

**Virginia Soil and Water Conservation Board
May 20, 2015
Department of Forestry, Charlottesville**

Virginia Soil and Water Conservation Board Members Present

Herbert L. Dunford, Jr., Chair

Gary Hornbaker

Stephen Lohr

Richard A. Street

Clyde E. Cristman, DCR Director, Ex Officio

John A. Bricker, NRCS, Ex Officio

Dr. Bobby Grisso, Virginia Cooperative Extension, Invitee

Daphne W. Jamison, Vice-Chair

Jerry L. Ingle

Raymond L. Simms

Virginia Soil and Water Conservation Board Members Not Present

Thomas M. Branin

Joan DuBois

C. Frank Brickhouse, Jr.

DCR Staff Present

Robert Bennett

Darryl Glover

Stephanie Martin

Matthew Gooch, Office of the Attorney General

David C. Dowling

Michael Fletcher

Gary Moore

Others Present

Katie Frazier, Virginia Agribusiness Council

Ann Jennings, Chesapeake Bay Foundation

Martha Moore, Virginia Farm Bureau

Julie Morris, DPB

Sam Towell, Deputy Secretary of Agriculture and Forestry

Dr. Kendall Tyree, Virginia Association of Soil and Water Conservation Districts

Ben Rowe, Virginia Grain Producers Association

Call to Order

Chairman Dunford called the meeting to order and declared a quorum present. He asked for introductions.

Approval of Minutes from April 16, 2015

MOTION: Mr. Ingle moved that the minutes of the April 16, 2015 meeting of the Virginia Soil and Water Conservation Board be approved as submitted by staff.

SECOND: Mr. Simms

DISCUSSION: None

VOTE: Motion carried unanimously

Director's Report

Mr. Cristman gave the Director's report.

Mr. Cristman announced that David Dowling would be assuming the role of Deputy Director for Soil and Water Conservation and Dam Safety and Floodplain Management.

He also noted that terms for at-large members Mr. Dunford, Mr. Street, Mr. Brannin and Ms. DuBois would expire on June 30, 2015. He noted that Ms. DuBois had indicated that she would likely resign. Mr. Cristman asked that any recommendations from the Board for appointees be forwarded to DCR. He said that it may be beneficial to have someone with background experience in dam safety.

Cost-Share Budget Update and Considerations

Mr. Dowling noted that members had been provided a cost-share/ budget update in their mailed packets. He said that this was a continuation of fiscal updates provided at prior meetings. He said that staff was keeping an eye on the recordation fees which continued to improve. Mr. Dowling noted that some balances were frozen. He said that staff would come back to the board with a plan at the appropriate time to consider the reprogramming of unobligated funds.

Mr. Cristman noted that the most important statistic was that there had been five solid months of growth in the recordation revenue over the previous year.

Virginia Soil and Water Conservation Board FY 2016 VACS Program and Policy Discussion

Board Approval of Policy on Soil and Water Conservation District Administration and Operations Funding Allocations for Fiscal Year 2016

Mr. Dowling presented the District Administration and Operations policy and noted that a copy had been mailed to members in their meeting packets. He noted that the reimbursement policy language that controls how budget shortfalls would be handled, was clarified to ensure that a reversion would not affect dam maintenance funds.

MOTION: Mr. Simms moved that the Virginia Soil and Water Conservation Board approve the Policy on Soil and Water Conservation District Administration and Operations Funding Allocations for Fiscal Year 2016 as presented by DCR staff.

SECOND: Mr. Lohr

DISCUSSION: None

VOTE: Motion carried unanimously.

Board Approval of Administration and Operations Contracts and Deliverables

Ms. Jamison asked if there had been any comments regarding Attachment C and the evaluations document.

Mr. Dowling said that staff had met with two stakeholder groups to clarify concerns and that stakeholders appeared supportive of the proposed changes to deliverables in District evaluation criteria.

