex Officio	
John A. Bricker, NRCS, Ex Officio	

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

Thomas M. Branin	C. Frank Brickhouse, Jr.
Richard A. Street	

**DCR Staff Present**

Joe Elton	David C. Dowling
Scott Ambler	Robert Bennett
Michael R. Fletcher	Darryl Glover
Blair Krusz	Stephanie Martin
Barbara McGarry	Gary Moore
Rick Weeks	Gary Waugh
Paul Kugelmann, Office of the Attorney General	

**Others Present**

Suzanne Brown, Loudoun SWCD  
Jim Christian, Loudoun SWCD  
Brad Copenhaver, Virginia Agribusiness Council  
Katie Frazier, Virginia Agribusiness Council  
Ann Jennings, Chesapeake Bay Foundation  
Liz McKercher, DEQ  
Martha Moore, Farm Bureau Foundation  
Julie Morris, Department of Planning and Budget  
Ed Overton, Virginia Association of Soil and Water Conservation Districts  
Jim Tate, Hanover-Caroline SWCD  
Kendall Tyree, Virginia Association of Soil and Water Conservation Districts  
Lou Ann Wallace, Virginia Association of Soil and Water Conservation Districts  
Greg Wichelns, Culpeper SWCD

**Call to Order and Introductions**

Chairman Dunford called the meeting to order and declared a quorum present.

Mr. Elton said that he had been honored to serve as Interim DCR Director during the time of transition. He introduced Mr. Cristman as the new DCR Director appointed by Governor McAuliffe.

Mr. Cristman said that, as he had stated at the Association meeting the day before, that it is a new day at DCR. He said that the Department has received clear direction from both the Governor and Secretary of Natural Resources Molly Ward regarding DCR.

Mr. Cristman said that one of the first actions, taken prior to his assuming the office was to rename the division of Nonpoint Pollution Prevention to again be the Division of Soil and Water Conservation. He said that this was hopefully a symbolic statement that is the first step in moving toward better collaboration and communication with DCR's stakeholders and partners.

Mr. Cristman announced that Mr. Weeks would be retiring with his last day at DCR being April 10, 2014. He noted that Mr. Weeks had a long and distinguished career with the Commonwealth for more than 30 years. He thanked Mr. Weeks for serving as interim Director of the Division of Nonpoint Pollution Prevention while continuing to be an employee of the Department of Environmental Quality.

**Approval of the Minutes from December 11, 2013**

MOTION: Mr. Lohr moved that the minutes of the December 11, 2013 meeting of the Virginia Soil and Water Conservation Board be approved as submitted by staff.

SECOND: Ms. Jamison

DISCUSSION: None

VOTE: Motion carried unanimously

**Next Board Meeting**

Chairman Dunford reordered the agenda to have a discussion regarding the Board meeting schedule.

Mr. Dowling said that the hope had been that the Board could have a two-day work session on April 24 and 25, and a full Board meeting on Friday, May 23. He said that the dates had proven to be problematic in terms of reaching a quorum. He said that because some program authorities and responsibilities had shifted from the DCR to the Board, that more in-depth discussion was needed with regard to cost-share, the BMP manual and other issues.

Ms. Thornton asked why Board meetings had been moved to Fridays.

Mr. Dowling said that, traditionally, Board meetings had been held on the third Thursday of the Board meeting month, but that, at the request of the Board, the meetings had been moved to Friday. He said that the decision regarding meeting dates was entirely up to the Board.

After some discussion, the Board determined that Thursday, April 24<sup>th</sup> and Wednesday, May 21<sup>st</sup> would be set as the Board meeting dates.

Board members expressed a desire to meet elsewhere than downtown Richmond. They expressed a preference for western Richmond or Charlottesville.

### **Legislative and Budget Overview**

Mr. Dowling gave the following legislative and budget overview.

- The 2014 Virginia General Assembly Session convened on January 8<sup>th</sup> and adjourned on March 8<sup>th</sup> (60-day session)
- The Session ended without agreement on the budget and the Governor called for a Special Session to address the budget that convened on March 24<sup>th</sup>. During Special Session 1, Governor McAuliffe took the opportunity to submit 104 amendments to Governor McDonnell's re-introduced budget.

### **KEY LEGISLATIVE DISCUSSION**

- The Dam Safety Program, Act, and regulations came under significant attention this Session from concerned legislator regarding the cost of complying with existing requirements.

Key legislative actions included the following. A full copy of Mr. Dowling's report showing legislation considered that did not pass is available from DCR.

**HB1006 as Introduced: Update of the Probable Maximum Participation level. (Delegate Byron):** As introduced, this legislation directed the Department of Conservation and Recreation to conduct a study that would update the Probable Maximum Precipitation (PMP) level for locations in the Commonwealth in order to potentially reduce cost for dam owners in spillway construction and remediation efforts. The bill also allowed owners of impounding structures regulated under the Virginia Soil and Water Conservation Board's Impounding Structure Regulations (4VAC50-20) to apply for a provisional license from the Department of Conservation and Recreation that would allow impounding structures to continue to function with no upgrades until the storm-based analysis has been completed. This created an additional class of certificates and undermined other safety requirements. (Later amended and HB1006 and HB582 conformed).

