

**Virginia Soil and Water Conservation Board
Friday, January 30, 2009
Association of Electric Cooperatives
Glen Allen, Virginia**

Virginia Soil and Water Conservation Board Members Present

Linda S. Campbell, Chair	Joseph H. Maroon, Director
Susan Taylor Hansen	Gary Hornbaker
Granville M. Maitland, Vice Chair	Jean R. Packard
Michael J. Russell	Wade Biddix for John A. Bricker

Virginia Soil and Water Conservation Board Members Not Present

Michael Altizer	Raymond L. Simms
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DCR Staff Present

William G. Browning	Nissa Dean
David C. Dowling	Jim Echols
Michael R. Fletcher	Lee Hill
Mark, Meador	Jim Robinson
Elizabeth Andrews, Office of the Attorney General	

Others Present

Morgan Allen, Dinwiddie County
Mark Bassett, Dinwiddie County
Austin Bender, Watershed Services
Diane Cook, Prince George County
Mike Dolan, City of Covington
Mike Gerel, Chesapeake Bay Foundation
Gretchen Gonzalez, Isle of Wight County
Ralph Hollm, Lake of the Woods
George Kieber, Caroline County
Scott Lucchesi, King William County
Adrienne Marshall, New Kent County
Kevin Massengill, Dinwiddie County
Dick McElfish, Chesterfield County
David Nunally, Caroline County
Doug Pritchard, Chesterfield County
Gary Robertson, Western Virginia Water Association
Gene Swearingen, Town of Haymarket
Sandy Wanner, James City County

Call to Order and Introductions

Chairman Campbell called the meeting to order. A quorum was declared present.

Approval of Minutes from November 21, 2008

MOTION: Ms. Packard moved that the minutes of the November 21, 2008 meeting of the Virginia Soil and Water Conservation Board be approved as submitted.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

Director's Report

Mr. Maroon gave the Director's report.

Mr. Maroon presented a draft resolution commending Richard McNear for his service to the Board.

MOTION: Mr. Maroon moved that the Board adopt the following resolution:

At a regular meeting of the Virginia Soil and Water Conservation Board held on Friday, January 30, 2009, at the Association of Electric Cooperatives, Richmond, Virginia, the following resolution was unanimously adopted.

WHEREAS, Richard E. McNear of Washington, Virginia, represented the Citizens of the Commonwealth on the Soil and Water Conservation Board; and

WHEREAS, bringing his experience and commitment to the protection of Virginia's natural resources, Mr. McNear served on the Virginia Soil and Water Conservation Board from July 1, 2004 to June 30, 2008; and

WHEREAS, Mr. McNear has served as a Director of the Culpeper Soil and Water Conservation District, serving as the Chairman of the Board in 2002

THEREFORE BE IT RESOLVED, that on behalf of the citizens of the Commonwealth, The Virginia Soil and Water Conservation Board and the Virginia Department of Conservation and

Recreation extends its sincerest appreciation to Richard E. McNear for his service to this Board, recognizing with gratitude, his contributions, and dedication to protecting the quality of the land and water resources of the Commonwealth.

SECOND: Ms. Packard
DISCUSSION: None
VOTE: Motion carried unanimously

Mr. Maroon said that staff would frame the resolution and forward it to Mr. McNear.

Mr. Maroon presented a summary of legislation relating to the Department. A copy of the full summary is available from DCR. Mr. Maroon reviewed the following bills:

SB1050 (Whipple) and HB2351 (Landes)

Companion bills that would provide that beginning with the 2010-2011 fiscal year and for each fiscal year thereafter, the Governor through the budget process would propose appropriations for funding of the Virginia Natural Resources Commitment Fund. For each fiscal year the Governor would propose appropriations for funding of the Fund in an aggregate amount that would not be less than (i) 150 percent of the greatest, aggregate appropriation to the Fund included in any prior act of the General Assembly or (ii) \$30 million, whichever is greater. The bill would also change the formula for distributions from the Fund.

Mr. Maroon addressed the following bills pertaining to Stormwater.

HB1991 (Bulova) – Agency Bill

Extends the period of time that localities have to adopt a local stormwater management program. Currently, they are required to adopt a program no sooner than 12 months and no later than 18 months after state regulations have become effective. This bill would extend the time for adoption from no sooner than 15 months and no later than 21 months. The Virginia Soil and Water Conservation Board can grant an extension to the locality of an additional 12 months if the Department of Conservation and Recreation finds that such an extension is warranted. A locality can adopt a program earlier than the minimum time frame with consent of the Board. The bill also requires that the regulation that establishes local program criteria and delegation procedures not become effective until after July 1, 2010.

Ms. Packard asked why the change was recommended.

Mr. Maroon said that the intent was to give localities additional time to develop a local stormwater management program and to seek Board approval but not to delay the process

more than necessary. He noted that this would also give the Board authority to grant an additional year if progress is being made. He said that the local governments and the home builders were supportive of this measure.

HB2168 (Abbitt)

Authorizes permit-issuing authorities to allow stormwater permit holders to comply with nonpoint nutrient runoff water quality criteria by either (i) acquiring offsite nonpoint nutrient offsets that have been certified under the Chesapeake Bay Nutrient Exchange Program or (ii) through water quality measures contained in a regional stormwater management plan. The offsets have to be in the same tributary as the permitted activity. The bill also requires an offset broker to pay the permit-issuing authority a fee equal to six percent of the amount paid by the permittee for the offsets.

Ms. Packard asked who set up the Chesapeake Bay Nutrient Exchange program certification.

Mr. Maroon said that it was an existing program for point source pollution set up by DEQ. He said the program certifies the credits that could be utilized to offset the pollutant load.

Mr. Maroon said that DCR asked for an amendment to the bill that would give an authority to create regulations to allow offsets in the southern rivers.

SB1114 (Ticer)

Directs the Virginia Soil and Water Conservation Board to adopt regulations that provide for the evaluation and the potential inclusion of emerging or innovative stormwater control technologies, such as steel slag, that prove effective in reducing nonpoint source pollution.

Mr. Maroon said that this authority already exists but the legislation provided some clarity.

Mr. Maroon reviewed two bills pertaining to the Clean Water Farm Awards.

HB1925 (Lewis) - Agency Bill

Identifies the types of agricultural best management practices that a farmer can implement to be eligible to receive the award. The conservation practices he implements must be effective in controlling agricultural nonpoint source pollutants.

This bill expands eligibility requirements for the award.

SJ375 (Ticer) - Agency Bill

Commends 10 of the 37 farms selected as winners of the Clean Water Farm Award and the Bay Friend Farm Award to represent the Commonwealth's 10

major river basins and to recognize the exemplary effort of such farms in implementing nutrient management plans and best management practices. The Clean Water Farm Award and the Bay Friendly Farm Award promote the Commonwealth's water quality goals by recognizing farmers actively engaged in nutrient management and other important conservation practices that control agricultural nonpoint source pollution.

This is the annual bill to recognize the 10 River Basin Grand Winners.

Mr. Maroon addressed legislation pertaining to Soil and Water Conservation Districts.

SB1324 (Reynolds) and HB2218 (Jones)

Companion bills that would require that notice of the date that nominating petitions and the date of the election for soil and water conservation district directors have to be posted in a prominent location at each district office 30 days before the filing date. Districts may use additional means to provide notice to the public of the election of district directors. Currently, such notice has to be published in a newspaper of general circulation with the district. The bill also requires the Virginia Soil and Water Conservation Board to notify each district that it is the district's responsibility to post such notice.

Mr. Maroon said that this bill related to previous Board discussions regarding the cost of printing notices in newspapers across the state.

Mr. Maroon addressed budget issues. He provided a copy of a presentation he gave to the House Appropriations Subcommittee on Economic Development, Agriculture and Natural Resources. A copy of this presentation is available from DCR.

Mr. Maroon said that unless the General Assembly acts there would be no funding for Agricultural BMPs after June 30, 2009. The Governor has proposed funding of \$20 million for Ag BMPs. Mr. Maroon distributed a handout detailing that proposal. A copy of that handout is available from DCR.

Ms. Campbell asked if the Board could show their support for this funding.

