

Water Quality Improvement Fund Stabilization Stakeholder Advisory Group
Senate Room 3, The Capitol, Richmond
May 17, 2017

Stakeholder Advisory Group Members Present

The Honorable L. Preston Bryant, Jr., McGuireWoods Consulting LLC
The Honorable David L. Bulova, Virginia House of Delegates
Richard Chaffin, Virginia Association of Soil and Water Conservation Districts
Clyde Cristman, Department of Conservation and Recreation
Katie Frazier, Virginia Agribusiness Council
The Honorable Emmett W. Hanger, Jr., Virginia Senate
Adrienne Kotula, James River Association
The Honorable L. Scott Lingamfelter, Virginia House of Delegates
Martha Moore, Virginia Farm Bureau Federation
Anne Oman, House Appropriations Committee
Jason Powell, Senate Finance Committee
Peggy Sanner, Chesapeake Bay Foundation
Richard Street, Virginia Soil and Water Conservation Board
Dr. Kendall Tyree, Virginia Association of Soil and Water Conservation Districts

DCR Staff Present

Rochelle Altholz, Deputy Director of Administration
George Chieffo, Special Assistant
David Dowling, Deputy Director of Soil and Water Conservation and Dam Safety and Floodplain Management
Michael Fletcher, Board and Constituent Services Liaison
Darryl Glover, Director, Division of Soil and Water Conservation
Wendy Howard Cooper, Business and Administration Manager
Stephanie Martin, Soil and Water Conservation District Liaison
Lisa McGee, Director of Policy and Planning
Sharon Partee, Finance Director
Christine Watlington, Senior Policy and Planning Analyst

Others Present

Morgan Guthridge, Lobbyist
Ann Jennings, Chesapeake Bay Commission
Larry Land, VACO
Ryan Murphy, VAMSA

Welcome

Director Cristman called the meeting to order at 9:32 a.m. He welcomed attendees and thanked them for their participation in the Stakeholder Advisory Group (SAG). Members and guests introduced themselves.

Director Cristman gave a presentation outlining the purpose of the SAG and background information on the historical funding of agricultural best management practices (BMPs) and the Soil and Water Conservation Districts (SWCDs). Current estimates of the funding needed to meet Virginia's agricultural water quality goals were also presented.

Stabilization of Agricultural BMP Funding

Purpose of the Stakeholder Advisory Group (SAG)

The study was called for in Chapter 836 of the 2017 Budget Bill:
Chapter 836 (2017); Item 364 R Stabilize Agricultural BMP Funding

The language called for the SAG to:

- Evaluate and provide recommendations on:
 - Increasing the portion of any deposit to the WQIF reserve;
 - Limiting the portion of the WQIF reserve that may be utilized;
 - Evaluating combined revenues available from the WQIF and the Natural Resources Commitment Fund in a given fiscal year; and
 - Distributing funds to be deposited across a biennial period
- Must consider the impacts on the staffing and technical assistance needs of the SWCDs.

Water Quality Improvement Fund

§ 10.1-2128 (1997 General Assembly Session)

- 10% of the annual general fund revenue in excess of the official estimates
- 10% of any unrestricted and unobligated general fund balance whose reappropriation is not required
- Provides water quality improvement grants for point and nonpoint source pollution prevention, and control programs to:
 - Local governments
 - SWCDs
 - State agencies
 - Institutions of higher education
 - Individuals

Examples of Fund Uses

- Agricultural BMPs and Cost-Share Program
- Technical Assistance for SWCDs
- Conservation Reserve Enhancement Program matching funds
- Silvicultural BMPs
- Golf course nutrient management plans
- DCR database development
- Special WQIF projects

Director Cristman stated that DCR and the SWCDs are working together to implement as many BMPs as possible throughout the Commonwealth. He highlighted the role of the SWCDs as the liaison between state government and the farmers. It was noted that the technical assistance funds provided to the SWCDs are the funds used to assist farmers in the development and implementation of BMPs.

Distribution of WQIF Funds

§ 10.1-2129. (2005 General Assembly Session) Agency coordination; condition of grants.