MOTION: Ms. Jamison moved that the Virginia Soil and Water Conservation Board approve the Administration and Operations Contracts and Deliverables as presented by staff.

SECOND: Mr. Lohr

DISCUSSION: None

VOTE: Motion carried unanimously

Board approval of Policy and Procedures on Soil and Water Conservation District Cost-Share and Technical Assistance Funding Allocations (Fiscal Year 2016)

Mr. Dowling noted that no changes had been made to this document since the April meeting.

Ms. Jamison noted that there was a significant earmark for SL-6 obligations. She asked if there was the potential for this to happen again. She said that districts would have to hire staff and train them to meet SL-6 obligations. She asked if there was a mechanism through DCR to enable districts to share staff with specific training and responsibilities.

Mr. Dowling noted that the issue of districts sharing staff had been discussed during the summer study. He said that the arrangements had been made between the individual districts.

Dr. Tyree said that the Association had been informally pairing districts for the sharing of SL-6 staff.

Mr. Dowling said that the issue could be further explored so that DCR staff and districts have an understanding of what the potential needs are for employee sharing between districts.

MOTION: Mr. Lohr moved that the Virginia Soil and Water Conservation Board approve the Policy and Procedures on Soil and Water Conservation District Cost-Share and Technical Assistance Funding Allocations (Fiscal Year 2016) as presented by staff.

SECOND: Mr. Street

DISCUSSION: None

VOTE: Motion carried unanimously

Board Approval of Cost-Share and Technical Assistance Contracts and Deliverables

Mr. Dowling said that there had been no changes to the Cost-Share and Technical Assistance Contracts and Deliverables since they were presented at the April meeting.

MOTION: Mr. Lohr moved that the Virginia Soil and Water Conservation Board approve the Cost-Share and Technical Assistance Contracts and Deliverables as presented by DCR staff.

SECOND: Mr. Street

DISCUSSION: None

VOTE: Motion carried unanimously

Board Approval of BMP Verification Contract Conditions

Mr. Glover said that the contract was amended to show that there would be no payment in advance. Payment will be issued as the work is completed. He indicated that one of the issues that verification inspections address is the continuing existence and functioning of specific BMPS that have exceeded their lifespan. He noted that the grant funding runs out in June of 2016, and the work needs to be completed by April 2016.

Mr. Glover said that DCR would set up a webinar for training and that there would be presentations at up-coming state cost-share sessions in the Chesapeake Bay starting in June.

MOTION: Mr. Street moved that the Virginia Soil and Water Conservation Board approve the BMP Verification Project Contract Conditions as presented by DCR staff.

SECOND: Mr. Lohr

DISCUSSION: None

VOTE: Motion carried unanimously

Update on Cost-Share Contract Participation Issue from the April Meeting

Mr. Cristman followed up on the April discussion regarding cost-share contract participation. He said that he had an informal discussion with the Office of the Attorney General and noted that the issue would be discussed at the June meeting of the Association. He remarked that this is a larger concern for district directors and suggested that districts may wish to seek an opinion from the Attorney General.

Soil and Water Conservation

Mr. Glover presented the following report:

Division of Soil and Water Conservation
Division Director's Report

May 20, 2015

Presented by Darryl M. Glover;

Director, Division of Soil and Water Conservation

Mr. Chairman, members of the Virginia Soil and Water Conservation Board, Director Cristman, please accept this Soil and Water Conservation Division Report.

Resource Management Plan (RMP) Program

The last of seven training sessions for SWCDs on the new RMP and Conservation Planning computer modules, demonstrated at your April meeting, are about to wrap up.

A combined Request for Proposals (RFP) for contracts to develop additional Resource Management Plans in the Chesapeake Bay watershed, and to initiate plan development in the Southern Rivers, in calendar year 2016, will be released by September 1st.