Mr. Maroon noted that the Board had previously written the Governor regarding the \$20 million. A copy of the Governor's response was included in member packets and is available from DCR. Mr. Maroon said that at this point it was important that the Governor and legislators hear from individuals.

District Funding Update

Mr. Meador gave a review of District funding issues. He provided handouts showing the budget reduction for the current fiscal year and potential budget reductions for the coming fiscal year. Copies of these handouts are available from DCR.

Mr. Meador also reviewed the Board financial policy. He said that at this time the Board did not need to take action but that this information was provided because the Board would need to address the policy at the March or May meeting.

District Resignations and Appointments

Mr. Meador presented the District Resignation and Appointments recommendations:

Colonial

Recommendation of Billy S. Scruggs, Jr., City of Williamsburg, to fill unexpired elected term of Matthew W. Beato (term of office to begin on or before 3/1/09 – 1/1/12).

Lord Fairfax

Resignation of Richard C. Martin, Warren County, effective 9/22/08, elected director position (term of office expires 1/1/12).

Recommendation of Jeff White, Warren County, to fill unexpired elected term of Richard C. Martin (term of office to begin on or before 3/1/09 – 1/1/12).

Mr. Meador said that there was one additional recommendation that staff had just received from the Northern Virginia Soil and Water Conservation District.

Recommendations of George W. Lamb, Fairfax County, to fill unexpired elected term of Sally Ormsby (deceased) (term of office to begin on or before 1/30/09 – 1/1/12).

MOTION: Mr. Maitland moved that the Virginia Soil and Water Conservation Board approve the list of District Director resignations and appointments as presented by staff.

SECOND: Ms. Packard

DISCUSSION: None

VOTE: Motion carried unanimously

Ms. Packard noted that in making this recommendation that the Northern Virginia Soil and Water Conservation District had to address the procedures for the death of a Director. She said that there currently was no provision for the death of a District Director specified in District procedures. She suggested a staff review to address the issue.

Ms. Packard also asked that the procedures clarify the process for conducting interviews to resolve the best candidate. Does this require a formal meeting or can action be taken in a work session? Is there a requirement for a formally called meeting?

Ms. Hansen asked if the action had to be advertised in the event a Director resigns.

Ms. Packard said no, but the point with the death of a Director was that it was not addressed either way.

Mr. Meador said that staff had updated procedures and shared them with Districts. He said there was a separate set of procedures dealing with Extension Agents. He said that staff will look at the procedures in question.

Dam Safety Certificates and Permits

Mr. Browning addressed the Dam Safety Certificates and Permits. A packet was distributed to members. Mr. Browning said that he would be taking the issues out the order outlined in the agenda.

Mr. Browning addressed Jolly Pond Dam. He said the dam was owned by a fee simple owner. The owner is interested in keeping the pond and in preserving the historical nature of the dam. James City County has stepped in with a lease between the owner and the County. DCR has been working with the County.

Mr. Browning introduced Sandy Wanner, County Administrator for James City County to provide an update.

Mr. Wanner thanked the Board and DCR for working with the County to find a solution to meet the new regulations. He noted that Jolly Pond Dam had been in existence for almost 250 years. He said that on top of the road there is a road operated by VDOT. He said that when the dam has overtopped, VDOT has allowed citizens to make repairs where the dam was eroded. VDOT restored the road with the condition that James City County would monitor.

Mr. Wanner said that a solution has not come forward. The private dam owner has determined after months of consultation that the family wants to preserve the dam in its current condition.

A recent meeting was held with the citizens of Jolly Pond Road. The Board of Supervisors is not willing to use taxpayer dollars to maintain the dam, nor will the local Board use eminent domain. There is also no remedy coming from this year's General Assembly.

Mr. Wanner said that the County appreciates the work of the staff and the Board. He said this is a no win situation.

Ms. Packard asked, assuming the dam was repairable from an engineering point, what was the estimated cost.

Mr. Browning said the total anticipated cost would be \$2.5 million.

Ms. Packard clarified that the dam could be preserved if the money was available.

Mr. Browning said that was correct, but the necessary repairs would reportedly destroy the historical nature of the dam.

Mr. Russell asked if a dam inundation study had been done.

Mr. Browning said not at this time. However, he said that there was nothing known to be below the dam but marshland.

Mr. Russell asked if there was an Emergency Action Plan in place. Mr. Browning confirmed that there was.

Mr. Wanner said that the minute the water rises, the County is on site in any rain event. The County has also worked with the public schools to minimize the bus routes across this dam.

Ms. Hansen asked if there was developable land in the inundation zone.

Mr. Browning said that he believed there was not. He said that part of the problem with the repairs to the dam was the wetlands and permitting.

Mr. Russell asked who the responsible party was on the Emergency Action Plan.

Mr. Wanner said the County would make the response. He said that complicating the issue was the fact that the owner was currently hospitalized. The owner has indicated in writing that he does not intend to make the repairs.

Mr. Wanner said the County will continue to monitor the dam on a weekly basis and will enforce any closure that is determined to be needed.

Mr. Maroon said that the County should be commended for efforts to step forward to resolve a difficult issue. He noted that if the road did not exist on top of the dam, the dam would not be classified in this manner.

Mr. Maroon said that VDOT has indicated an intention to close the road over the dam as they do not wish to be responsible for any type of sunny day failure.

Ms. Campbell asked if closing the road would change the classification.

Mr. Browning said that alternative had been offered but that the owner was not willing to accept that condition.

Ms. Hansen said that the dam was known to not be in compliance and that she did not see a way to make compliant.

Ms. Packard asked if the landowner had been receptive to any of the alternatives.

Mr. Browning said that it was the destruction of the dam that the owner sees as a problem. The owner is not receptive to anything that would change the current appearance.

Mr. Russell asked if VDOT had indicated any opportunity for geologic monitoring.

Mr. Browning said that VDOT is concerned with the old road and has offered to help reduce the impact of heavy road use.

Ms. Packard asked how many people would be directly impacted. Mr. Browning said about 100 people.

Mr. Maroon asked if there was another way into the neighborhood.

Mr. Wanner said yes, but that it was a longer route.

Mr. Browning said that staff was not asking for Board action. He said that the certificate did expire the following day. He noted that he was working with Ms. Andrews regarding the next steps with the owner. The dam will be out of compliance as of February 1, 2009 and that DCR would notify VDOT.

Mr. Maroon said that VDOT was concerned over setting a precedent with this dam. He said that VDOT has been a good partner with DCR. He noted that none of the solutions offered to date would solve the problem. He said that the owner has a different view of the concerns.

Mr. Maroon asked if Board action was needed, or simply a concurrence with the staff approach.

Ms. Campbell said that procedurally the Board has discussed the situation and that the floor was open for comments. No actions were proposed or necessary.

Mr. Browning addressed the list of extensions.

Lake of the Woods Dam

Regarding Lake of the Woods Dam Inventory #13701, Mr. Browning said that staff had received a sealed design and alteration permit that is acceptable for the Board to issue a two-year extension to the existing operational and maintenance certificate.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the extension recommendation for Lake of the Woods Dam, Inventory #13701 as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Bailey from the Lake of the Woods Association thanked the Board for their action as well as their patience and understanding.

Mr. Browning moved to Conditional Certificates.

Regarding Craig D. Memorial Dam, Inventory #16104, Mr. Browning said that this was a high hazard dam. The dam had a regular certificate and had been given a four month extension. The recommendation is to move from a regular certificate to a two-year conditional certificate.

Mr. Browning said that Mr. Robertson from the Western Virginia Water Authority wished to address the Board concerning this dam.

Mr. Robertson said that the Western Virginia Water Authority had four dams that are regulated by the Board. He said that he believed there to be misunderstandings regarding their concerns. He said that he had been involved with the dam since it was constructed and opened in 1994. This is a roller compacted concrete dam.

Mr. Robertson said that in the fall, an application had been submitted for a 6-year permit based upon the inspection report from their engineers. He said that the DCR staff engineer has had issues regarding seepage. The WVWA agreed to hire another engineer to evaluate the seepage. Schnabel Engineering was hired to do an evaluation.