- Secretary of Natural Resources distributes moneys in the Fund provided from the “surplus”
 - 70% to DCR, with a priority on agricultural BMPs
 - 30% to DEQ for grants to publicly owned treatment works
- “Except as otherwise provided in the Appropriations Act...”

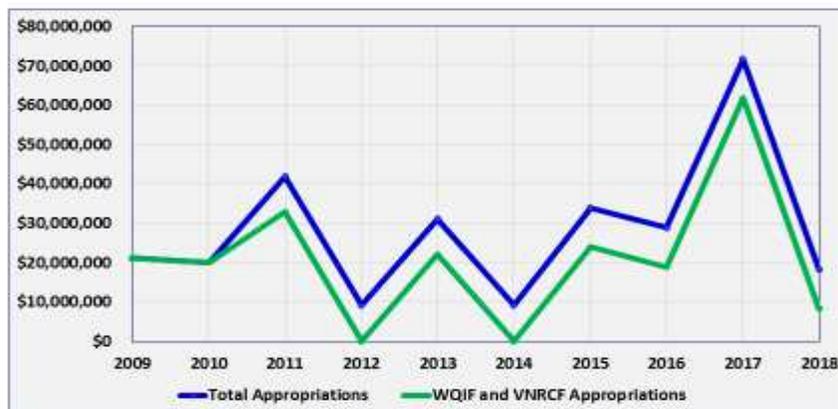
Virginia Natural Resources Commitment Fund

§ 10.1-2128.1 (2008 General Assembly Session)

- Subfund of the Water Quality Improvement Fund
- Provides funding for Virginia Agricultural Best Management Practices Cost-Share Program and technical assistance for SWCDs
- Distribution of Funds
 - 8% to SWCDs for technical assistance
 - 55% to practices in the Chesapeake Bay watershed
 - 37% to practices outside the Bay watershed



Appropriations: Total vs. WQIF/VNRFCF



NOTE: SWCD administration and operations funds are not included.

Recordation Fee

Appropriations Act (Item 3-6.01)

- Established during 2010 session (FY2011, Chapter 874)
- \$20 fee on
 - Every deed for which the tax is collected pursuant to (§ 58.1-801 and §58.1-803)
 - Every certificate of satisfaction admitted when lien is released (§ 55-66.6)
- Fee revenue disbursement:
 - 50% to Virginia Natural Resources Commitment Fund
 - 50% to general fund
- Distribution
 - 8% or \$1.2 million (whichever is greater) to SWCDs for technical assistance
 - Remaining funds deposited to Virginia Natural Resources Commitment Fund



Recordation Fee Revenue



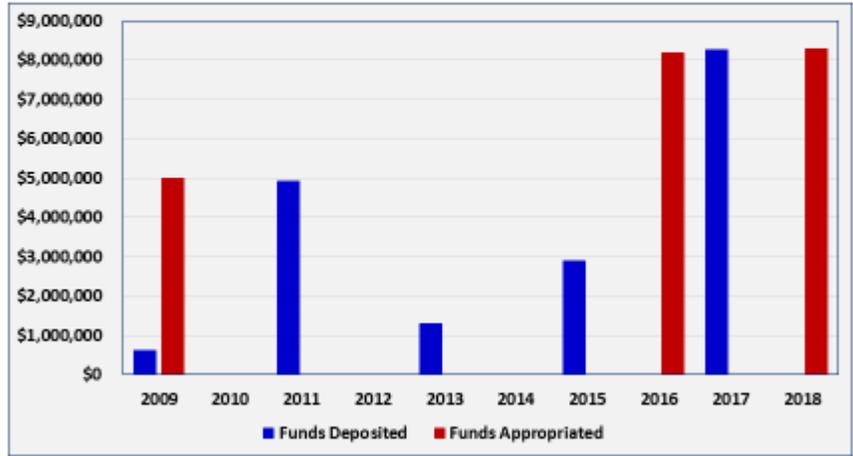
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Reserve Fund

- Established in Appropriations Act Item 363 (2004 Special Session 1, Chapter 4)
- “to support purposes...when year-end general fund surpluses are unavailable...”
- 15% of any amounts appropriated to WQIF due to annual general fund revenue in excess of official estimates
- May be used when no general fund surpluses are available as directed by General Assembly
- Percentage deposited varies depending on additional amendments