Conservation Planning

We are very pleased to announce the hiring of Kenneth Carter, NRCS retired, to develop our state Conservation Planning and Certification curriculum. Ken is joining the Department on a temporary basis, through December 2015, as a part-time employee. Ken will develop course materials, a record keeping system for tracking state-issued conservation plan certifications, format certificates we shall utilize, propose a system of continuing education credits, draft guidance for SWCDs, and conduct initial orientation for SWCDs at Graves Mountain in August, and at the annual VASWCD meeting in December. He will also be meeting with SWCDs for their input both prior to and during program development.

This new program will be another option for SWCDs once fully developed and implemented. Certification through USDA Natural Resource Conservation Service will continue to be accepted for the state cost-share program.

Stream Exclusion

Since the Board's meeting in April, the SL-6 stream exclusion projects in pending status awaiting state funding under the 100% guarantee, has grown from roughly \$18.7 million to nearly \$24 million. However of this total, sign-up in this fiscal year alone is over \$20 million, with FY2014 backlog steady at little more than \$3 million. When all cost estimates have been submitted, combined with additional sign-ups though June 30, 2015, the total projected backlog is expected to be at least \$31 million.

Engineering Services

In order to adequately staff the new Engineering Services Program, the Department will reapply for an RCPP Grant. The next round of U.S. Department of Agriculture Regional Conservation Partnership (RCPP) Grants was announced on May 11. Pre-proposals are due July 8.

BMP Verification

The Department has continued working with the Department of Environmental Quality on the plan for BMP verification, as required by the US Environmental Protection Agency in order to continue to receive pollution reduction credit in the new Chesapeake Bay model, which is scheduled for release in 2016. Using our historical spot check data, which demonstrates that frequency of agricultural BMP failures or abandonment within lifespan averages less than 2% in Virginia, with only one outlier, conservation tillage, being above 2% (at 2.38%), the Department is proposing the following framework to DEQ for verifying agricultural BMPs:

- Cover Crops – if receiving state cost-share or state tax credits - two inspections per year, one at planting to verify planting date and that no fertilizer was applied,

a second at establishment. Eliminate the third inspection, previously at burn down.

- Nutrient Management Plans – a statistical survey every year, beginning FY2016, (initially) of all nutrient management plans written by DCR employees or DCR contractors, that are up for either renewal or revision, reported as acres consistent with and not consistent with nutrient management plans. Q/A provided by other DCR staff, who will ride along with these planners on a statistically significant (by EPA standards) percentage of these surveys. Possible additional measures will be based on the result of the first survey which will establish a statewide baseline of consistency.
- Tillage Surveys – recently underway, will be repeated every 5 – 7 years, as determined by EPA, to update the rate of implementation of high residue tillage.
- Non-annual BMPs – will all be inspected upon installation and again the year before the end of their lifespan (e.g. SL-6s in year 9 of 10). They will be inspected again the year before the end of each “renewal (i.e. subsequent)” lifespan, i.e. year 14 of 15, or 19 of 20, and every five years after that. After their initial lifespan, SL-6s will be reevaluated on a component basis, e.g. fencing, buffer, troughs, etc., rather than as a system.
- Stream exclusion practices - beyond their initial lifespan (e.g. ≥ 11 yrs old) will be categorized as high risk of failure, all other agricultural BMPs, both in and out of lifespan, will be categorized as low risk in Virginia.
- In addition to everything above, a 2% random draw of all non-annual agricultural BMPs based on the historical agricultural BMP spot check data noted above.

We believe that there will be little if any overall net increase in the number of spot checks for SWCDs on a statewide basis, although there will be some shifts between SWCDs that the Department will need to help mitigate in FY2017.

Further, the Department will seek to employ contractors to handle surges in the number of stream exclusion spot checks that will start becoming due for lifespan renewal around the year 2023.

DEQ would like to schedule a presentation on the entire plan, covering all sectors, for the District Association Board at their meeting in September.