**SB582 as Introduced: Impounding structures exemption. (Senator Garrett):**

As introduced, this legislation exempted owners of impounding structures who by July 1, 2014, had not begun the upgrading of their facilities or had been unable to comply with the Department of Conservation and Recreation's Impounding Structure Regulations from compliance with the regulations until the Department of Conservation and Regulation had completed an analysis of the costs of implementing such regulations and the General Assembly, after reviewing the analysis, had (i) addressed funding issues for owners to comply with the regulations and (ii) provided additional guidance concerning the implementation of the regulations. (Later amended and HB1006 and HB582 conformed)

**HB1006 and SB582: Probable Maximum Precipitation (PMP); DCR to utilize storm-based approach in order to derive PMP.**

House Bill Patrons: Byron, Austin and Garrett; Senator: Stuart

Senate Bill Patrons: Garrett and Stuart

This legislation as was amended passed both chambers unanimously and directs the Department of Conservation and Recreation to update the Probable Maximum Precipitation (PMP) values across Virginia. The study is to be completed by December 1, 2015. Owners of impounding structures with spillway design inadequacies who maintain coverage under the conditional certificate are not required to rehabilitate the spillway until the PMP analysis is completed and reviewed by the Virginia Soil and Water Conservation Board. The bill requires the Board to consider the results of the PMP analysis in its decision of whether to authorize replacement of the current PMP values. The Department of Conservation and Recreation is authorized to expend up to \$500,000 in unobligated balances from the Dam Safety, Flood Prevention and Protection Assistance Fund or the Dam Safety Administrative Fund to finance the analysis. The bill contains an emergency clause (effective upon signature of the Governor).

[HB1005: Approved by Governor-Chapter 475 (effective 4/1/14)]

[SB582: Approved by Governor-Chapter 489 (effective 4/1/14)]

Other dam safety bills involving dam owner liability also advanced this session.

**HB1034 and SB466: Dams, certain: liability of owners. (Delegate Orrock and Senator Watkins)**

This legislation protects owners of land upon which dams that are owned, maintained, or operated by soil and water conservation districts are situated from liability for damages to the property of others or the injury to persons resulting from the failure of a dam.

However, this protection is not afforded to the landowner if the damage to others is a result of an act or omission by the landowner that is unrelated to ownership, maintenance, or operation of the dam.

[HB1034: Approved by Governor-Chapter 146 (effective 7/1/14)]

[SB466: Approved by Governor-Chapter 304 (effective 7/1/14)]

An alternative approach was also considered providing insurance through the State's Division of Risk Management for owners of land upon which dams that are owned, maintained, or operated by soil and water conservation districts are situated but when it was suggested that the Districts or the Department potentially would be responsible for insurance premium payments that could collectively run in the millions annually, rather than the landowner, we shifted support towards the approach advanced by HB1034 and SB466.

The Department with the support of the last Administration advanced a bill this Session to address orphan dams.

**HB1124 Dams; liability of owners or operators of dams (Delegate Orrock)**

This legislation requires any entity that owns an impounding structure to either convey ownership to a third party by deed or other legal conveyance or decommission the impounding structure prior to the entity's dissolution or termination. The bill also requires that the entity report to the Director of the Department of Conservation and Recreation any transfer of ownership prior to dissolution or termination.

We noted that a regulated impounding structure that is abandoned by its legal owner becomes an "orphan" dam. We estimate at this time, that there may be 25 orphan dams statewide with the potential for this number to continue to increase. These orphan dams cause an unsafe condition that poses a threat to the lives and property of Virginia's citizens because these dams are left without an acknowledged owner to ensure their proper operation, maintenance, and repair. In these situations, there is no acknowledged owner responsible for ensuring that the impounding structure undergoes regular safety inspections by Professional Engineers and regular maintenance to prevent dam failures. Moreover, dam break inundation mapping to identify downstream people at risk and emergency action plans to be able to evacuate people in an emergency provided by an owner are not available to help prevent loss of life and damage to property in the event of a dam failure.

(The bill has been enrolled and signed by the House Speaker and Senate President and awaits the Governor's signature).

Finally, the annual Clean Water Farm Award resolution was advanced.

**SJ123 Commending the 10 River Basin Grand Winners of the Clean Water Farm Award. (Senators Hanger and Puckett and Delegate Scott)**

Commends the 10 River Basin Grand Winners of the Clean Water Farm Award.  
(Bill passed Senate and House)

Mr. Dowling gave an update regarding the current status of the budget.

**DISTRICT ADMINISTRATIVE AND OPERATIONAL FUNDING**

**Governor's Re-Introduced Budget with House proposed amendment:**

Item 357 A.1. Out of the amounts appropriated for Financial Assistance to Virginia Soil and Water Conservation Districts, ~~\$6,941,091~~ \$6,841,091 the first year and ~~\$6,941,091~~ \$6,841,091 the second year from the general fund shall be provided to soil and water conservation districts for administrative and operational support. These funds shall be distributed upon approval by the Virginia Soil and Water Conservation Board to the districts in accordance with the Board's established financial allocation policy. These amounts shall be in addition to any other funding provided to the districts for technical assistance pursuant to subsections B. and D. of this item Of this amount ~~\$6,309,091~~ \$6,209,091 the first year and ~~\$6,309,091~~ \$6,209,091 the second year from 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; \$312,000 the first year and \$312,000 the second year from the general fund shall be distributed at a rate of \$3,000 per dam for maintenance; \$150,000 the first deficiencies; and \$170,000 the first year and \$170,000 the second year 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 House amendment corrects the amount of general fund support available for distribution to the Virginia Soil and Water Conservation Districts. The amount referenced in language included \$100,000 in nongeneral appropriation from the districts' Dam Maintenance and Small Repair Fund.)

### **DISTRICT COST-SHARE AND TECHNICAL ASSISTANCE FUNDING**

#### **Governor's Re-Introduced Budget with House proposed amendment:**

Item 357 B.1. Notwithstanding § 10.1-2129A., Code of Virginia. \$23,897,500 the first year from the general fund shall be deposited to the Virginia Water Quality Improvement Fund established under the Water Quality Improvement Act of 1997. Of this amount \$1,150,000 shall be appropriated to the Department for Nonpoint Pollution Prevention for the following specified uses: \$100,000 shall be utilized as cost-share for the development of nutrient management plans for golf courses, \$250,000 shall be provided to the Department of Forestry for water quality grants, and \$800,000 shall be used for the Commonwealth's match for participation in the federal Conservation Reserve Enhancement Program (CREP). Pursuant to paragraph B of Item 356, \$2,965,612 is designated for deposit to the reserve within the Virginia Water Quality Improvement Fund. Of the remaining amounts, \$19,781,888 is authorized to transfer to the Virginia Natural Resources Commitment Fund, a subfund of the Virginia Water Quality Improvement Fund. The monies transferred to the Virginia Natural Resources Commitment Fund shall be ~~disbursed by the Department~~ distributed upon approval by the Virginia Soil and Water Conservation Board in accordance with the Board's developed policies and in accordance with the allocation percentages in § 10.1-2128.1 B., Code of Virginia. Of the \$19,781,888, a total of eight percent, \$1,582,551 shall be appropriated for Technical Assistance for Virginia Soil and Water Conservation Districts and \$18,199,337 for Agricultural Best Management Practices Cost-Share Assistance.