Mr. Robertson said that this was the third application for an operating permit for the dam. He said that the WVWA takes the dam seriously and that the dam receives proper care and monitoring. He expressed a concern regarding the recommendation of a conditional certificate.

Mr. Robertson said that Schnabel Engineering was asked to evaluate the safety of the dam. He said the report indicated that the dam was safe, even with the seepage issues. He said that WVWA felt strongly that the dam should receive a regular certificate.

Ms. Campbell noted that the dam was a 240 ft. high dam and that it held 3.2 billion gallons of water.

Mr. Browning noted that there was significant property below the dam.

MOTION: Ms. Packard moved the following:

Based on the findings in the Schnabel Engineering, LLC Project's Report 08160093, dated December 12, 2008, revised January 26, 2009 for Craig D. Memorial Dam, Inventory #16104, the DCR Division of Dam Safety and Floodplain Management recommends that the Virginia Soil and Water Conservation Board issue the Western Virginia Water Authority a High Hazard, Two-Year Conditional Operation and Maintenance Certificate to correct groin seepages that can potentially erode and dissolve the constituents of the rock and the RCC. Certificate conditions are:

1. Prepare and submit to Dam Safety a grouting design plan with a schedule for completing the grouting work by July 1, 2010.
2. Submit an Alteration Permit with final sealed plans and specifications to Dam Safety by November 1, 2010.
3. Submit a request for an eighteen month extension to the Conditional Operation and Maintenance Certificate in order to complete the grouting.
4. Complete grouting by January 31, 2012 providing and engineering certification that the work was completed in accordance with the final plans and specifications.
5. By April 15, 2012 submit an Inundation Map, Operation and Maintenance Application, Emergency Action Plan, Inspection Report and the appropriate Application fee for certification of a Six-Year Regular High Hazard Operation and Maintenance Certificate.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

At this time the Board recessed for lunch.

Following lunch Chairman Campbell revised the agenda to address the Erosion and Sediment Control issues because several localities were represented.

Erosion and Sediment Control

Mr. Hill addressed the Erosion and Sediment Control issues.

REVISED: 3/24/2009 10:56:29 AM

Local Programs recommended to be found consistent based on Initial review.

City of Roanoke

Mr. Hill presented the background information for the City of Roanoke.

DCR staff completed the initial program review for the City of Roanoke's Erosion and Sediment Control Program and the scores for the individual program components were as follows: Administration – 98, Plan Review – 80, Inspection – 85, Enforcement – 90. As all program components received a score of 70 or better, staff recommended that the Virginia Soil and Water Conservation Board find the City's Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

Prince George County

Mr. Hill presented the background information Prince George County.

DCR staff completed the initial program review for Prince George County's Erosion and Sediment Control Program and the scores for the individual program components were as follows: Administration – 76, Plan Review – 85, Inspection – 95, Enforcement – 80. As all program components received a score of 70 or better, staff recommended that the Virginia Soil and Water Conservation Board find the County's Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

New Kent County

Mr. Hill presented the background information for New Kent County.

DCR staff completed the initial program review for New Kent County's Erosion and Sediment Control Program and the scores for the individual program components were as follows: Administration – 85, Plan Review – 100, Inspection – 75, Enforcement – 90. As all program components received a score of 70 or better, staff recommended that the Virginia Soil and Water Conservation Board find the County's Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

Town of Haymarket

Mr. Hill presented the background for the Town of Haymarket.

DCR staff completed the initial program review for the Town of Haymarket's Erosion and Sediment Control Program and the scores for the individual program components were as follows: Administration – 93, Plan Review – 75, Inspection – 75, Enforcement –

95. As all program components received a score of 70 or better, staff recommended that the Virginia Soil and Water Conservation Board find the Town's Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

Town of Clifton Forge

DCR staff completed the initial program review for the Town of Clifton Forge's Erosion and Sediment Control Program and the scores for the individual program components were as follows: Administration – 100, Plan Review – 100, Inspection – 95, Enforcement – 100. As all program components received a score of 70 or better, staff recommended that the Virginia Soil and Water Conservation Board find the Town's Erosion and Sediment Control Program consistent with the Virginia Erosion and Sediment Control Law and Regulations.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board commend the City of Roanoke, the Counties of Prince George and New Kent, and the Towns of Haymarket and Clifton Forge for successfully implementing the Town's Erosion and Sediment Control Program to be fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

SECOND: Ms. Dalbec

DISCUSSION: Mr. Maroon said a letter of commendation would be sent to each locality on behalf of the Board.

VOTE: Motion carried unanimously

Local Programs recommended to be found consistent following completion of Corrective Action Agreement (CAA)

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board commend the City of Franklin and the Counties of Dinwiddie and Isle of Wight for successfully improving their respective Erosion and Sediment Control Program to become fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

SECOND: Mr. Russell

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Hill said that action raised the number of consistent localities to 120 out of 165. DCR has reviewed 144 localities. Roughly 83% have now been deemed consistent.

Local Programs recommended to be found inconsistent based on Initial Review and Request for Board approval of Corrective Action Agreement (CAA)

City of Covington

Mr. Hill gave the background for the City of Covington.

DCR staff completed the initial program review for the City of Covington's Erosion and Sediment Control Program and the scores for the individual components were as follows: Administration – 53; Plan Review – 50; Inspection – 40; and Enforcement – 80. As all program components did not receive a score of 70 or greater, staff recommended that the Virginia Soil and Water Conservation Board find the City's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the City.

Mr. Dolan from the City of Covington said that the City agrees that the program is essential. He said that as a small City they have had two projects in 12 years. He said if the programs were reviewed at this time they would be found consistent. He said that the ordinance has been updated and that most of the concerns relate to paperwork. He said that if the program is reevaluated the reality is that there may not be additional projects to review.

Mr. Hill said that in the past the Board has acted, yet directed staff to do another review prior to the expiration date.

Mr. Maroon said there had been at least one other locality with little development activity that the Board found consistent.

MOTION: Mr. Hornbaker moved that the Virginia Soil and Water Conservation Board accept staff recommendations and find the City of Covington's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the City's CAA. Further that the Board direct staff to examine the City's program again, to review the Corrective Action Agreement, and to monitor the implementation of the CAA by the City to ensure compliance.

SECOND: Ms. Hansen

DISCUSSION: None

REVISED: 3/24/2009 10:56:29 AM

VOTE: Motion carried unanimously

City of Lexington

Mr. Hill gave the background for the City of Lexington.

DCR staff completed the initial program review for the City of Lexington's Erosion and Sediment Control Program and the scores for the individual components were as follows: Administration – 94; Plan Review – 50; Inspection – 55; and Enforcement – 75. As all program components did not receive a score of 70 or greater, staff recommended that the Virginia Soil and Water Conservation Board find the City's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the City.

Mr. Blotter, Director of Planning spoke on behalf of the City of Lexington. He noted that Steve Paulk, City inspector was also present.

Mr. Blotter said that Lexington is a small City and that he and Mr. Paulk shared multiple responsibilities. He said that the City was very committed to Erosion and Sediment control. He said that the City goals were to collaborate with Rockbridge County.

Mr. Blotter said the issues of concern were not a matter of what the City has done, but what can be documented. He said that the City didn't meet the 45 day review standards, in part because the City has never taken 45 days to complete a review. He said again that the issue was primarily a lack of documentation.

Mr. Blotter said that since plans were approved in less than 45 days, verbal feedback was given rather than a written letter for the file.

Mr. Blotter gave several examples of concern that primarily related to documentation. He said that the City believed they had met the spirit of the program.

Mr. Blotter said that the City was prepared to sign the CAA, but that he wanted to express his frustration with the program.

Ms. Campbell thanked Mr. Blotter for his remarks and said that she could appreciate the City's position. She said that the documentation was for the City's benefit as well as the state.

Mr. Paulk asked if revisions to the law would be sent to the localities.

Mr. Hill said that had been done in the past.

Mr. Paulk said that with the Department of Housing the code book is updated on a three year basis. He said it would be helpful if the same was done with Erosion and Sediment Control.

Ms. Packard said that the City was to be congratulated on their action to bring their program up to date. She said that DCR staff had recognized many of the City's concerns. She said that the lack of a paper trail was why staff was recommending an extension to allow the City to catch up regarding paperwork. She said that all the Board and staff had to go on was the paperwork and the documentation provided by the City.