Area Visits

Since the Spring Area meetings were held this year, I have held follow up private meetings in Areas I, II, and IV. The format of each of these meetings was different, but they afforded me the opportunity to meet with a number of District Directors, to discuss Department initiatives in much more detail, and more importantly, to answer a number of questions they asked. I hope to conduct similar meetings in the remaining areas when their schedules allow and to have additional meetings with each Area no less than annually.

District Director Resignations and Appointments

Ms. Martin presented the following resignation:

Virginia Dare

Resignation of Cynthia Pridmore, City of Virginia Beach, effective 4/23/15, elected director position (term of office expires 1/1/16).

MOTION: Ms. Jamison moved that the Virginia Soil and Water Conservation Board approve the resignation as presented by DCR staff.

SECOND: Mr. Simms

DISCUSSION: None

VOTE: Motion carried unanimously

Board Approval of Guidance Document on Freedom of Information Act Requirements for Resource Management Plans Program Implementation by Soil and Water Conservation District Boards and Technical Review Committee

Mr. Dowling reviewed the RMP Guidance document with the members. He said that the intent of the document was to provide guidance to Soil and Water Conservation Districts, as RMP authorities regarding the proper handling of personal, proprietary, and otherwise confidential project information in accordance with the Freedom of Information Act (FOIA) and other applicable state laws.

MOTION: Mr. Lohr moved that the Virginia Soil and Water Conservation Board approve the Guidance Document on Freedom of Information Act Requirements for Resource Management Plans Program Implementation by Soil and Water Conservation District Boards and Technical Review Committees.

SECOND: Mr. Street

DISCUSSION: None

VOTE: Motion carried unanimously

Approval of TMDL cost-share carry-forward into FY 2016

Mr. Dowling presented the motion to approve TMDL cost-share carry-forward into FY2016.

Mr. Dowling noted that in April, 2014 the Board passed a motion that directed “the Department to grant extensions to June 30, 2015 for those [TMDL] 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”. He indicated that the action before the Board today is to allow Districts, for TMDL projects that are approved prior to June 30, 2015, to have a further extension until December 31, 2015 to complete, certify, and pay for such TMDL projects.

MOTION: Mr. Hornbaker moved that the Board direct the Department to grant extensions for the unexpended TMDL balances that remain available in the Districts and at the Department for TMDL projects that are approved prior to June 30, 2015. Such projects must be completed, certified, and paid prior to December 31, 2015 and any remaining funds associated with these grants either held by the Districts or the Department shall become subject to reallocation by the Board at that time. No further transfers between Districts are authorized after June 30, 2015. The Department shall provide the Board with updated numbers at the September meeting.

SECOND: Mr. Lohr

DISCUSSION: None

VOTE: Motion carried unanimously

Dam Safety and Floodplain Management

Mr. Bennett presented the report for Dam Safety and Floodplain Management.

Approval of 2015 Grants from the Dam Safety, Flood Prevention and Protection Assistance Fund

Mr. Bennett reviewed the list of applicants for grants from the Dam Safety, Flood Prevention and Protection Assistance Fund. He noted that there was \$500,000 in available funds, but requests totaled over \$2.6 million from 106 applications. He noted that 104 applicants are being recommended for grant awards. The grants were limited to engineering studies for dams, and flood prevention projects for localities.

MOTION: Mr. Ingle moved the following:

Motion for the Board to approve 2015 Dam Safety, Flood Prevention and Protection Assistance Fund grant projects and funding allocations.

In accordance with its responsibilities pursuant to §10.1-603.16 et seq.(Article 1.2) of the Code of Virginia, the Virginia Soil and Water Conservation Board (Board) approves the

projects for funding from the Dam Safety, Flood Prevention and Protection Assistance Fund (DSFPPAF) in the amounts specified in the attached spreadsheet. In addition to other terms and conditions as specified in the 2015 DSFPPAF Grant Manual, the Grant Agreement, and as will be determined by the Virginia Resources Authority (VRA), this approval is conditioned upon the following:

1. All grants are made on a reimbursement basis and will be governed by a Grant Agreement developed in consultation with the Virginia Resources Authority. All applicants will be given a period of 90 days to enter into a Grant Agreement following the Agreement being sent. The Department of Conservation and Recreation (Department) is authorized to further extend this date in its discretion and following consultation with VRA.
2. All grant agreements will require that projects be completed within 12 months of the date of execution of the Agreement. Upon receipt of a written request for a project extension with a specified completion date by the Grantee to the Department with a copy to VRA, the Department is authorized to consider such request and may amend the terms of the Agreement and allow a specified extension upon the Department's and the Authority's written approval. No extensions shall exceed an additional year without specific Board approval.
3. In the event that any of the above applicants fail to execute a Grant Agreement with VRA within 90 days of such an Agreement being sent to the applicant, the Department, in consultation with VRA, is authorized to distribute grant funds not utilized by that applicant, among other approved Grantees who did not receive the total amounts of their requests.
4. Special Grant Funds for Upper North River #10 (Todd Lake dam) will be disbursed by VRA after the funds are received by the Department and transferred to VRA pursuant to Item 357 I.1. of Chapter 665 of the 2015 Virginia Acts of Assembly (2015 Appropriations Act), and other Agreement terms have been satisfied.

The Department is authorized to communicate this approval to the Virginia Resources Authority (VRA) so that VRA's review of applications may proceed. The Department is also authorized to take any action necessary to proceed with the closing and administration of grants subsequent to VRA's approval of the application.

SECOND: Mr. Simms

DISCUSSION: None

VOTE: Motion carried unanimously

High Hazard Dams

Mr. Bennett reviewed the list of high hazard dams. He noted that the full report had been mailed to members. He also remarked that there had been an increase in regular certificates issued.

Enforcement Cases

Mr. Bennett said that Rainbow Forest dam has completed the plans for rehabilitation. He also stated that Liberty University plans to repair Ivy Lake dam and then turn ownership over to the homeowner's association. The lake level has been lowered until the repairs are completed.

Initial Presentation and Discussion of Probable Maximum Precipitation Study

Mr. Bennett presented the initial version of the Probable Maximum Precipitation Study. He said that the final report is due December 1, 2015. He said that the Board would need to give a final review to the study results after the report is completed.

Mr. Bennett presented the following:

Definition

(4VAC50-20-50.H) Probable maximum precipitation means the theoretically greatest depth of precipitation for a given duration that is meteorologically possible over a given size storm area at a particular geographical location at a particular time of year with no allowance made for future long term climatic trends.

Why PMP?

Emergency Spillway Capacity

70% of Dam Failures Due to Overtopping

To Prevent Failures, Dams Must Pass:

100% PMP for New High Hazard Dams

90% PMP for Existing High Hazard Dams

50% PMP for Significant Hazard Dams

Accurate PMPs Essential for Public Safety

Mr. Bennett reviewed the 2014 legislation calling for the study.

Members of the Technical Review Board are:

- Matthew Lyons, State Conservation Engineer, USDA NRCS
- Kenneth Fearon, Federal Energy Regulatory Commission
- John Harrison – Schnabel Dam Engineering
- Arthur Miller – AECOM

- Jeff Orrock – Meteorologist NOAA
- Stephen Rich – Southeast Weather Consulting

Mr. Bennett noted that the Technical Review Board has met three times and will meet a final time on October 6 and 7, 2015.

Advantages of New PMP Study

- More Storms Considered
- New Technologies Used
- Problems/Unknowns Corrected
- Topographic Features Addressed
- Updated Climatologies Used
- Improved Resolution

Mr. Bennett said that the PMP values developed will include:

- A 2.5 square mile grid across the Commonwealth
- Storms that have a duration of 1-72 hours

The PMP Evaluation Tool will include:

- PMP values in each 2.5 square mile grid
- Watershed overlay will give average PMP

Mr. Dunford said that he would like to appoint Mr. Street to represent the Board at the next meeting of the committee.