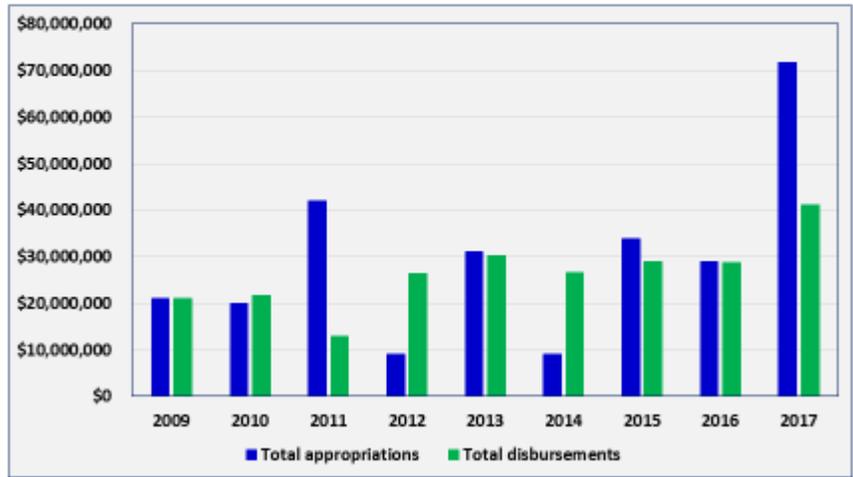
Use of WQIF Reserve Funds



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Total Appropriations vs. Total Disbursements



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Director Cristman noted that there were three years over the last ten fiscal years where no deposit into the reserve fund was made.

Director Cristman advised that one of the unknown elements regarding the delivery of Virginia's Agriculture Cost-Share Program is the service capacity of the Districts. It was estimated, that of the \$60 million provided by the 2016 General Assembly for the cost-share program, approximately 85% of the funds have been obligated.

The SAG discussed voluntary BMPs and whether some of those BMPs would ever be considered a "standard operating procedure" and would no longer need to be funded under the Cost-Share Program. A member asked if SWCDs had the necessary technical assistance and staffing levels to verify voluntary practices so that the Commonwealth could receive credit for those practices in the Chesapeake Bay Program model.

Mr. Glover reported that DCR conducted a participant survey regarding tillage practices in 2015. Survey results indicated that about 80% of farms had implemented these practices in the Chesapeake Bay Watershed and about 60% of farms had voluntarily implemented them in the non-Bay areas. DCR does have the ability to provide information on implemented voluntary practices to the Chesapeake Bay Program but there are difficulties with verifying these practices.

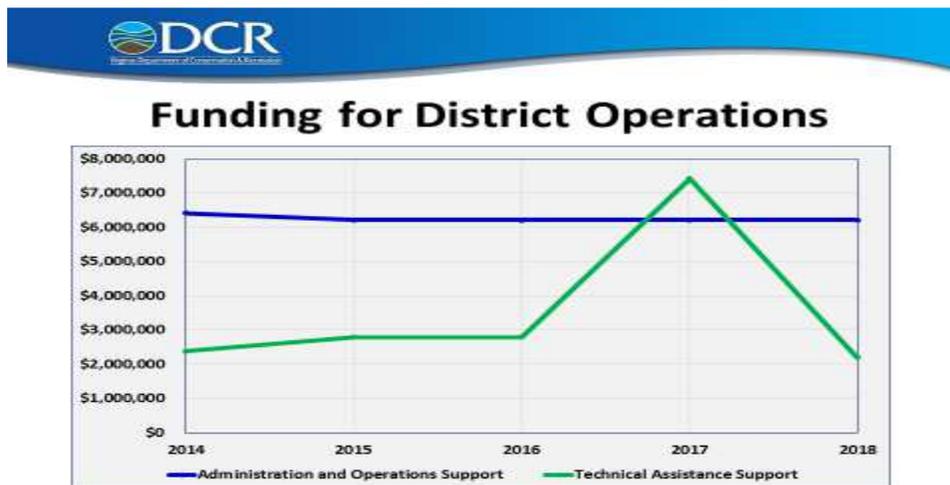
Director Cristman continued with an overview of the funding that has been provided for Soil and Water Conservation Districts.