- \$29.9 million in GF in FY15 represents 75 percent of the \$31.5 million statutory deposit to the Water Quality Improvement Fund (WQIF).

**House proposed amendment:**

Item 357 B.3. Out of the amounts appropriated for this item, \$1,500,000 the first year and \$1,500,000 the second year from the general fund is provided for the implementation of agricultural best management practices cost-share assistance.

**Governor's re-introduced budget:**

Item 357 D. 1. Out of this appropriation \$10,000,000 the first year and \$10,000,000 the second year from nongeneral funds to be deposited to the Virginia Natural Resources Commitment Fund, a subfund of the Virginia Water Quality Improvement Fund, as established in § 10.1-2128.1, Code of Virginia. The funds shall be disbursed by the Department pursuant to § 10.1-2128.1, Code of Virginia.

2. The source of an amount estimated at \$10,000,000 the first year and \$10,000,000 the second year to support the nongeneral fund appropriation to the Virginia Natural Resources Commitment Fund shall be the recordation tax fee established in Part 3 of this act.

3. Out of this amount, a total of eight percent, or \$1,200,000, whichever is greater, shall be appropriated to Virginia Soil and Water Conservation Districts for technical assistance to farmers implementing agricultural best management practices, and \$8,800,000 for Agricultural Best Management Practices Cost-Share Assistance. Of the amount deposited for Cost-Share Assistance, distributions between watersheds shall be in accordance with the allocation percentages set out in § 10.1-2128.1 B., Code of Virginia.

- Pursuant to language found in §3-6.01 of the budget, a fee of \$20 is imposed on every deed recorded in the Commonwealth. \$10 is dedicated to the Virginia Natural Resources Commitment Fund (VNRFCF) for implementation of agricultural best management practices.

**OTHER BUDGET INFORMATION****Governor's Re-Introduced Budget**

- **Engineering Support for Soil and Water Conservation Districts.** Provides \$225,000 GF and \$150,000 NGF each year for DCR to hire four engineers to support SWCDs and to offset a decrease in engineering services previously provided by the federal Natural Resources Conservation Service and to address a need for additional capacity.
- **Resource Management Program.** Provides \$89,100 GF each year for one additional portion to assist farmers in developing and implementing Resource Management Plans. Farmers who fully implement these plans shall be deemed in compliance with total maximum daily load allocations required to meet state water quality requirements for nutrient and sediment reductions.

**Governor's Re-Introduced Budget: House proposed amendment**

- **Shoreline Erosion Advisory Service (SEAS).** Provides \$100,000 GF each year of the biennium and 1 GF FTE to establish technical resources for shoreline erosion control to reduce the impacts of shoreline erosion on Virginia waters and the Chesapeake Bay, to aid in meeting the mandated nutrient and sediment reduction goals for the Bay TMDL and to provide the citizens of the Commonwealth with unbiased shoreline erosion reduction techniques. The funding provides a full-time DCR SEAS employee where no position exists now and related equipment such as cameras, GPS equipment, survey equipment, and office and travel expenses.

**Senate proposed amendment [Regular Session; has not been advanced yet in the Special Session]**

- **Soil and Water Conservation District Dam Rehabilitation.** Provides \$750,000 in FY15 and \$1,250,000 in FY16 and 6 GF FTE to implement the initial recommendation of a draft plan for rehabilitation of Soil and Water Conservation District owned dams. Instructs the Secretary of Natural Resources to develop a plan for the implementation of the recommendations provided in the "Plan for The Rehabilitation of Virginia's Soil and Water Conservation District Dams" draft report. The plan shall be provided to the Governor and the Chairman of the Senate Committees on Finance and Agriculture, Conservation, and Natural Resources, and the House Committees on Appropriations and Conservation and Natural Resources by November 1, 2014.

**Regulatory Matters**

Mr. Dowling gave an update regarding regulatory matters.

*Nutrient Management Plan Regulations*

Mr. Dowling said that the authority for the Nutrient Management Plan Regulations was now with the Board. He noted that actions had been taken to renumber the regulations, to amend the regulations with regard to the application rates for nitrogen in lawn fertilizer, and to clarify the duration of golf course nutrient management plans.

*Resource Management Plan Regulations*

Mr. Dowling gave the following update regarding the Resource Management Plan Regulations. A full copy of Mr. Dowling's report is available from DCR.

At the Virginia Soil and Water Conservation Board's March 27, 2013 meeting, the Board approved and authorized the final Resource Management Plan Regulations (4 VAC50-70). As part of the authorizing motion, the Board set a delayed effective date of seven-months from the date of publication of the final regulations to enable the Department to actively work during this time period on necessary implementation actions in preparation for the effective date. The final Resource Management Plans Regulations were published



on May 6, 2013 in Volume 29 – Issue 18 of the Virginia Register of Regulations (Actions 3677/Stage 6555) with an effective date of December 6, 2013.

At the November 21, 2013 special Meeting of the Board, the Board passed a motion to authorize the temporary delay of implementation of the Board's Resource Management Plans Regulations (4VAC50-70-10 et seq.). At that time, the Board understood the Department's concern that although significant progress had been made on preparing to implement this significant new program, that it was turning out to be a much heavier lift than anticipated. The Department expressed their desire to administratively launch a successful and fully established program that is supportive of this important water quality program. It was noted that a piece-meal approach to implementation was not a viable alternative and that the Department was not yet prepared to properly implement the program. The Department stated unequivocally to stakeholders and the Board that the requested delay was not being done in the contemplation of any regulatory or legislative actions or with the purpose of harming or changing the program in any manner. It was recognized that the delay was just to allow the Department and the Board to launch a successful program.