Partner Reports

Natural Resources Conservation Service

Mr. Bricker gave the following report:

NRCS REPORT

Virginia Soil and Water Conservation Board Meeting

May 20, 2015 ♦ Charlottesville, VA

EQIP, CSP, RCPP and Easement Programs

EQIP

- As of May 13, we have contracted 393 EQIP applications for a total of \$11.9 million with 15 preapproved applications remaining.

- Additionally, there are 1,286 eligible applications requesting \$36,752,292.73 in financial assistance and 400 applications in pending status. Virginia NRCS will request additional funding.

Conservation Stewardship Program

- Virginia has received 75 renewal applications and 98 new CSP applications. The ranking is June 12.

Regional Conservation Partnership Program

- The first announcement of RCPP signup for landowners is expected to be released on June 9th for the DOF Grant awarded earlier this year. The conservation focus for this will be on forestry practices through EQIP.
- The FY16 Announcement for Program Funding (APF) was released on 5/4/15. Virginia expects 894K to fund RCPP proposals. Although National and CCA funding amounts are not available yet, approximately \$190 million should be available for FY16.

Agricultural Conservation Easement Program (ACEP):

- Received 8 Agricultural Land Easements (ALE) applications and 8 Wetland Reserve Easements (WRE) applications for FY15. Onsite review and rankings are ongoing since April.
- Total ACEP allocation for FY15 is \$1.462 million:
 - \$814,150 – ALE
 - \$648,000 – WRE

Dam Rehabilitation

- NRCS joined the Northern Virginia SWCD and Fairfax County in planning and conducting the Pohick Watershed Celebration on May 4 to mark the completion of all required upgrades to the six flood control structures in the 23,000-acre watershed. NRCS Chief Jason Weller, Congressman Gerald Connolly and others spoke at the event which was attended by approximately 60 partner representatives and featured tours of the Royal Lake site and a ribbon cutting to spotlight the successful partnership and commitment to public safety that made these projects such a success.
- Obtained additional dam rehab funding (\$19.34 million) for construction of Upper North River 77, and design and construction of Mountain Run 11 and 50
- Current Project Updates:
 - Upper North River 10 – construction contract awarded to Howdyshell; construction starts on May 20 and is expected to be completed by December 1
 - Upper North River 77 – draft plan was sent out May 6 for public comment, project is on schedule for FY15 completion
 - Mountain Run 11– sediment survey completed, H&H final
 - Mountain Run 50 – sediment survey completed, H&H final
 - Cherrystone Creek 1, 2A – sediment surveys in progress, ASW profiles under development

Virginia Association of Soil and Water Conservation Districts

Dr. Tyree gave the report for the Virginia Association of Soil and Water Conservation District.

Dr. Tyree said that the Association's focus for the summer was on environmental education. She said that the Envirothon had been successful and that one Northern Virginia team is moving forward to the national completion.

She also announced that the next meeting of the Association will be June 23 and 24 and will focus on director training.

Virginia Cooperative Extension

Dr. Grisso gave the update for Virginia Cooperative Extension. He said that he appreciated Mr. Dowling's attendance at the field day. Dr. Grisso said that the 2016 budget was running short and noted that it would not affect operations but that, in the event of a resignation, the shortfall may impact how quickly that position can be refilled.

Public Comment

Ms. Jennings expressed a concern regarding the backlog in SL-6 funding. She said that as the 2016 General Assembly Session approached, it was important to emphasize the need to fill the gap.

There was no further public comment.

Next Meeting

The next meeting of the Virginia Soil and Water Conservation Board will be held on September 24th at the Old Dominion Electric Cooperative in Glen Allen.

Mr. Dowling noted that, with regard to the PMP study, there may be a need to schedule an additional Board meeting between the September and the December meeting to discuss the studies details.

Adjournment

There was no further business and the meeting was adjourned.

Respectfully submitted,

Herbert L. Dunford, Jr.
Chair

Clyde E. Cristman
DCR Director