

Virginia Agricultural BMP Technical Advisory Committee
Stream Protection and Forestry Subcommittee
GoTo Virtual Meeting
September 15, 2020
1:00pm-4:00pm
Draft Minutes

TIME AND PLACE

The Stream Protection and Forestry Subcommittee meeting was held virtually on Tuesday September 15, 2020 at 1:00 p.m.

ATTENDANCE

Voting Members Present

Mark Hollberg, DCR
Aaron Lucas, Headwaters SWCD
Anna Killius, James River Association
Bryan Hoffman, Friends of the Rappahannock
Charlie Wootton, Piedmont SWCD
Chris Barbour, Skyline SWCD
Elizabeth Dellinger, Shenandoah Valley SWCD
Eric Paulson, Virginia State Dairymen's Association
Gary Boring, New River SWCD
Jim Riddell, Virginia Cattlemen's Association
Luke Longanecker, VACDE
Matt Kowalski, Chesapeake Bay Foundation
Michael Tabor, Blue Ridge SWCD
Nick Livesay, Lord Fairfax SWCD
Robert Bradford, Culpeper SWCD
Stefanie Kitchen, Virginia Farm Bureau
Tim Higgs, VDACS
Dean Cumbia, DOF (proxy for Todd Groh)
Tricia Mays, Southside SWCD

Voting Members not Present

Tom Turner, John Marshall SWCD

Non-Voting Members Present

David Bryan, DCR
Raleigh Coleman, DCR
Carl Thiel-Goin, DCR
Marissa Roland, DCR
Christine Watlington, DCR
Alston Horn, CBF
Kyle Shreve, Virginia Agribusiness Council
Chad Wentz, NRCS
Chris Bradshaw, NRCS
Freeda Cathcart, BRSWCD

WELCOME, Mark Hollberg

The following text was read by the Chair:

Good afternoon, I would like to call this virtual meeting of the Stream Protection and Forestry Subcommittee to order.

Generally, public bodies are prohibited from meeting electronically under the provisions of the Freedom of Information Act (FOIA). However, emergency language approved by the Governor and General Assembly in the 2020 Appropriations Act allows us to move forward with certain restrictions that I will outline below.

Before I review those provisions, please let me take a moment to review how this meeting will work. We want to allow for participation by Subcommittee members, staff, and members of the public who wish to comment. However, it is essential that we are able to manage the conversation effectively.

I am chairing this meeting today; David Bryan and Christine Watlington are assisting with presentations, responding to comments, and the overall coordination of the meeting.

Please be patient with all of us as we work through this. We understand and appreciate the challenges.

Chapter 1289 of the 2020 Acts of Assembly, known as the “Budget Bill”, includes language addressing the ability of public bodies to conduct electronic meetings without the need for a quorum being present in a single physical location (“Electronic Meeting”).

This language was submitted as an amendment by the Governor and approved by the General Assembly at their April 22, 2020 reconvened Session. The Governor subsequently signed the Budget Bill and the Bill was effective as of July 1, 2020.

The Budget Bill allows public bodies to hold Electronic Meetings when the Governor has declared a state of emergency pursuant to §44-146.17 if:

“(i) the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location;

(ii) the purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body...and the discharge of its lawful purposes, duties, and responsibilities...” §4-0.01(g).

The Department has determined that (i) the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location. The Department finds that (ii) the purpose of this meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body...and the discharge of its lawful purposes, duties, and responsibilities. The Department will (iii) make available a recording or transcript of the meeting on its website in accordance with the timeframes established in §§ 2.2-3707 and 2.2-3707.1 of the Code of

Virginia.” The comments in the chat room will also be preserved as a public record. Official minutes of this meeting will be drafted and posted in accordance with regular procedures.

The Budget Bill does not allow an Electronic Meeting to discuss or transact business for any purpose. Rather, agenda items that the public body plans to take up must be: (a) statutorily required or (b) necessary to continue operations and discharge lawful purposes, duties and responsibilities.

The Budget Bill requires compliance with the provisions of § 2.2-3708.2. Therefore, in accordance with § 2.2-3708.2.D.2, public bodies must include a telephone number that may be used to notify the public body of any interruption in the telephonic or video broadcast of the meeting.

In the event that a disruption occurs, participants should contact Christine by phone or text at 804-564-1897. Additionally, if there is an interruption in the broadcast, the meeting must be suspended until public access is restored.

Those provisions of the Virginia Freedom of Information Act not addressed by the Budget Bill remain in effect.