The Board authorized the Director of the Department of Conservation and Recreation and the Department Regulatory Coordinator to post to the Regulatory Town Hall and submit to the Virginia Registrar a Notice of Suspension for the final Resource Management Plan Regulations that were set to become effective on December 6, 2013. The Board noted that they would reassess the timeline and consider a new effective date of the regulations at their first regular meeting in 2014.

Accordingly, based on the Board's direction, a Notice of Suspension of Regulatory Process was published in Volume 30 – Issue 7 of the Virginia Register of Regulations on December 3, 2013.

Mr. Dowling noted that this was the first regular Board meeting of 2014. He said that in accordance with the Board's November 2013 direction to the Department, staff was prepared to recommend July 1, 2014 as the new effective date for the final Resource Management Plan Regulations that were published on May 6, 2013. He said that since the Board suspended the regulations, DCR had made significant progress on program development. He reviewed the accomplishments since that time. A full copy of Mr. Dowling's report, which includes the list of accomplishments, is available from DCR.

Mr. Cristman noted that Mr. Elton had been providing monthly updates to the General Assembly.

MOTION: Mr. Lohr moved the following:

**Motion to rescind suspension, then readopt with a new effective date, and authorize and directed the noticing of the new effective date of final regulations related to the Board's Resource Management Plan Regulations (4VAC50-70-10 et seq.)**

The Board rescinds the suspension of these regulations (suspended November 21, 2013 by the Board and notice of such published on December 2, 2013 in Volume 30 – Issue 7 of the Virginia Register of Regulations), readopts the final regulations as published on May 6, 2013 in Volume 29 – Issue 18 of the Virginia Register of Regulations (Action 3677/ Stage 6555) with a new effective date of July 1, 2014, and authorizes the Director of the Department of Conservation and Recreation and the Departmental Regulatory Coordinator to submit and publish in accordance with regulatory procedures, readoption documentation as may be required on the Virginia Regulatory Town Hall and by the Registrar of Virginia.

SECOND: Ms. Thornton

DISCUSSION: Ms. DuBois congratulated the DCR staff. She said that she was happy to see this turned around.

VOTE: Motion carried unanimously.

**Dam Safety and Floodplain Management**

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

Mr. Bennett said that he would like to thank Mr. Dowling for his work and commitment. He said that DCR was very successful in turning some legislative concerns into positive legislation.

He said the two bills HB1006 and SB582 were turned into the update of the probable maximum precipitation (PMP) study and were signed by the Governor. Mr. Bennett said that it could help dam owners with spillway design which is a big cost for dam owners. He said that it will also update data from the 1970s that really needs to be updated. Several states have gone through this process and have had significant reduction in their PMPs. He said the probable maximum precipitation gives the starting point. From the PMP, the probable maximum flood is derived based on the land use upstream from the dam, soil conditions, etc. He said that the probable maximum flood is routed through the dam. He noted that most of the dams in Virginia are earthen dams. He said if those overtop, they fail and people could perish.

Mr. Bennett said that it is critical for the engineering design to have something scientifically based and that the dams should not be over designed. He said that it is important for engineers to be able to say with confidence that this will protect the dam from failure.

Mr. Bennett said that staff is excited to move the study initiative forward. He said the due date is December 1, 2015, which is roughly 21 months.

Mr. Bennett said that one of the other bills dealt with the prevention of orphan dams. He said that DCR is working with two orphan dams in Stafford County. The hope is to inform people that they cannot simply walk away from a dam.

Mr. Bennett said the legislation on the protection of owners who have given easements provides protection for land owners who have given easements to Soil and Water Conservation Districts for the construction of a dam.

Mr. Bennett said that it was now time to publish a new dam owner's handbook. This will include the 2012 regulations. The handbook will be sent to all dam owners in the Commonwealth. Mr. Bennett said that he would provide Board members with a copy of the handbook. The handbook will address new laws and provide updated forms. It will also include guidance documents and additional information. Dam owners appreciate having the book.

Mr. Bennett said that DCR had just announced the grant cycle for the current year. DCR has \$500,000 to distribute to dam owners and localities that are dam owners dealing with inundation mapping or any of the necessary engineering part of the work to keep dams safe.

Mr. Dunford asked if this was new funding.

Mr. Bennett said that DCR had done this in the past. To date, DCR has given out about \$3 million.

Mr. Bennett said that the deadline for applying was May 1, 2014. The recommendations for funding will be brought to the Board for approval at the May 21 meeting.

With regard to floodplain management, Mr. Bennett said the program is getting national and state attention. He said that flooding is one of Virginia's biggest natural disasters. He said that the National Flood Program provides flood insurance through FEMA.

Mr. Bennett said that there was a movement in Congress to move Floodplain insurance rates up to be consistent with actuarial rates. He said that a lot of people would not be able to pay those rates. Congress has passed a new bill to scale that back.

Mr. Bennett said that there are 288 Virginia localities that have national flood insurance programs. DCR staff helps localities meet those requirements. Staff is working to help grow and improve the program.

Ms. Thornton noted that Mr. Bennett did not mention that in order to obtain a home loan in a floodplain area, the buyer must have flood insurance.

Ms. Thornton said that the devastation on the economy is great. She said that Virginia needs to look at this from the perspective of how it will affect all of the coastal area of Virginia as well as the inland areas.

Mr. Bennett said that this was why the recurrent flood planning panel was established. He said that the Commonwealth does have coastal lidar data for Virginia as well as new FEMA maps to consider storm surge. He said that much of this was being driven by increased rates. He said that this was not an easy problem to solve.

Ms. Thornton asked the effective date of the new flood insurance rates.