Mr. Russell asked if the feedback the City received from DCR was adequate to address the City's concerns.

Mr. Blotter said that it would have been helpful to review the report in draft stage with staff before it was finalized.

Mr. Echols said that he agreed with much of what Mr. Blotter said. He said that a fortunate thing was that the City of Lexington is very interested in running the program. He said there were a few minor problems on the site, but that the biggest problems were the paperwork. He said that the law specifies that comments, good or bad, must be returned in writing.

Mr. Maitland said that the documentation issue had been problematic for a number of localities. He asked if there was a way to make a correction rather than to have to go through the full CAA process.

Mr. Blotter said that he agreed with the point of being more flexible. He said that the City did provide documentation and had hoped that scores would have been changed.

Mr. Hill said that this was a problem that DCR has recognized. He said that DCR is nearing the end of the five-year review cycle. He said that staff intends to review the entire local program evaluation.

He said that in the present review cycle, localities had been reviewed consistently.

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board accept the staff recommendation and find the City of Lexington's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the City's CAA and that the Board direct DCR staff to monitor the implementation of the CAA by the City to ensure compliance.

SECOND: Ms. Dalbec

DISCUSSION: None

VOTE: Motion carried unanimously

Caroline County

Mr. Hill gave the background information for Caroline County.

DCR staff completed the initial program review for Caroline County's Erosion and Sediment Control Program and the scores for the individual components were as follows: Administration – 100; Plan Review – 65; Inspection – 95; and Enforcement – 70. As all program components did not receive a score of 70 or greater, staff recommended that the Virginia Soil and Water Conservation Board find the County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County.

Mr. Hill introduced David Nunally from the County.

Mr. Nunally said that he would like to provide additional information not contained in the report. He distributed a handout entitled "Caroline County 2008 Environmental Services Year in Review." A copy of this handout is available from DCR.

Mr. Nunally said he would like to commend staff for the way they conducted the program review. He noted that the CAA had two items. He said that one of the issues was the 45 days for plan review. He said the problem for Caroline County was that the applications were not date stamped when received. However, he said he believed the County had met that condition and noted that no complaints have been received.

Mr. Nunally said the other issue related to the requirement for an additional downstream channel analysis. He noted that some of the information provided the County was incorrect.

Mr. Nunally said that the County sends out notices to responsible land disturbers when a significant rain producing event is anticipated.

Mr. Nunally said that his focus was more on getting results rather than making documentation a priority.

Mr. Russell asked if there was an opportunity to reconsider the situation for Caroline County.

Mr. Hill said that in the past the Board has opted to not take action and to ask staff to reevaluate the component which did not meet the minimum score.

Ms. Hansen said that she would be more comfortable with that approach.

Mr. Maroon suggested that the Board take the approach outlined by Mr. Hill. He said that the Board could delay action and ask staff to review the program again. He said that may allow the County to be found consistent at the next meeting as opposed to being found inconsistent at this meeting.

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board receive the staff report concerning Caroline County's Erosion and Sediment Control Program and direct staff to perform another review to specifically look at areas of concern expressed by the County.

SECOND: Ms. Dalbec

DISCUSSION: None

VOTE: Motion carried unanimously.

King William County

Mr. Hill gave the background for King William County.

DCR staff completed the initial program review for King William County's Erosion and Sediment Control Program and the scores for the individual components were as follows: Administration – 55; Plan Review – 70; Inspection – 40; and Enforcement – 5. As all program components did not receive a score of 70 or greater, staff recommended that the Virginia Soil and Water Conservation Board find the County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County.

Scott Lucchesi, Planning Director for King William County said that he had no problems signing the CAA. He said that his biggest concern was that the inspection process does not paint a clear picture of what is happening in the locality. He said to assume a site had never been inspected was not realistic.

Mr. Lucchesi said that a preliminary report reviewed with staff might eliminate some of the problems and concerns. He said out of the nine items in the CAA for Prince William, the County was already doing eight of those.

Ms. Hansen said that was why documentation was crucial.

Mr. Hill said that he understood Mr. Lucchesi's concerns and would look into those issues.

MOTION: Mr. Russell moved that the Virginia Soil and Water Conservation Board accept staff recommendations and find King William County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the County's CAA and further that the Board direct DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

SECOND: Ms. Packard
DISCUSSION: None
VOTE: Motion carried unanimously

Lee County

Mr. Hill gave the background for Lee County.

DCR staff completed the initial program review for Lee County's Erosion and Sediment Control Program and the scores for the individual components were as follows: Administration – 19; Plan Review – 65; Inspection – 20; and Enforcement – 5. As all program components did not receive a score of 70 or greater, staff recommended that the Virginia Soil and Water Conservation Board find the County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County.

MOTION: Mr. Russell moved that the Virginia Soil and Water Conservation Board accept staff recommendations and find Lee County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the County's CAA and further the Board direct DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

SECOND: Ms. Hansen
DISCUSSION: None
VOTE: Motion carried unanimously

Prince William County

Mr. Hill gave the background for Prince William County.

DCR staff completed the initial program review for Prince William County's Erosion and Sediment Control Program and the scores for the individual components were as follows: Administration – 100; Plan Review – 55; Inspection – 40; and Enforcement – 55. As all program components did not receive a score of 70 or greater, staff recommended that the Virginia Soil and Water Conservation Board find the County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and approve the draft CAA for the County.

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board accept staff recommendations and find Prince William County's Erosion and Sediment Control Program inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the County's CAA and further that the Board direct DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

SECOND: Ms. Packard

DISCUSSION: None

VOTE: Motion carried unanimously

Local Programs previously found inconsistent and request for Board to extend Corrective Action Agreement (CAA)

Chesterfield County

Mr. Hill gave the background for Chesterfield County.

The Virginia Soil and Water Conservation Board approved Chesterfield County's Corrective Action Agreement (CAA) to November 11, 2008. At the direction provided by the Board, the Department of Conservation and Recreation staff reviewed Chesterfield County's progress on implementing the CAA. Based on the results of the review, the staff has determined that the County has not achieved compliance with the CAA. DCR staff recommends that the County be given until July 16, 2009 to comply with the outstanding CAA.

Douglas Pritchard, Program Administrator for Chesterfield County spoke on behalf of the County. He said that the County wanted to take this time to present their view of the issues. He said their concerns were more philosophical.

Mr. Pritchard said that Chesterfield was currently undergoing reviews for Erosion and Sediment Control, the Chesapeake Bay Act, and Dam Safety.

Mr. Pritchard expressed a concern over the stigma of the locality being found to be inconsistent. He said that there was a strong environmental constituency in Chesterfield that raises concerns. He said that Chesterfield has strong core values with regard to be responsible protectors of the environment.

Mr. Pritchard outlined the County's concerns.

Ms. Hansen said that many of these were technical disputes between the Erosion and Sediment Control law and the provision for a Resource Protection Area (RPA). She

suggested that the Board might not be the best body to resolve those issues on a point-by-point technical basis. She said that would not be the best use of time.

Mr. Maroon said that staff would be happy to meet with County staff and would also gladly accept concerns in writing.

Mr. Pritchard said that the County will be going from 11 inspectors to 41 inspectors. The County will set up a program so that when there is a building inspection, there is also an Erosion and Sediment Control inspection.

Mr. Hill said that DCR was able to work with the County to provide the exam on the same day for the 41 new inspectors. He said similar arrangements have been offered to other localities.

Mr. Hill said that the County's concern regarding MS19 would be addressed in the Stormwater Regulations. He said that staff could work with the County in this regard.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board accept the staff recommendations and grant Chesterfield County an extension until July 16, 2009 to fully comply with the outstanding CAA and further that the Board request that the Director of DCR and his staff evaluate the County's compliance with the outstanding CAA and provide a report at the September 2009 Board meeting.

SECOND: Ms. Dalbec

DISCUSSION: None

VOTE: Motion carried unanimously

Greensville County

Mr. Hill gave the background for Greensville County.