Before we continue with the business portion of the meeting, I will ask David to call the roll for Subcommittee members and anticipated staff. Other participants will be recorded through the chat window. If you are participating by phone and your name is not called, please call or text Christine at 804-564-1897.

In addition, if at any time you lose connection and are unable to reconnect, please contact Christine at the same number.

I will now turn to David for the calling of the roll:

(Bryan calls the roll and certifies a quorum present): A quorum was established with 18, and one other voting member joined later in the meeting, for a total of 19 voting members.

After the roll, the following text was read by the Chair:

I want to explain further how we will handle participation by subcommittee members, staff, and the public. Everyone, except the individual presenting materials for an agenda item, will be muted. Once the presentation is completed, the Subcommittee members, and only Subcommittee members, will be unmuted for discussion. David and Christine will assist me with ensuring members are recognized when they have questions or comments. As needed, staff will be unmuted to address questions or concerns. Members of the public will be able to ask questions and provide input by utilizing the chat box function only. As time allows, we will respond to those questions and comments.

We will now proceed with the business of the Subcommittee as outlined in the agenda.

DISCUSSION, Mark Hollberg

Mr. Hollberg presented the portable fencing specification WP-2P (see Attachment 1) and explained a DCR internal committee met to draft the initial specification. Mr. Hollberg opens up the discussion for SC members. The ensuing discussion focused on the following three topics:

Lifespan of practice

- The subcommittee discussed changing the specification from an annual practice to a five-year practice.
- Mr. David Bryan discusses that with a five-year practice, the program can receive Bay Model credit as it could be considered a Resource Improvement (RI) practice. He also mentioned the hardship process for participants and how that could be applied in the specification if the participant loses their lease.
- **Motion #1**
 - Mr. Wootton motions for the subcommittee to focus efforts on creating a five-year practice to gain Bay model credit with a specific provision allowing District Board to forgive the lifespan on the practice in the participant loses control of the land. Seconded by Aaron Lucas.
 - Roll call vote with 17 yes, 1 abstain. **Motion passes.**

Payment field by field or by herd

- The subcommittee discussed changing the payment from a herd by herd basis to a field by field basis.
- The subcommittee discussed payment based upon feet of fence versus feet of streambank protected (which is the way that the draft specification was written).
- The current way the specification is written suggests that should a participant lose their lease and get a new one, they would be expected to fence their herd out, along with difficulty with enforcement.
- **Motion #2**
 - Ms. Elizabeth Dellinger motions for the subcommittee to direct the practice to be paid on a field by field basis and by foot of fence. Seconded by Jim Riddell.
 - Roll call vote with 18 yes, 1 abstain. **Motion passes.**

Rate

- David Bryan reminded the Subcommittee that if this was a traditional cost-share practice, it would be set up at a rate lower than the WP-2N (which offers permanent fencing) which offers a minimum of 55% cost-share. The flat rate practice being proposed would offer a substantially higher cost-share as recent VCE studies of semi-permanent fencing averaged \$0.25/foot.
- The subcommittee discussed several options for cost-share rate for the practice, but determined they did not have enough background information to make a motion that is balanced with existing stream fencing practices. They asked for more research on fence rates to discuss at the next subcommittee meeting on October 7, 2020.
- Fence charger varies by price around \$200-\$300+. Matt Kowalski says it depends what you need it do.

The subcommittee suggests DCR use the WP-2N specification as a model and work in the five-year lifespan and paying on a field by field basis and by foot of fence. The internal DCR group will work on specification and email it to the subcommittee prior to the October 7th meeting.

SUBCOMMITTEE ACTIONS

The subcommittee focuses efforts on creating a five-year practice to gain Bay model credit, with a specific provision allowing District Board to forgive the lifespan of the practice if the participant loses control of the land. Charlie Wootton, seconded by Aaron Lucas.

Roll Call Vote for Motion #1

Charlie Wootton motions, seconded by Aaron Lucas.

Mark Hollberg, abstained
Aaron Lucas, yes
Anna Killius, yes
Charlie Wootton, yes
Chris Barbour, yes
Elizabeth Dellinger, yes
Eric Paulson, yes
Gary Boring, yes
Jim Riddell, yes
Luke Longanecker, yes
Matt Kowalski, yes
Michael Tabor, yes
Nick Livesay, yes
Robert Bradford, yes
Stefanie Kitchen, yes
Tim Higgs, yes
Dean Cumbia for Todd Groh, yes
Tricia Mays, yes

17 yes 1 abstained, **motion passes.**

Roll Call Vote Motion #2

The subcommittee directs the practice to be paid on a field by field basis and by foot of fence.