Mr. Bennett said that he did not have that information. He did note that the most recent legislation charged more for second homes. He said that if the rates had not already gone into effect the change was imminent.

Mr. Bennett reviewed the list of high hazard dams. He said that the number of dams on the list was increasing because the Dam Dragnet program continues to locate dams of regulated size across the state.

Mr. Bennett said that under regular operation and maintenance the number of dams was down to 93. He noted that some of the certificates may be expiring, but also that some of the dams may need additional work.

Ms. Jamison asked if all dam owners would receive the new manual.

Mr. Bennett said yes, and that included the dams recently discovered.

Mr. Dunford said that the summary was helpful. He said that he would like to see a full summary that included a year's worth of data.

Mr. Bennett said that staff could provide that.

With regard to enforcement, Mr. Bennett said that DCR had been working on several dams.

Rainbow Forest Dam is an ongoing project. Plans for the upgrade are expected within the month.

Liberty University is making good progress regarding Ivy Hill Lake Dam.

Ms. Thornton asked if property owners were required to carry liability insurance.

Mr. Bennett said that was not a requirement.

Ms. Jamison asked if Lake Arrowhead was in the process of doing something other than working through the homeowner's association.

Mr. Bennett said that Lake Arrowhead Dam was one of two orphan dams in Stafford County. He said that the property owner's association has disbanded. He said that little had been done in terms of maintenance.

Mr. Bennett talked about the rehabilitation of District owned dams. He said that a dam planning committee that included NRCS districts had identified about 45 dams in need of rehabilitation.

Mr. Cristman asked about the status of the report.

Mr. Bennett said that several years prior staff had produced a Governor's report which was a legislative document.

Mr. Dowling said that the current report was more of an informal document regarding the costs associated with rehabilitating District and state-owned impounding structures and that at an upcoming meeting staff could present the results.

### **Soil and Water Conservation**

Mr. Weeks gave the report for the Division of Soil and Water Conservation.

Mr. Weeks said that DCR was progressing with the hiring of a professional engineer to provide support to Districts. He said that a decision should be made soon.

Mr. Glover noted that DCR had attempted to work through Virginia Tech to hire an engineer, but that process had not been successful. He said that working through VCU, DCR was able to find a suitable candidate and had received a verbal acceptance regarding the position. He noted that DCR had also hired a nutrient management specialist in the Suffolk office.

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

Ms. Martin presented the district director resignations and appointments.

#### *Blue Ridge*

Resignation of John P. Bradshaw, Jr., City of Roanoke, effective 2/20/14, elected director position (term of office expires 1/1/16).

Recommendation of Sarah R. Baumgardner, City of Roanoke, to fill unexpired term of John P. Bradshaw, Jr., (term of office to begin on 5/4/14 – 1/1/16).

#### *Colonial*

Resignation of Lawrence J. Ritter, Jr., York County, effective 2/20/14, elected director position (term of office expires 1/1/16).

*Henricopolis*

Resignation of Karen F. Carter, Henrico County, effective 12/16/13, appointed Extension Agent director position (term of office expires 1/1/17).

*Holston River*

Resignation of David C. Johnson, Washington County, effective 2/18/14, appointed at-large director position (term of office expires 1/1/15).

Recommendation of Michael Countiss, Washington County, to fill unexpired term of David C. Johnson (term of office to begin on 5/4/14 – 1/1/15).

*Loudoun*

Resignation of Corey Childs, Loudoun County, effective 3/20/14, appointed Extension Agent Director Position (term of office expires 1/1/17)

Recommendation of James E. Hilleary, Fauquier County, to fill unexpired term of Corey Childs (term of office to begin on 5/4/14 – 1/1/17)

MOTION: Ms. Jamison moved that the list of district director resignations and appointments be approved as submitted by staff.

SECOND: Mr. Ingle

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Cristman announced that, due to Mr. Weeks' retirement, he had asked Mr. Glover to serve as Acting Director of the Division of Soil and Water Conservation. He said that the Agency would follow the state recruitment process to fill the position on a permanent basis.

At this time, the Board recessed for a short break.

Following the break, Chairman Dunford again reordered the agenda.

**Partner Agency Reports**

*Natural Resources Conservation Service*

Mr. Bricker gave the report for the Natural Resources Conservation Service. A full copy of the report is included as Attachment #1.

*Virginia Association of Soil and Water Conservation Districts*

Dr. Tyree thanked the staff and Board members who had attended the previous day's Association meeting. The next Association meeting is in July at Virginia Tech. She said that the Association would welcome the opportunity to again meet with the Board at the December Annual Meeting. The Annual Meeting will be held at the Hotel Roanoke.

*Cooperative Extension*

Mr. Dunford noted that Dr. Grisso from Cooperative Extension had been invited, but was unable to attend. Dr. Grisso indicated that he would try to participate in future meetings.

**Agricultural BMP Program Changes for FY15**

Mr. Dowling referenced the copy of the BMP manual presented to members. Mr. Dowling said that staff would work with the Board on a more thorough review of the Agricultural BMP Program changes at the next meeting. He said that there was a significant amount of material to cover. Mr. Dowling said that the purpose of this discussion was to review the highlights of the manual.

Mr. Dowling said that DCR had received a letter from Area 3 raising a concern on BMP rate changes and a copy was provided to members. A copy of that letter is available from DCR.

Mr. Dowling said that the Association had adopted the following sentence at their meeting the day prior:

The VASWCD requests the DCR and Virginia Soil and Water Conservation Board not to reduce BMP payment rates as recommended by the Virginia Agricultural Cost Share Program Technical Advisory Committee (TAC) and DCR staff.

Mr. Dowling said that the other item in the packet was the matrix of TAC recommended changes to the program. He said those would be the documents that would guide the conversation.

Mr. Dowling said that in the manual, under the front cover, was the list of all Virginia BMPs. He said that further in the manual there was discussion of the actual practices and the rates of cost-share for each. He said that included in the authority to the Board for the cost-share program was oversight as to the content of the BMP cost-share manual. He said that the manual served as the guidance and outlines the operative functions of the program.