The Virginia Soil and Water Conservation Board approved Greensville County's Corrective Action Agreement (CAA) to November 11, 2008. At the direction provided by the Board, Department of Conservation and Recreation staff reviewed Greensville County's progress on implementing the CAA. Based on the results of the review, staff determined that the County had not achieved compliance with the CAA. DCR staff recommended that the County be given until July 16, 2009 to comply with the outstanding CAA.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board accept the staff recommendation and grant Greensville

County and extension until July 16, 2009 to fully comply with the outstanding CAA and that the Board further request that the Director of DCR and his staff evaluate the County's compliance with the outstanding CAA and provide a report at the September 2009 meeting.

SECOND: Mr. Maitland
DISCUSSION: None
VOTE: Motion carried unanimously

Washington County

Mr. Hill presented the background for Washington County.

The Virginia Soil and Water Conservation Board approved Washington County's Corrective Action Agreement (CAA) to November 11, 2008. At the direction provided by the Board, Department of Conservation and Recreation staff reviewed Washington County's progress on implementing the CAA. Based on the results of the review, the staff determined that the County had not achieved compliance with the CAA. DCR staff recommended that the County be given until July 16, 2009 to comply with the outstanding CAA.

MOTION: Ms. Dalbec moved that the Virginia Soil and Water Conservation Board accept the staff recommendations and grant Washington County an extension until July 16, 2009 to fully comply with the outstanding CAA and that the Board further request that the Director of DCR and his staff evaluate the County's compliance with the outstanding CAA and provide a report at the September 2009 Board meeting.

SECOND: Mr. Maitland
DISCUSSION: None
VOTE: Motion carried unanimously

Brunswick County

Mr. Hill gave the background for Brunswick County.

The Virginia Soil and Water Conservation Board approved Brunswick County's Corrective Action Agreement to November 11, 2008. At the direction provided by the Board Department of Conservation and Recreation staff reviewed Brunswick County's

progress on implementing the CAA. Based on the results of the review, staff determined that the County had not achieved compliance with the CAA. DCR staff recommended that the County be given until July 16, 2009 to comply with the outstanding CAA.

MOTION: Mr. Russell moved that the Virginia Soil and Water Conservation Board accept the staff recommendations and grant Brunswick County an extension until July 16, 2009 to fully comply with the outstanding CAA and that the Board further request that the Director of DCR and staff evaluate the County's compliance with the outstanding CAA and provide a report at the September 2009 Board meeting.

SECOND: Ms. Packard

DISCUSSION: None

VOTE: Motion carried unanimously

2009 Annual Standards and Specifications for Utility Companies

MOTION: Mr. Maitland moved the following:

The Virginia Soil and Water Conservation Board receives the staff update concerning the review of the 2009 annual standards and specifications for electric, natural gas, telecommunication, and railroad companies. The Board concurs with staff recommendations for conditional approvals of the 2009 specifications and the request for variances for the utility companies listed below in accordance with the Erosion and Sediment Control Law. The Board requests the Director to have staff notify said companies of the status of the review and the conditional approval of the annual standards and specifications and the request for variances.

The four items for conditional approval are:

1. A revised list of all proposed projects planned for construction from January 30, 2009 to December 31, 2009 must be submitted by March 6, 2009. The following information must be submitted for each project:
 - Project name (or number)
 - Project location (including nearest major intersection)
 - On-site project manager name and contact information
 - Project description Acreage of disturbed area for project

- Project start and finish dates
2. Project information unknown prior to March 6, 2009 must be provided to DCR two (2) weeks in advance of land disturbing activities by e-mail at the following address:
LinearProjects@dcr.virginia.gov.
 3. Notify DCR of the Responsible Land Disturber (RLD) at least two (2) weeks in advance of land disturbing activities by e-mail at the following address LinearProjects@dcr.virginia.gov. The information to be provided is name, contact information and certification number.
 4. Install and maintain all erosion and sediment control practices in accordance with the 1992 Virginia Erosion and Sediment Control Handbook.

Variances were requested for Minimum Standard 16.a and Minimum Standard 16.b. The responses to the requests for the variances are as follows:

1. Minimum Standard 16.a: The project may have more than 500 linear feet of trench length opened at one time provided that all trenches in excess of 500 feet in length are adequately backfilled, seeded and mulched at the end of each work day and adjacent property and the environment are protected from erosion and sediment damage associated with the regulated land disturbing activity.
2. Minimum standard 16.b. The variance to this criteria is not necessary due to Minimum Standard 16.f which allows applicable safety regulations to supersede the Virginia Erosion and Sediment Control Regulations.

Companies recommended for conditional approval with the 4 conditions are:

Electric: Allegheny Power; Dominion Virginia Power Electric Transmission; Old Dominion Power/EonUS; Virginia Association of Electric Cooperatives

Gas: Columbia Gas Transmission/NiSource; Spectra Energy/ETNG/Duke; Williams Gas Pipeline/Transco

Railroad: CSX Transportation

Company recommended for conditional approval with the 4 conditions and the variance requests for Minimum Standard 16.a is:

Railroad: Norfolk Southern

Companies recommended for conditional approval with the 4 conditions and the variance requests for Minimum Standard 16.a and 16.b are:

Telecommunications: Virginia Cable Telecommunications Association; Virginia Telecommunications Industry Association

SECOND: Ms. Packard
DISCUSSION: None
VOTE: Motion carried unanimously

Proposed Alternative Inspection Programs

MOTION: Mr. Maitland moved the following:

The Virginia Soil and Water Conservation Board approves the proposed Alternative Inspection Programs as being consistent with the requirements of the Erosion and Sediment Control Law and Regulations for the following localities:

- Fauquier County
- Highland County
- Middlesex County
- Pittsylvania County
- Town of Clifton Forge

The Board requests the Department of Conservation and Recreation staff to monitor the implementation of the alternative inspection program by the localities to ensure compliance with the approved program.

SECOND: Ms. Dalbec
DISCUSSION: None
VOTE: Motion carried unanimously

Initial Acceptance of Alternative Inspection Program for Northumberland County

MOTION: Mr. Maroon moved that the Virginia Soil and Water Conservation Board receive the staff update and recommendation regarding the proposed Alternative Inspection Program for Northumberland County and that the Board concur with the staff recommendation and accept the County's proposed Alternative Inspection Program for review and future action at the next Board meeting.

SECOND: Mr. Maitland

DISCUSSION: None

VOTE: Motion carried unanimously

Dam Safety Certificates and Permits, continued

Ms. Campbell turned back to Mr. Browning to continue with the Dam Safety issues.

Mr. Browning said that due to the changes in the Impounding Structure regulations staff was reviewing and revising procedures. He said one of the decisions was that extensions can no longer be given to regular certificates as had been previous practice. He said that a conditional certificate will be issued and the dam owner will be given notice of necessary action.

Mr. Browning said that action was needed regarding three dams that have not moved towards compliance.

MOTION: Mr. Hornbaker moved the following:

As part of the transition period that follows final adoption of the Impounding Structure Regulations on September 26, 2008, the Board acknowledges that some dam owners did not receive timely notification of the regulatory changes. Therefore, the Virginia Soil and Water Conservation Board establishes February 27, 2009 as a final submission date for information on the following dams thus providing the dam owners additional time to finalize applications and other required documents and to submit and associated fees. The Board further directs the Department Director to ensure that the Dam Safety staff notify dam owners of the revised submission date.

SECOND: Ms. Dalbec

DISCUSSION: None

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VOTE: Motion carried unanimously

Compliance Issues

Mr. Browning gave an update regarding Compliance Issues. No Board action was necessary.