Elizabeth Dellinger motions, seconded by Jim Riddell.

Mark Hollberg, abstained
Aaron Lucas, yes
Anna Killius, yes
Charlie Wootton, yes
Chris Barbour, yes
Elizabeth Dellinger, yes
Eric Paulson, yes
Gary Boring, yes
Jim Riddell, yes
Luke Longanecker, yes

Matt Kowalski, yes
Michael Tabor, yes
Nick Livesay yes
Robert Bradford, yes
Stefanie Kitchen, yes
Tim Higgs yes
Dean Cumbia for Todd Groh, yes
Tricia Mays, yes
Brian Hoffman, yes

18 yes, 1 abstained, **motion passes.**

PUBLIC COMMENT

None

FUTURE MEETING DATES, TIMES AND LOCATIONS

A second subcommittee meeting will be held virtually on Wednesday October 7, 2020 from 1pm-4pm

ADJOURN – 3:22pm

Attachment 1

Name of Practice: PORTABLE FENCING FOR STREAM PROTECTION
DCR Specifications for No. WP-2P

This document specifies terms and conditions for the Virginia Department of Conservation and Recreation's portable fencing for stream protection best management practice that are applicable to all contracts entered into with respect to that practice.

A. Description and Purpose

Protection by portable fencing along **all live streams or live water** in order to prevent stream bank erosion, direct deposition of animal waste and contamination of water from agricultural nonpoint sources of pollution.

The purpose of this one-year practice is to offer an incentive payment to exclude livestock from all live streams or live water, thereby effectively controlling soil erosion, sedimentation, and nutrient loss from surface runoff to improve water quality.

B. Policies and Specifications

1. This practice will provide a portable fencing system for stream protection to prevent direct deposition of livestock waste and protect stream banks and other water features such as: wetlands, intermittent springs, seeps, ponds connected to streams, sensitive karst features, and gullies adjacent to springs.
2. No minimum fencing standards are required. However, the producer is required to exclude livestock from all live streams and live water at all times during the lifespan of this practice. The portable fence may be placed at the top of bank or with a preferred buffer setback.
3. The portable fencing system is designed to be moved with the livestock herd as the participant rotates their animals through different fields and/or farms (if applicable). As such, the sizing of the fencing system should be based upon the field in the system with the longest length of streambank protected in order to ensure that the portable fencing system may be effectively utilized in all fields where the livestock will graze that require stream exclusion.

4. Since the portable fencing system is designed to serve a livestock herd as it is rotated through various farms/fields (if applicable), a participant can sign up for one portable fencing system per separately managed herd.
5. Flash grazing (allowing livestock to graze the excluded riparian area) is not allowed as a management alternative during the lifespan of this practice.
6. Due to the temporary nature of this portable fencing practice, provision of water is the responsibility of the producer in all fields where the portable fencing system will be utilized. Permanent watering systems, hardened limited access points, solar systems, stream pick-ups, temporary troughs and portable waterers are all acceptable options.
7. The practice must not be in lifespan from any other conservation program.
8. All practice components implemented must be maintained for a minimum of one year following the calendar year of certification. The lifespan begins on Jan. 1 of the calendar year following the calendar year of certification of completion. By accepting a cost-share payment for this practice the participant agrees to maintain all practice components for the specified lifespan. This practice is subject to spot check by the District throughout the lifespan of the practice and failure to maintain the practice may result in reimbursement of cost-share.
9. This practice is only eligible for re-enrollment by the participant once every five program years for the replacement of the portable fencing system that serves their livestock herd.

C. Rate(s)

The state cost-share rate is a single payment of \$0.20 per linear foot of stream bank or water feature protected. This payment shall be calculated based upon the field with the longest length of streambank protected in order to ensure that the portable fencing system may be effectively utilized in all fields where the livestock will graze. This payment for the stream bank or water feature protected will not include any areas where livestock have access (i.e. hardened crossings).

Payment will be made after a field visit by District staff documents the portable fencing system is installed in the field where livestock are currently located and functioning as intended with all livestock excluded.

D. Technical Responsibility

Technical and administrative responsibility is assigned to qualified technical DCR and District staff in consultation, where appropriate and based on the controlling standard, with DCR, Virginia Certified Nutrient Management Planner(s), NRCS, DOF, and VCE. Individuals certifying technical need and technical practice installation shall have appropriate certifications as identified above and/or Engineering Job Approval Authority (EJAA) for the designed and installed component(s). All practices are subject to spot check procedures and any other quality control measures.

Created April 2021