Mr. Dowling said that the last summer study the group tasked the TAC with looking at procedures and methodologies for updating the cost-share rates for certain practices and making recommendations. He said that one of the considerations was that if the rates were reduced for certain well established practices, that more land might be enrolled by spreading the funding. He

said that might also be a barrier to those that are currently participating, but the thought was that this might reach additional farmers.

Ms. Jamison said that because of the 100% SL-6 requirement no cover crops were provided for in her District.

Mr. Simms asked how the percentages were determined for a given practice.

Mr. Hornbaker said there should be a discussion of universal benefits. He said that the question to ask was how much could the rated be reduced without impacting applications. He said that there was not specific science behind every application. He said that the current number of acres should not be reduced.

Mr. Ingle asked if staff could determine the number of applicants that were not funded.

Mr. Moore said that staff does have a list and that during redistribution we would be looking at funds not yet distributed and would work towards redistribution towards high priority unmet pending practices.

Mr. Dowling said that to move the conversation forward, it would be helpful to note that on the document entitled "Matrix of TAC Recommended Changes to 2015 VACS Program" that items one through three, and item six appeared to be acceptable to the TAC and stakeholder groups. He said that it would be helpful if the Board was comfortable in approving those items then staff could move forward with the appropriate edits to the manual regarding those practices. He said that the Board could then discuss the remaining items.

MOTION: Ms. DuBois moved that the Soil and Water Conservation Board approve items one, two, three and six on the document entitled "Matrix of TAC Recommended Changes to 2015 VACS Program" as presented by staff and that staff move forward with appropriate edits to the BMP Manual.

SECOND: Ms. Thornton

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Dowling said that regarding the remaining items, the Board had three options; defer the discussion to the next meeting, reject any or all of the items, or adopt and instruct staff to include the items in the manual.

Mr. Dowling said that the more guidance staff received from the Board, the closer staff would be to a finished product.

Ms. Thornton asked if reducing the rates would enable DCR to add more people to the program.



Mr. Dowling said that was the general concept. However, he noted that the alternative might mean a barrier to some participating. He said that he did not have the answer to that, but that it was a concern of some stakeholders.

Ms. Thornton said that it would be better to have more acreage included. She said that it was unfair to have people waiting for funding to put more acres in the program.

Ms. Jamison said that she did not know if a change in the rates would affect her District, but did note that her District had no cover crops funded.

Ms. Thornton asked if the Board passed the recommendations and it was determined that the practice was detrimental if revisions could not be made the following year.

Mr. Dowling said that this would come before the Board on an annual basis and that changes could be made.

Mr. Ingle said that he was concerned that the Association was not comfortable with the TAC recommendations.

Dr. Tyree said that the Association heard from eight districts in Area 3 that were not comfortable with the TAC recommendations.

Mr. Ingle said that he was concerned about the process. He said that he would prefer to see a high level of confidence.

Mr. Hornbaker asked about the membership in the TAC.

Mr. Dowling noted that following the guidelines in the manual, the list of TAC members was included. He said that staff tried to be as inclusive as possible. He said that all agricultural organizations were welcome to participate. He said that it was not a formalized meeting process. The meeting was open and that the TAC operates under the consensus method.

Mr. Cristman asked if the TAC could be reconvened prior to the April 24<sup>th</sup> Board meeting.

Mr. Moore said that would be possible.

Mr. Cristman said that he wanted to make sure the process was working and moving forward smoothly. He said that he would suggest that the Board defer action on the remaining six items to allow the TAC to meet for further discussion prior to the April 24 Board meeting.

Ms. Thornton asked about the primary concern of Association members.

Dr. Tyree said that many Districts believed that a change would cause a decrease in participation.

Mr. Tate from the Hanover-Caroline SWCD said that he would agree with that assessment regarding the Association's concern. He said that the rates dramatically affect the participation in the program.

Mr. Hornbaker said that what he heard from the Association was that there was more resistance to changes in cover crops than to changes in the continuous no-till. He asked if the issues could be separated.

Dr. Tyree said that overwhelmingly there was more concern for the cover crop issue.

Ms. Hellebush from the Virginia Grain Producers Association said that she had served on the subcommittee. She said that she would like to have the opportunity to get additional feedback regarding reductions from her membership.

Mr. Dowling said that he thought it was a sound recommendation to defer action and to reassemble the TAC for further discussion.

MOTION: Ms. DuBois moved that the Virginia Soil and Water Conservation Board approve the recommendations regarding SL-15A and SL-15B as presented by staff.

SECOND: Mr. Lohr

DISCUSSION None

VOTE: Motion carried

Ms. Jamison asked that if the TAC met by conference call that the Board be advised.

MOTION: Mr. Dunford moved that the Board delay action regarding items seven through 10 until the April 24, 2014 Board meeting.

SECOND: Ms. Jamison

DISCUSSION: Mr. Hornbaker asked if the decision could be deferred until the May 21 meeting.

Mr. Dowling said that to proceed, staff needed a decision in April.

VOTE: The motion carried unanimously

At this time the Board recessed for lunch.

**Preliminary Discussion of FY15 District Cost-Share and Technical Assistance Policy**

Mr. Dowling began a discussion regarding the FY15 District Cost-Share and Technical Assistance Policy. He noted that the Board had been provided a map showing the Ag Rankings for 2010 and for 2014, as well as a copy of the Policy and Procedures on Soil and Water Conservation District Cost-Share and Technical Assistance Funding Allocations (Fiscal Year 2014). Copies of both documents are available from DCR.

Mr. Cristman said that there has been a lot of discussion with the Association. He said that he would like to have DCR spend the next year working to come back with recommendations to establish a benchmark of level cost-share funding.

Mr. Cristman asked the Board members and stakeholders to send recommendations to DCR staff.

Mr. Dowling said that there would be additional discussion at the next meeting.