Virginia Soil and Water Conservation District Overview

Established in the 1930s to develop comprehensive programs and plans to conserve soil resources, control and prevent soil erosion, prevent floods, and conserve, develop, utilize, and dispose water.

§ 10.1-546.1

- Shall locally deliver the Virginia Agricultural Best Management Practices Cost-Share Program under the direction of the Board
 - Virginia Soil and Water Conservation Board approves policies each May related to funding for cost-share program and SWCDs



Director Cristman noted that going from a \$60 million cost-share program to a \$16 million program will be a challenge for SWCDs. In many instances, the SWCDs increased their staffing levels in response to the significant appropriation to provide appropriate assistance to producers; with a decrease in funding, the SWCDs may now need to reduce staffing levels.

Mr. Chaffin advised that SWCDs are attempting to generate revenues from other sources, including local government financial support. He noted that staffing can be very challenging. Generally, it takes two years to hire, and fully train personnel. This is difficult when funding fluctuates.

Dr. Tyree noted that SWCDs and the Virginia Association of Soil and Water Conservation Districts are appreciative of the operational funding remaining stable. There is a recognition that SWCDs are underfunded.

Budget Template

- Initially developed in 2012 by stakeholder advisory group
 - Captured the funding needs for technical assistance to SWCDs for Chesapeake Bay Implementation Plan, other TMDLs, and water quality impairments
- Current template program areas designed to capture entire costs associated with providing programs including programs not funded through DCR (Chesapeake Bay Preservation Act)
- 4 key program areas:
 - Central operations
 - Agricultural program implementation
 - Dam maintenance
 - Environmental protection

Administration and Operations

SWCD Grant agreement deliverables include:

- Involvement, reporting, implementation of
 - Virginia Agricultural BMP Cost-share program
 - Virginia Agricultural Tax credit program
 - Conservation reserve enhancement program
 - Voluntary BMP installation
 - TMDL development and implementation processes
 - Agriculture Stewardship Act
 - Resource management plan program

Agricultural Cost-Share Program

Allocations made through use of science-based targeting.

- Focus on areas with greatest potential to contribute agricultural pollution
- Incorporates component of Virginia Water Quality Assessment Report (305(b)/303(d) report) required by EPA

- Uses a nonpoint pollutant load model and data developed by DCR and Virginia Tech
 - Ranks pollutant loads of nitrogen, phosphorus, and sediment in hydrologic units
 - Higher the combined score for nitrogen, phosphorus, and sediment = higher the potential to contribute agricultural pollution

Cost-share and Technical Assistance

SWCD Grant agreement deliverables include:

- Locally deliver the Agricultural cost-share program in accordance with Board policies
- Obligate at least 90% of the VACS cost-share allocations to participants within the grant period
- Submit financial reports

Agricultural Needs Assessment

§ 10.1-2128.1

- Requires determination of annual funding need for effective SWCD technical assistance and implementation of agricultural BMP practices
- Component of “Clean-Up Plan”
- November 2016 report – estimated \$1.66 billion needed statewide from federal and state sources between 2017-2025
 - Approximately 49% needed from state sources (\$813 million)

Livestock Exclusion

- Approximately \$21.5 million needed to meet previous commitment for FY2015
 - 419 practices on backlog list (awaiting funding)
- Statewide (FY2013 to present)
 - \$61.8 million finished; 1,749 practices installed
 - 6,576,917 linear feet have been protected
 - 81,578 animal units excluded

Delegate Lingamfelter stated that it would be helpful know what how much more needed to be done to meet Virginia's agricultural water quality goals. Understanding how much has been accomplished and how much more needs to be done is important to establishing stable funding levels.