Conditional Operational Maintenance Certificate Recommendations

01102 East Fork Falling River #7	APPOMATTOX	Low Hazard	1/31/10
01103 East Fork Falling River #15	APPOMATTOX	Low Hazard	1/31/10
01104 East Fork Falling River #21	APPOMATTOX	Low Hazard	1/31/10
01930 Elk Garden Lake Dam	BEDFORD	Low Hazard	1/31/10
03101 Little Falling River Dam #1	CAMPBELL	Low Hazard	1/31/10
03103 Little Falling River Dam #2	CAMPBELL	Low Hazard	1/31/10
03104 Little Falling River Dam #3	CAMPBELL	Low Hazard	1/31/10
04145 Chesterfield Power Station	CHESTERFIELD	Low Hazard	1/31/10
06118 Coventry Dam	FAUQUIER	Significant Hazard	1/31/10
06501 Lake Monticello	FLUVANNA	Significant Hazard	1/31/10
06520 Bremo Power Station Dam	FLUVANNA	Significant Hazard	1/31/10
06909 Meadow Lake Dam	FREDERICK	Low Hazard	1/31/10
07501 Picketts Creek Dam	GOOCHLAND	Significant Hazard	1/31/10
07915 Greene Mountain Lake	GREENE	Significant Hazard	1/31/10
08712 Wilde Lake Dam	HENRICO	Low Hazard	11/30/09
09506 Little Creek Dam	JAMES CITY	Significant Hazard	1/31/10
10707 Horsepen Dam	LOUDOUN	Low Hazard	1/31/10
10706 Dulles Airport Dam	LOUDOUN	Low Hazard	1/31/10
13706 Northrup Dam	ORANGE	Low Hazard	1/31/10
14117 Ararat River Dam #28	PATRICK	High Hazard	11/30/10
14704 Prince Edward Dam	PRINCE EDWARD	Low Hazard	1/31/10
16104 Clifford D. Craig Memorial Dam	ROANOKE CO.	High Hazard	1/31/11
16303 Robertson Dam	ROCKBRIDGE	High Hazard	11/30/09
16901 Bark Camp Dam	SCOTT	Low Hazard	1/31/11
17704 Motts Run Reservoir Dam	SPOTSYLVANIA	High Hazard	11/30/10
18505 Upper Clinch Valley Dam	TAZEWELL	High Hazard	1/31/11

Mr. Browning said that Mr. Maroon would need to abstain from action regarding the Prince Edward Dam. He also noted that the Clifford D. Craig Memorial Dam had already been addressed separately.

MOTION: Ms. Dalbec moved that the Virginia Soil and Water Conservation Board approve the Conditional Operation & Maintenance Certificate Recommendations as presented by DCR staff with the exceptions of the Prince Edward Dam and the Clifford D. Craig

Memorial Dam and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Mr. Maitland

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Mr. Hornbaker moved that the Virginia Soil and Water Conservation Board approve the Conditional Operation and Maintenance Certificate for Prince Edward Dam, Inventory # 14704 as presented by staff and that staff be directed to communicate the Board actions to the affected dam owner(s).

SECOND: Mr. Maitland

DISCUSSION: None

VOTE: Motion carried with Mr. Maroon abstaining

Regular Operation and Maintenance Certificate Recommendations

07309 Beaverdam Reservoir Dam	GLOUCESTER	High Hazard Regular	1/31/15
11103 Modest Creek Dam	LUNENBURG	Significant Hazard	1/31/15
11104 Lunenburg Beach Dam	LUNENBURG	Significant Hazard	1/31/15
11105 Nottoway Falls Dam	LUNENBURG	Significant Hazard	1/31/15
17906 Hidden Lake Dam	STAFFORD	Significant Hazard	1/31/15

MOTION: Mr. Maitland moved that the Virginia Soil and Water Conservation Board approve the Regular Operation & Maintenance Certificate Recommendations as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Ms. Dalbec

DISCUSSION: None

VOTE: Motion carried unanimously

Permit Recommendations

01502 South River Dam #25	AUGUSTA	High Hazard Conditional	1/31/09 – 1/31/10
01910 Falling Creek Reservoir Dam	BEDFORD	High Hazard Conditional	1/31/09 – 1/31/11
05906 Lake Accotink Dam	FAIRFAX	High Hazard Conditional	1/31/09 – 1/31/11

MOTION: Mr. Maitland moved that the Virginia Soil & Water Conservation Board approve the Permit Recommendations as presented by DCR staff and that staff be directed to communicate the Board action to the affected dam owners.

SECOND: Mr. Russell

DISCUSSION: None

VOTE: Motion carried unanimously

Extensions

00305 Albemarle Dam	ALBEMARLE	Low Hazard	1/31/11
00345 Crozet Sportsman Club Dam	ALBEMARLE	Low Hazard	1/31/10
00351 Peacock Hill Dam	ALBEMARLE	Low Hazard	11/30/09
00701 Amelia Dam	AMELIA	Low Hazard	1/31/11
01903 Beaverdam Creek Dam	BEDFORD	Significant Hazard	11/30/10
01904 Stoney Creek Reservoir Dam	BEDFORD	High Hazard	1/31/11
01905 Bedford Lake Dam	BEDFORD	Significant Hazard	11/30/09
02903 Willis River Dam #3	BUCKINGHAM	Low Hazard	1/31/10
02904 Willis River Dam #4	BUCKINGHAM	Low Hazard	1/31/10
02905 Willis River Dam #5E	BUCKINGHAM	Low Hazard	1/31/10
02906 Willis River Dam #5F	BUCKINGHAM	Low Hazard	1/31/10
02908 Willis River Dam #6A	BUCKINGHAM	Low Hazard	1/31/10
02910 Willis River Dam #9	BUCKINGHAM	Low Hazard	1/31/10
04104 Swift Creek Dam	CHESTERFIELD	Significant Hazard	1/31/10
04153 Rowlett Road Dam	CHESTERFIELD	Low Hazard	11/10/09
04710 South Wales Country Club Dam	CULPEPER	Low Hazard	1/31/10
05307 Burnt Quarter Dam	DINWIDDIE	Low Hazard	1/31/10
05902 Burke Lake Dam	FAIRFAX	High Hazard	1/31/11
06107 Thompson Dam	FAUQUIER	High Hazard	1/31/11
06109 Kinloch Farm Dam	FAUQUIER	High Hazard	1/31/10
06122 Lake Brittle Dam	FAUQUIER	Significant Hazard	1/31/11
06502 Fluvanna Ruritan Dam	FLUVANNA	Low Hazard	1/31/11
06907 Sheppard Lake Dam	FREDERICK	Low Hazard	1/31/10
07912 Twin Lakes Dam #2	GREENE	Low Hazard	1/31/10
07913 Twin Lakes Dam #1	GREENE	Low Hazard	1/31/10
08518 Forest Lake Hills Dam	HANOVER	Low Hazard	1/31/10
09513 Cranstons Dam	JAMES CITY	Low Hazard	1/31/10
12501 Nelson Dam	NELSON	Significant Hazard	1/31/10

12715 Lake Washington Dam	NEW KENT	Significant Hazard	5/31/09
13701 Lake of the Woods Dam	ORANGE	High Hazard	1/31/11
14111 Jackson/Moore Dam	PATRICK	Significant Hazard	11/30/09
14304 Burton Dam	PITTSYLVANIA	Low Hazard	1/31/11
14506 Lower Byers Dam	POWHATAN	Low Hazard	1/31/10
14533 Westlake Dam	POWHATAN	Low Hazard	9/30/09
14534 Avery Dam	POWHATAN	Low Hazard	1/31/10
16505 Lake Shenandoah	ROCKINGHAM	Significant Hazard	7/31/11
17710 Lee Lake Dam	SPOTSYLVANIA	Significant Hazard	11/30/09
19308 Gardy Millpond Dam	WESTMORELAND	Low Hazard	1/31/11
76011 Winston Lake Dam	RICHMOND	Significant Hazard	11/30/09
77002 Spring Valley Lake Dam	ROANOKE CITY	High Hazard	1/30/10

MOTION: Mr. Maitland moved that The Virginia Soil and Water Conservation Board approve the extension recommendations as presented by staff with the following exceptions:

00345 Crozet Sportsman Club Dam
04104 Swift Creek Dam
06109 Kinloch Dam
14506 Lower Byers Dam
14533 Westlake Dam
14534 Avery Dam
76011 Winston Lake Dam

And further that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Mr. Russell

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Browning indicated that payment was expected for several of the recommended extension dams in the next few days.

MOTION: Mr. Hornbaker moved that the Virginia Soil and Water Conservation Board approve the extension recommendations as presented by DCR staff for the following dams:

00345 Crozet Sportsman Club Dam
06109 Kinloch Dam
14506 Lower Byers Dam

14533 Westlake Dam
14534 Avery Dam
76011 Winston Lake Dam

Further that staff be directed to communicate the Board action to the affected dam owner(s).