Mr. Dowling referenced a document entitled "Active TMDL Projects for Agricultural Practices." A copy of this document is available from DCR.

Mr. Dowling said that at this point in time, there is a remaining balance of \$1.8 million for these projects. He said that staff was requesting that the Board authorize a no-cost extension for Districts to continue working on these projects for another year.

MOTION: Mr. Lohr moved that the Board direct the Department to grant extensions to June 30, 2015 for those projects that are justified through collaboration between the District and the Department and to conduct transfers between Districts in accordance with Department transfer procedures as needed and justified.

SECOND: Ms. Jamison

DISCUSSION: Ms. Jamison asked if some of the funds could be transferred to Districts with a need.

Mr. Dowling noted that was included in the second part of the motion.

VOTE: Motion carried unanimously

**Preliminary Discussion of FY 15 District Administration and Operations Policy**

Mr. Dowling addressed the document entitled "Policy on Soil and Water Conservation District Administrative and Operations and Funding Allocations for Fiscal Year 2014." A copy of this document is available from DCR.

Mr. Dowling said that in the Governor's reintroduced budget, District funding was basically level with the prior year.

Mr. Cristman said that with regard to disbursements to the Districts, the Department was under the scrutiny of the state auditor. A question had been raised regarding the periodicity of disbursements. He said that he would have more details at the next meeting.

It was noted that whether the funding was disbursed annually or quarterly, that it was helpful for Districts for the funds to be disbursed at the beginning of a period.

Mr. Dowling said that staff would make recommendations regarding this policy at the next meeting.

### **District FY 16 Budget Template**

Ms. Martin addressed the budget template. She noted that Districts have to complete this document by June 15, 2014.

Mr. Cristman noted that the General Assembly asked for additional information regarding local contributions to Districts. He said that he would anticipate that DCR could do a study for the purposes of reporting back to the General Assembly.

Ms. Martin said that staff would like the support of the Board to submit the budget template to Districts with minor edits.

MOTION: Ms. DuBois moved that the Board approve the District Budget Template as presented by staff, and with noted edits, to be distributed to Districts in anticipation of a June 15, 2014 completed return to DCR.

SECOND: Mr. Simms

DISCUSSION: None

VOTE: Motion carried unanimously

### **Public Comment**

Mr. Dunford offered congratulations to Ms. Tyree for successfully defending her doctoral dissertation.

There was no additional public comment.

**Adjourn**

There was no additional business and the meeting was adjourned.

Respectfully submitted,

Herbert L. Dunford, Jr.  
Chair

Clyde E. Cristman  
DCR Director

Attachment #1

**NRCS REPORT**  
**Virginia Soil and Water Conservation Board Meeting**  
**April 4, 2014 ♦ Richmond, VA**

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**EQIP, CSP, RCPP and Easement Programs**

The Agricultural Act of 2014 (Farm Bill) was signed by the President on February 7th. The bill consolidated 23 programs down to 13 programs. The following programs that were in Virginia have been repealed: WRP, FRPP, GRP, WHIP, CBWI, and CCPI.

Key provisions of the Conservation Title include:

- Conservation Reserve Program
- Conservation Stewardship Program
- Environmental Quality Incentives Program (WHIP is combined with EQIP)
- Agricultural Conservation Easement Program – two basic types of easements
  - Agricultural Land Easements (for FRPP and GRP-type easements)
  - Wetland Reserve Easements
- Regional Conservation Partnership Program
- Small Watershed Rehabilitation Program
- HEL and WC Compliance required for Crop Insurance

Regional Conservation Partnership Program:

The Secretary will announce the Critical Conservation Areas in April. The Chesapeake Bay Watershed is expected to be one of those areas. A Request for Proposals for the State and National Priority Areas will be out in May.

Some other key Farm Bill changes include:

- The new adjusted gross income limit for participation in government conservation programs is \$900,000. This is down from \$1M but now it is the combined AGI from farm and non-farm income.
- The new payment limitation for the 5 years of the new Farm Bill is \$450,000. This is up from \$300,000 but there is now no option for a Chief's waiver.
- The 2014 Act changes the period of funds availability from 1 year to no-year funds.
- Veteran Farmers and Ranchers are now given special consideration as a Historically Underserved group and will receive the higher payment rates.

The passage of a new Farm Bill in the middle of a federal fiscal year creates some challenges in implementation. New program rules and regulations are still being developed while we are still trying to plan and contract for applications received during the previous Farm Bill. We have been told that all the applications received, and the contracts obligated, earlier are still valid. We have been unable to obligate new funds since February 7th (date of new Farm Bill) and await the conversion of the allocated program funds to a new treasury symbol and the restoration of funds to the states.

EQIP StrikeForce – Virginia received \$665,084 in new StrikeForce funding for FY-14.

### **Easements**

Since October 1, 2013, NRCS has closed three WRP easements for 56.37 acres and 4 FRPP easements for 503.19 acres.

We are working on new ACEP Program guidance and expect to announce a program sign-up cut-off date soon. Interested applicants can sign up for the Wetland Reserve Easements at any NRCS Service Center.

We recently met with the new Governor's principal staff - Molly Ward and Todd Haymore. NRCS is seeking ways to strengthen the easement partnership and to secure matching funds.

### **Dam Rehabilitation**

The new Farm Bill authorized \$250 M in dam rehabilitation funds. NRCS has been asked to submit information to NHQ by April 11, 2014 of potential projects for rehab funding through 2018.

Pohick Creek 8 - Construction is on-going. Completion is scheduled for August 2014.  
Upper North River 77 in Augusta County – Planning engineering ongoing.  
Upper North River 10 in Augusta County – final design scheduled for completion in July 2014.

Virginia Lake and Watersheds Association (VLWA), in cooperation with DCR Division of Dam Safety, presented Lake Barton (Pohick Creek Dam #2) in Fairfax County with an award for the most improved dam at their annual conference on March 25, 2014. This project received American Recovery and Reinvestment Act (ARRA) funding through the Department of Agriculture (USDA), and was under a strict timeline for design and construction, which was successfully met. The facility received a regular 6-year Operation and Maintenance (O&M) certificate from DCR last year.