SWCD Needs – Budget Template

Year	Administration and operations support needs	Total administrative support needs (Includes dam repair and DCR support funds)	Cost-share technical support	Total program delivery support needs
2014	\$8,054,395	\$9,123,680	\$4,758,589	\$13,882,269
2015	\$8,478,554	\$9,821,082	\$4,965,636	\$14,786,718
2016	\$9,153,937	\$10,439,381	\$5,205,574	\$15,644,955
Average needs	\$8,562,295	\$9,794,714	\$4,976,600	\$14,771,314

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SWCD Needs

- Based on 2016 information provided, SWCD’s annual need:
 - \$9.2 million (basic administration and operations)
 - \$1.3 million (dam safety and DCR district support)
 - \$10.5 million total need for administration and operations
- FY2017 and FY2018 appropriations:
 - \$6.2 million (basic administration and operations)
 - \$982,000 (dam safety and DCR district support)
 - \$7.2 million total for administration and operations
- Technical assistance support need ranges between 15.2% and 18.5% depending on cost-share funding amount
- An increase in agricultural cost-share program funding between \$25 million and \$30 million requires an estimated average increase of SWCD technical assistance funding of \$3,368,757.

Other Natural Resource Needs

- Natural Resource needs competing for same funds:
 - Urban stormwater
 - Municipal wastewater treatment facilities
 - Agricultural BMPs
- Use of different funding sources for different resources
 - Use of state bonds for municipal facilities
 - Agricultural unable to raise revenue through impact fees

Stabilizing Agriculture BMP Funding Study

Ms. Jennings gave a review of prior “dedicated” funding efforts in Virginia. She suggested that this information might spur ideas among the SAG members regarding the stabilization of funding.

Water Quality Improvement Act of 1997

- HB 2330 / SB 1100 / SB 1131 created “a statewide program to address point and nonpoint sources of water pollution... funding, unless otherwise provided for in the general appropriation act, by 10 percent of any general fund annual surplus and 10 percent of any unreserved general fund balance at the end of each fiscal year...”

Governor’s Natural Resources Funding Commission, 2003

- Recommendations on natural resource program funding, including general and nongeneral funds;
- Recommended at \$2/month water utility fee and a \$10 discount recording fee;
- Proposals included a tipping fee, gas fee, an electric utility fee, and many others.

Collaborative Activity

- In 2008, Virginia Farm Bureau, Virginia Agribusiness Council, Virginia Association of SWCDs, Chesapeake Bay Foundation and many others jointly proposed dedicating “10 percent of the net revenue generated by a one percent sales and use tax, up to a fiscal-year maximum of \$100 million.”

Recordation Fee Dedicated, 2010

“There is hereby assessed a twenty-dollar fee on (i) every deed for which the state recordation tax is collected pursuant to §§ 58.1-801 A and 58.1-803. Code of Virginia; and (ii) every certificate of satisfaction admitted under § 55-66.6, Code of Virginia. The revenue generated from fifty percent of such fee shall be deposited to the general fund. The revenue generated from the other fifty percent of such fee shall be deposited to the Virginia Natural Resources Commitment Fund, a subfund of the Virginia Water Quality Improvement Fund, as established in § 10.1-2128.1, Code of Virginia...”

JLARC, Dedicated Revenue Sources for Land Conservation in Virginia

- Conducted pursuant to SJR 335, 2011, General Assembly Session
- JLARC identified seven options for dedicated revenue sources “that would give Virginia a more balanced funding approach.”

JLARC Water Resource Planning and Management Study, 2016

- “The General Assembly may wish to consider including language in the Appropriations Act directing the State Water Commission to evaluate the establishment of a fund to provide (i) incentives for regional collaboration in water planning and (ii) financing for regional water projects.”

- Appendix G provides a description of twelve state water fees, some directed at water quality needs.

WQIF Line of Credit Proposal Senate Finance, 2017

- "i. The State Comptroller is hereby authorized to provide a line of credit of up to \$30,000,000 to the Department of Conservation and Recreation for the reimbursement of actual costs incurred in the Water Quality Improvement Fund Agricultural Best Management Practices Cost-Share Assistance Program. Any withdrawal of funding authorized shall be recommended by the Secretary of Natural Resources and approved by the Secretary of Finance. Repayment of the line of credit shall be the first priority of any funding assigned for deposit to the Water Quality Improvement Fund under §2.2-1514 and §10,1-2128, Code of Virginia, and shall begin no more than one year following the withdrawal or extend beyond a repayment period of seven years."