SECOND: Mr. Russell

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Mr. Maitland moved that the Virginia Soil and Water Conservation Board approve the extension recommendation as presented by DCR staff for Inventory # 04104 Swift Creek Dam and that staff be directed to communicate the Board actions to the affected dam owner.

SECOND: Ms. Dalbec

DISCUSSION: None

VOTE: Motion carried with Mr. Maroon abstaining.

Update on Regulatory Actions

Mr. Dowling gave the following update on the regulatory actions.

Stormwater Construction General Permit (Parts I and XIV)

- Proposed regulation approved by the Board at the September 25, 2008 meeting.
- The regulation was published in the Virginia Register of Regulations on October 27, 2008 (V 25, Issue 4).
- The regulation was public noticed in accordance with federal requirements; ~\$17,000 in statewide newspaper notices; postcards sent to over 6,000+ permittees.
- The 60-day public comment period closed on December 26, 2008.
- The following public hearings were held to receive in put on the proposed regulations. All meetings started at 7 p.m.
 - December 2 - Manassas City Council Chambers
 - December 3 – Roanoke City County Chambers
 - December 10 – Williamsburg City Council Chambers
- Public comment period results (October 27, 2008 – December 26, 2008)

- December 2 – Manassas, 30 people attended; 10 spoke
- December 3 – Roanoke, 17 people attended; 5 spoke
- December 10 – Williamsburg, 16 people attended; 3 spoke
- We received 75 written comments; 90 unique comments (written and oral)
- EPA is contemplating their review and we hope to receive their comments very soon
- Department staff are currently reviewing the comments received and are beginning to discuss potential solutions to issues raised
- Will be bringing the final regulation recommendations to the Board at the March 2009 meeting.
- Permit must be effective by July 1, 2009.

Stormwater – Local program and Water Quality and Water Quantity Criteria (Parts I, II, and III)

- Proposed regulation approved by the Board at the September 24, 2008 meeting.
- Target mid December for completion of an Economic Analysis.
- File the regulations on the TownHall (early February)
- Review by the Administration – potentially February thru April 2009.
 - Official OAG review – 3 days
 - 45 days DPB fiscal analysis review – Mid-March 2009
 - 14 days SNR – late March 2009
 - No deadline Governor – April 2009
 - Submit to Registrar – Late April 2009
 - Registrar publication – Early May 2009
- 60-day public comment period – May-June 2009; public hearings; concurrent EPA review.
- Make Regulation refinements; EPA review – by September 1, 2009.
- Take final regulation to the Board at the September 2009 meeting (when we have resolved concerns to the best of our ability).
- Final Regulation Review by DPB, SNR, Governor – by November 15, 2009.
- File with Registrar and publish for 30 days – December 31, 2009.
- EPA final approval by December 31, 2009.

Stormwater - Permit Fees (Part XIII) [Currently same schedule as above]

Chairman Campbell thanked Mr. Dowling for his presentation.

Chairman Campbell recognized Kendall Tyree, the new Association Administrator for the Virginia Association of Soil and Water Conservation Districts.

Partner Agency Reports

Chairman Campbell said that due to the lateness of the hour, the Board would dispense with the Partner Agency Reports.

Reports for the Natural Resources Conservation Service and the Department of Conservation and Recreation are included at the end of this document.

Public Comment

There was no further public comment.

Other Business

There was no other business.

Adjourn

There being no other business, the meeting was adjourned.

Respectfully submitted,

Linda S. Campbell
Chairman

Joseph H. Maroon
Director

Attachment # 1

NRCS REPORT
VA Soil & Water Conservation Board Meeting
January 30, 2009
Association of Electric Cooperatives
Richmond, VA

FARM BILL PROGRAMS

Easement Programs: All of the interim final rules have been released and published in the Federal Register. The agency is currently taking public comment on these programs. We are operating the FY 2009 programs under these interim rules for the Grassland Reserve Program (GRP), Wetland Reserve Program (WRP), and Farm and Ranchland Protection Program (FRPP). Sign-up is being taken on a continuous basis for the WRP. No sign-ups have been announced for the other easements programs.

Financial Assistance Programs: Interim Final Rules have been published for both the WHIP and EQIP programs and public comment is also currently being taken. Both programs will operate under these interim rules for the current sign-up. Sign-up is continuous. We anticipate making approval of applications as early as the end of February. All current year funds will need to be obligated by July 15. Under the Continuing Resolution budget, the current funding allocation has distributed \$9.8 million in EQIP funding and \$684,000 in WHIP funding to Virginia. Additional funding may be received in the final federal FY 09 budget.

Stewardship Program: The interim final rule for the new Conservation Stewardship Program (CStP) has not been released.

Chesapeake Bay Initiative (CBI): A Notice of Federal Assistance has been released announcing special funding directed to the Chesapeake Bay Watershed. NRCS has been working with the other states to develop targeted watersheds and a conservation practice list to accelerate certain water quality. Specific funding will go to the Shenandoah River basin, Potomac River basin and general Bay areas. In addition, high priority sub basins have been identified to receive additional priority consideration (see attachment).

ECOLOGICAL SCIENCES HIGHLIGHTS

- In January, NRCS hosted a Regional Conservation Practice Standards Writing Workshop. NRCS staff is working to update over 60 conservation standards in FY-09.
- NRCS sponsored recent training conducted by the Virginia Forage and Grassland Council. Four workshops were conducted entitled: "Virginia Beef Summit: Optimizing Livestock and Forage Efficiencies in Times of Change." Over 300 people attended the training.

WATERSHED PLANNING AND SURVEYS

We have requested the Chief of NRCS to reconsider the decision to defer all authorizations for new watershed projects. If approved, this would affect the North Fork Powell River Watershed Plan in Lee County, Virginia. The local sponsors are the Daniel Boone SWCD, Lee County Board of Supervisors, and the Virginia Department of Mines, Minerals and Energy. The Sponsors are hoping to get funding through the Federal Economic Stimulus Package being debated at this time in Congress.

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NHQ guidance has restricted states from submitting funding requests for developing new watershed plans. Only funding for ongoing studies will be considered in FY-09. This affects Virginia for the following two requests for planning assistance: 1) Town of Glasgow in Rockbridge County and 2) the Gross Creek Watershed located in the Town of Farmville in Prince Edward County.

RAPID WATERSHED ASSESSMENT

Lower Shenandoah River – NRCS is working on the Rapid Watershed Assessment for the Lower Shenandoah River. This is a multi-state project between West Virginia and Virginia. This assessment, along with the South Fork and North Fork assessments, will complete the entire Shenandoah River Watershed in Virginia and West Virginia. The assessment will be completed by June 30, 2009.

DAM REHABILITATION

South River Site 25 (Toms Branch) in Augusta County – Final design has been completed by an A&E firm. The Headwaters SWCD, Augusta County, and the City of Waynesboro have secured the necessary land rights. The project will soon go to bid and construction should begin this spring.

Pohick Creek Site 4 (Royal Lake) in Fairfax County – Fairfax County is administering a construction contract for the rehabilitation of Royal Lake. Construction is ongoing and should be completed by April, 2009.

Pohick Creek Site 3 (Woodglan Lake) in Fairfax County – The design for this project is underway and nearing completion. Funding for the construction of this project has been requested in our FY-09 budget request.

Pohick Creek Site 2 (Lake Barton) in Fairfax County – NRCS staff are completing the draft plan for this rehabilitation project. A public meeting is scheduled for February 18, 2009. The draft plan should be ready for interagency and public review by April 2009.

Stony Creek Site 9 (Lake Laura) in Shenandoah County – DCR has started the process of performing the engineering and construction necessary to bring the dam into compliance with state dam safety regulations. This project will be taken out of the federal dam rehab program. DCR will fund the entire project with no federal assistance. NRCS will provide plan and specification approval for the repairs but will not be directly involved with the design or construction.

South River Site 10A (Mills Creek) in Augusta County – Augusta County has requested NRCS planning assistance to rehabilitate this dam. The County has already completed most of the engineering studies and analysis but needs help with the environmental, sociological, and economic portions of the plan. They want to organize the information into a document that will meet the Dam Rehabilitation Program requirements so they can qualify for NRCS cost-share on the project. NRCS has requested funding in our FY-09 budget to assist Augusta County to develop a plan to rehabilitate this dam.