Virginia Lake and Watersheds Association (VLWA), in cooperation with DCR Division of Dam Safety, also presented Headwaters SWCD, sponsors of South River 25, Toms Branch with the Best Maintained, Publicly Owned Dam Award. Toms branch was rehabilitated with NRCS assistance in 2010.

### **Conservation Planning**

Conducted Virginia's first Conservation Planning Modules 6-8 "Boot Camp" at the Richmond State Office and at field events in Goochland and Hanover counties for 19 SWCD employees, 1 NRCS employee, and 1 Public Lands Biologist.

### **StrikeForce**

In 2013, Virginia was selected to participate in USDA's StrikeForce initiative to target technical assistance and leverage financial resources to promote growth in persistent poverty counties. During the first year, USDA agencies and partners provided \$369 million dollars to individuals and communities in 51 Virginia counties, including over \$12 million in EQIP funding for 312 contracts. In addition, USDA agencies worked together with public and private partners to establish 15 new summer feeding sites for school children, expand SNAP benefits at farmers markets, and conduct workshops and demonstrations for more than 1,000 farm operators and businesses. In FY14, NRCS received \$17.9 million in EQIP funds with \$665,000 targeted specifically to StrikeForce counties. These funds will be available to help new and beginning farmers and small and mid-size farms to improve their operations. On June 12th, USDA will be participating in the VSU Field Day at

Randolph Farm to provide information about the new Agriculture Act of 2014 and resources for small farms.

### **Customer Service/Outreach**

NRCS participated in the second annual Farm to Table Conference in Weyer's Cave on December 4-5. STC Jack Bricker opened the conference which drew speakers from across the country to talk about rebuilding the foodshed, expanding opportunities for local foods, and soil health. The conference dealt with opportunities and issues confronting Virginia agriculture at local and regional levels and provided many social and economic opportunities for cultivating collaboration, conservation and community from the farm to the consumer's table.

On December 5, USDA Secretary Vilsack travelled to Virginia to provide his CEAP report announcement to partners, farmers, and the media at the Silver Ridge Farm near Fredericksburg, VA. The Secretary emphasized the report's documentation of the rise in conservation efforts within the Bay watershed by farmers, the 80% increase in our use of cover crops, the benefits to water quality, and the positive impacts to all residents within the Bay watershed and all Bay users.

NRCS partnered with Headwaters SWCD at Virginia's largest winter farm show in Fisherville on Jan 16-18. Representatives spoke with over 250 farmers and landowners who were drawn to the display. Rootboxes and Cover Crop buckets generated much discussion.

The second installment in USDA's three-part workshop series for small and non-traditional agricultural producers came to the Eastern Shore Community College on Feb 19. NRCS District Conservationist Tina Jerome initiated the series, working with USDA agencies and partners to begin a dialogue with over 50 growers to help them learn more about business planning, expanding markets with SNAP certification and increasing earning potential through more efficient cropping.

NRCS attended an organizational partnership meeting hosted by the Chesapeake Conservancy, primary sponsor of the "envision the James River." Partnering with the James River Association and the National Geographic Maps, the conservancy is assembling government agencies, non-profits, local businesses, citizen groups and landowners to join together to strengthen the connections between people and the watershed, conserve the landscapes and encourage the exploration and celebration of the Chesapeake. They plan to advance this mission through partnerships and citizen engagement; educational programs, land conservations and advocacy.

### **Soil Survey**

Reorganization of the Soils Division is now complete. The newly created Soil Science Division (SSD) has begun to manage the soil data by Major Resource Land Areas (MLRAs). One of the SSD's priorities is to re-correlate soils to seamlessly cross county and state lines. Soil types currently end and begin at political lines because of the different dates of mapping, the scale of mapping, or the decisions made during the survey of that particular county. This process will take many years.

Soil data for the entire state was updated and uploaded at the end of December. National calculations were used on T factor, K factor, and Hydrologic Soil Groups. There was approximately a 40% change in some of the values across the state. This allows consistency for all county soil data.



Rockbridge County's Soil Survey Manuscript has gone through the editor's process, the map finishing process and quality assurance process. The manuscript has been sent to the printer and will be available in the near future.

### **Soil Health**

Since Virginia's "kickoff" Soil Health Initiative event in 2013, we have organized and sponsored 54 events reaching over 3000 participants. Many of these events featured national soil health pioneers from across the United States.

Soil Health was highlighted at the Virginia Association for Biological Farming Conference on January 31 for over 550 attendees. NRCS soil health guru Ray Archuleta was one of the presenters.

NRCS collaborated with Virginia Cooperative Extension and the Virginia No-till Alliance to host two winter VANTAGE meetings in Harrisonburg and Chatham. Dave Brandt, one of the Soil Health pioneers, and Ray Archuleta presented at these meetings highlighting soil health. A total of 325 people attended the VANTAGE meetings.

The Richmond State Office, Virginia Tech and the Shenandoah Cooperative Extension Office hosted the National Cover Crop and Soil Health Forum live net meeting from Omaha, Nebraska on February 18. About 80 people participated to hear a panel of eight farmers discuss the benefits of using cover crops in their operations. Agronomist Chris Lawrence facilitated a discussion of next steps with the State Technical Committee members and others.

### **Earth Team**

Virginia Earth Team received top national honors in three categories for FY2013. The Lake Fleming Wetlands/Outdoor Learning Area in Gate City received the 2013 National Earth Team Partnership award. Spearheaded by a local teacher and the Scott County SWCD, local agencies, community organizations, and Earth Team volunteers collaborated in a massive undertaking to transform an overgrown mosquito-infested dump into an outdoor classroom in a park-like setting. The Harrisonburg NRCS field office won the 2013 National Field Office award and Georgia Solseth won the National Volunteer Coordinator award.