Director Cristman noted that the \$10 recordation fee has been included in the Appropriations Act but has never been codified.

Discussion by the SAG

Mr. Bryant led a discussion of potential strategies to examine to stabilize funding.

Senator Hanger noted that during the Warner administration, a Commission examined potential sources of dedicated funding for water quality improvements. However, no specific recommendation was presented to the General Assembly and the pattern has been to fund the water quality improvement programs only if general fund money was available.

Delegate Lingamfelter relayed that part of what is needed for the agriculture community is a stable and predictable source of funding. The agricultural community needs to have an understanding of what funding is available for the purposes of their own financial planning. Farmers incur a potentially significant amount of upfront investment, often having to borrow or obligate profits.

Delegate Bulova raised the concept of stability versus adequacy of funding.

SAG members noted the following:

- Predictability and stabilization of funds is inseparable from need.
- The estimated funding needed for agricultural BMPs is going to change with the new Chesapeake Bay Program model and until the new targets are released we cannot reassess the needs.
- It is important to understand the objective and to define the challenge.

Questions that need to be asked:

- How should the current level of funding be determined noting that new model results may increase the funding needs?
- What is the actual need and what is the reality of providing the actual number? Do we know what the actual need for agricultural funding is (example: do we know how many more linear feet of

stream still needs livestock exclusion practices?) How do we realistically estimate the funding needs given the data constraints we currently have?

- How should administration and operations funding, as well as technical assistance funding, for the SWCDs be standardized?

The estimated funding needs will be impacted by the new Bay model. The model will help determine the new goals and targets for agricultural nutrient and sediment reductions in Virginia as well as determine what funding is necessary to meet those goals. However, it is difficult to define those needs now as the model is still under development and the tools to complete the analyses are not yet available.

The SAG agreed that, once the new Bay model is developed and new targets are provided, the current needs assessment process should determine the revised funding estimates.

A member asked if it made sense to address stability if there is no clear picture of what adequate funding would be. If there was a definitive estimation of the funding need, perhaps a specific fee could be seen as an option.

Mr. Street suggested the following language to define the issue of stability.

Provide the annual consistency by establishing a predictable funding source to adequately support operational need, technical assistance, and cost-share to SWCDs for agricultural BMPs to meet the TMDLs.

The SAG noted that they recognized the relationship and funding needs of all water quality programs, including wastewater, stormwater, and agricultural BMPs. The SAG also noted the need for credibility, faith, and confidence in the revenue and estimated need projections.

Mr. Dowling noted that DCR has tried to address the concept of combined administrative, operations, and technical assistance funding for the SWCDs in order to achieve stability and adequacy. The estimated amounts needed to accomplish this have remained relatively stable as calculated through the budget template process. The intent of the budget template is to assess the needs of SWCDs in terms of hiring and maintaining necessary staff, as well as maintaining an office.

The SAG offered these considerations for additional funding.

- The other half of recordation fees
- Taking funding from other land programs
- A voluntary check off for users on the Virginia state tax form
- A "round up" program at the point of sale similar to the program implemented by Virginia State Parks
- Stabilize the reserve, similar to the state's rainy day fund
- A line of credit for certain BMPs

Mr. Bryant asked the SAG to consider topics of discussion for the next meeting and what information they would like staff to provide. The following were suggested:

- What would stable funding would look like;

- How can the reserve fund be restructured;
- How would a line of credit work;
- A consideration of the outcomes that different levels of funding would produce; and
- A breakdown of multi-year costs versus annual costs.

Staff agreed to send the presentation to SAG members. Staff also agreed to compile information that details the current best practices to include:

- How much BMPs cost per contract;
- The lifespan of BMPs;
- What the maintenance obligations are for BMPs.

Mr. Dowling noted that much of this information is available in the BMP Cost-Share Manual.

Mr. Dowling asked that members send comments and questions to Ms. Watlington in advance of the next meeting. At the next meeting, the SAG will discuss the process for generating the report due in the fall.

There was no additional discussion and the meeting was adjourned at 12:42 p.m. The next meeting will be held on Tuesday, June 13, 2017 in the West Reading Room of the Patrick Henry Building.