Assessments for High Hazard Dams – NRCS has requested funding to conduct assessments of the following three dams in Virginia.

- South River Watershed Site 7 - Lake Wilda in Augusta County
- Upper North River Watershed Site 10 - Todd Lake in Augusta County
- Johns Creek Site 3 in Craig County

DCR funded SWCD Dam Repair – DCR has received \$20 million to repair SWCD and State Park dams in order to bring them into compliance with state dam safety regulations. DCR established a priority list for planning, design and construction. Several contracts are underway with consulting engineering firms. These projects will not be participating in the federal dam rehab program. NRCS is working with DCR to ensure that NRCS and DCR dam rehabilitation efforts do not conflict.

WATERSHED OPERATIONS

Buena Vista Flood Control Project – The replacement of two undersized bridges in Buena Vista has been completed. The final payments have not been processed but the total construction cost is approximately \$900,000. NRCS paid 100% of the construction costs. NRCS and the City of Buena Vista have signed a cooperative agreement for \$42,000 to acquire and demolish one home that is located in the floodplain on the Chalk Mine Run tributary in Buena Vista. The City is completing the legal work necessary to complete this project.

NEW “ACTING” NRCS CHIEF NAMED

Arlen Lancaster, Chief of NRCS, submitted his resignation on Jan. 20, 2009 and the East Regional Assistant Chief, Richard Coombe left the agency in December. David White, past State Conservationist for Montana has assumed the role as “acting” NRCS Chief. Leonard Jordan, Deputy Chief for Strategic Planning and Accountability, is serving as “acting” East Regional Assistant Chief. At this time it is unknown when permanent selections will be made by the new administration.

Attachment # 2

**Department of Conservation and Recreation
Report to the Virginia Soil and Water Conservation Board
January 30, 2009**

1. DCR/SWCD Operational Funding

All 47 SWCDs were issued a grant agreement with DCR in May, 2008 for operational funding this fiscal year ('09). Each has returned a fully endorsed agreement to their CDC. All districts were issued an initial quarterly disbursement of funds during late July or August. Second quarter disbursements are being issued during November. Third quarter disbursements may be expected to be issued during February, 2009. Final disbursements will be issued in late April and early May (2009).

This fiscal year (FY09), operational funding for all districts total \$3,943,790. During October, 2008 a reduction of \$203, 697 was imposed on operational funding making the new total funding amount of \$3,740,093. The amount reflects a decrease below FY08 operational funding and below the peak funding level experienced by districts in FY01 (\$4,301,000).

2. Conservation Partner Employee Development

The conservation partners continue to work through the "JED" – Joint Employee Development system which relies on 4 regional teams (coordinated through a separate state level JED team) to address training and development of SWCD and other partner agency field staff. The state level JED team meets no less than quarterly through face to face meetings or through conference calls. The group will hold their next conference call on February 18th, 2009.

The state level JED team continues to focus on delivery of 3 "core courses." The short source "Conservation Selling Skills" was held last fall and the expectation will be to offer the course during the fall of 2009. NRCS is supporting delivery of the EP&I (Effective Presentation and Instruction) short course with an initial focus of training course instructors that will deliver the course through the 4 regional JED teams. Teams have been established and training of these regional instructors was delivered January 27-29, 2009 at the NRCS state office. The 4 newly trained teams will deliver the course within their 4 regions of the state based upon the needs and collective resources within each region. The third "core course" – Conservation Orientation for New Employees is delivered regionally when sufficient need exists to justify the sessions. Broader training needs are being addressed regionally through the 4 regional JED teams.

3. SWCD Dams

The SWCD dam owner work group comprised of representatives from the 12 SWCDs that own dams, DCR, NRCS and others, continue to meet approximately every 3 months (a quarterly annual schedule). Of the roughly 4 meetings per year, one session is focused on Emergency Action Plans, another addresses routine annual maintenance of district dams and the remaining two meetings address the priority topics identified by the group. The group last met on October 16th, 2008 and focused on two topics. They received a briefing on the significant change of the recently enacted Dam Safety regulations. Later that day they discussed procurement processes districts must satisfy to comply with the Virginia Public Procurement Act as they perform many

of the smaller repairs and maintenance tasks that are necessary to fulfill dam certification requirements. The group was scheduled to meet on January 29, 2009 to address the topic of annual dam maintenance. It was necessary to cancel the session, but the program will likely be rescheduled during February.

4. Agricultural BMP Cost-Share Program

DCR staff in partnership with representatives from SWCDs, the VASWCD and NRCS continue to advance work towards “modernizing” the automated Ag BMP Tracking Program. A contract to perform the development of a new web based system has been awarded to CACI/WorldView. A kickoff meeting between DCR’s project steering team and staff of WorldView, along with a representative from CACI was held on November 7th, 2008. DCR is meeting bi-weekly with project staff to assure clear communications about the project milestones and to work through system development, work flow and desired outputs of the program. Development of the preliminary data collection and entry system is proceeding. The project is fully under way with a goal of a more efficient and effective tracking program that will be in place by August 1st, 2009.

All data entered by the districts during program year 2008 (ending June 30 2008) has been harvested from the existing tracking programs. Several small changes necessary to collect data during the program year 2009, have been completed and the tracking programs are available for reporting BMP implementation by the SWCDs.

The Cost Share Program Technical Advisory Committee (TAC) held meetings on October 9th and December 5th. Attendance by TAC members (or designated alternates) was very good. The group continues to address areas of focus for changes to the Cost Share program that will take effect July 1, 2009. The TAC’s “program of work” includes consideration of changes to cover crop practices, BMP’s related to biofuels, modifications to nutrient management, new livestock exclusion and long term no till system practices, as well as other areas of focus. A survey of farmers and program delivery staff was completed in early December, the survey solicited input on a reasonable fee per acre for nutrient management plan writing and implementation. The TAC will hold a teleconference on January 30th 2009.

5. Conservation Reserve Enhancement Program (CREP)

A subcommittee of the Virginia Agricultural BMP Cost Share Program TAC along with the CREP TAC continue to explore ways the Agricultural BMP Cost Share program may complement CREP through additional financial incentives to encourage CREP enrollment in the Chesapeake Bay. The state office of the USDA Farm Service Agency submitted a request to the national office program staff to increase the cost share caps on all CREP components that are currently limited by cost share caps. DCR and the Environmental Defense Fund have transmitted letters of support for the proposed cap increases to USDA. No decision by USDA has been rendered to date. It is hoped that an increase in cost share funds will stimulate new participants with enrolling in the Chesapeake Bay CREP. Of the 25,000 acre goal authorized for the Chesapeake Bay basin in Virginia, approximately 10,200 acres remain to be enrolled.

6. Nutrient Management Related Issues

A DEQ advisory committee is working on potential changes to the VPA Biosolids Regulations. The management of the Biosolids regulatory program was shifted from the Virginia Department of Health to DEQ on January 1, 2008 through legislative action. The present regulatory action will be the first opportunity for regulatory changes to the biosolids program since the transfer from VDH. DCR is charged with certain activities in the biosolids law such as approval of certain nutrient management plans and training support for local sludge monitors.

7. Total Maximum Daily Load (TMDL)

On December 18th, 2008, DCR announced two additional pilot cost-share practices that deal with livestock exclusion in areas having targeted TMDL implementation projects supported with DCR funds. Meetings were held on January 13th and 14th, 2009, to brief the 17 affected SWCDs on these new practices. One practice allows for an enhanced 85% cost share rate for excluding livestock with a minimum 35 foot buffer and alternative water. The other new practice allows for cost sharing at a 50% rate for practice costs that include the stream protection fence (minimum requirement of 2 stand polywire, electrified) using a 10 foot minimum setback from the stream or water body, and expenses of an alternative water source for livestock. In meetings with DCR, the need for additional options such as these new practices were suggested by SWCDs in TMDL project areas to increase participation in livestock exclusion practices. DCR will assess the magnitude of sign-up and implementation of new practices that may result.