

Technical Advisory Committee – Stream Protection Subcommittee  
DCR Staunton Office  
Staunton, Virginia

**Stream Protection Subcommittee Members Present**

Mark Hollberg, Dept. of Conservation & Recreation – Div. of Soil & Water Conservation (DCR-DSWC)  
(Chair)  
Charlie Wootton, Piedmont Soil & Water Conservation District  
Ashley Wendt, Department of Environmental Quality  
Jason Carter, Virginia Cattlemen’s Association  
Nick Livesay, Lord Fairfax Soil & Water Conservation District  
Scott Baker, Virginia Cooperative Extension  
Gary Boring, Virginia Assn. of Soil & Water Conservation Districts (VASWCD) Area IV Representative  
Tom Turner, Chesapeake Bay Districts Representative  
Luke Longanecker, Thomas Jefferson Soil & Water Conservation District  
Robert Bradford, VASWCD Area II Representative  
Keith Thomas, Shenandoah Valley Soil & Water Conservation District  
Tim Higgs, Virginia Department of Agriculture and Consumer Services  
Matt Kowalski, Chesapeake Bay Foundation  
Stacy Horton\*, DCR-DSWC  
Aaron Lucas, Headwaters Soil & Water Conservation District  
David Massie, Culpeper Soil & Water Conservation District

**Stream Protection Subcommittee Members Absent**

Shawn Ralston, James River Association  
Robert Shoemaker\*, DCR-DSWC  
Chris Barbour, Outside of the Chesapeake Bay (OCB) Districts Representative  
Chad Wentz, United States Dept. of Agriculture – Natural Resources Conservation Service (USDA-NRCS)  
Emily Horsley, United States Dept. of Agriculture – Farm Service Agency (USDA-FSA)  
Raleigh Coleman\*, DCR-DSWC

**Public Participants Present**

None

(\*Non-voting member)

**WELCOME**

The subcommittee meeting began at 9:32 am with an introduction from Mr. Hollberg. A quorum was established with 15 voting members present.

### **DRAFT MINUTES**

The minutes of the October 11, 2018 meeting of the Stream Protection Subcommittee were presented for approval. Mr. Wootton noted a misspelling of his last name in the minutes, which was corrected. Mr. Higgs made a motion to approve the minutes as amended. Mr. Wootton seconded the motion. The motion passed unanimously (15Y, 0N).

### **NEXT MEETING**

Mr. Hollberg wanted to set the next Stream Protection Sub-Committee Meeting. After some discussion, the group decided that November 29<sup>th</sup> 2018 would work for most everyone. The meeting will be held in the Staunton DCR office building, beginning at 9:30 am.

### **OLD BUSINESS**

The group discussed the results of the last full TAC Meeting, including several recommendations from other sub-committees that were referred to the Stream Protection group. These included:

*#10- Programmatic: “Expand VACS program participant eligibility”*

The group discussed this for some time. Mr. Carter described some code changes made by the General Assembly that affected this. Mr. Turner raised the question of whether this is a management or land issue. After this discussion, the group determined this should be handled by the Programmatic Sub-Committee. Mr. Wootton motioned we table this suggestion based on suggestion #9 – Programmatic currently addressing this. Mr. Kowalski seconded the motion. The motion passed unanimously (15Y, 0N).

*#44- Programmatic (NC): “Providing cost share to replace out of lifespan watering troughs with cost share assistance”*

The group discussed this briefly. Mr. Turner motioned to table this suggestion, based on it being directly related to our current discussion regarding CCI modification. Mr. Thomas seconded the motion. The motion passed unanimously (15Y, 0N).

*#29- Cover Crop: “Higher incentives rates for cropland filter strips and cropland sod waterways should be considered”*

The group conversed about filter strips and sod waterways in crop fields, mainly regarding how many of these contracts Districts receive each year. The group felt as if this was an agronomic issue, due to the language referencing crop fields. Mr. Higgs motioned we refer this suggestion to the Programmatic Sub-Committee due to the determination of “rates” for this practice. Mr. Thomas seconded the motion. Some minor discussion followed. After the vote was called, the motion passed unanimously (15Y, 0N).

## SL-6 DISCUSSION

Mr. Wootton presented changes to the SL-6 spec that he made following the suggestions from the TAC meeting. A primary change was the terminology “off-stream watering system is required.” This essentially prevents a limited access point from being the primary water source of the SL-6. Another change included striking “SL-6 and SL-7” from B(2) “*An applicant may not apply for or receive cost share funds for SL-6 and SL-7 or CRSL-6 and SL-6 practices funded by the Virginia Agricultural Best Management Practices Cost Share Program on the same fields*” from the BMP description. This is due to the group restructuring the SL-6, SL-7, and SL-9. The new format would allow for a producer to apply for a SL-6 and SL-7 concurrently in the same fields. Another change from Mr. Wootton to the SL-6 was in B(12), outlining ineligible components of the practice. This will now include interior fencing and watering facilities in upland fields. This edit from Mr. Wootton is to prevent extravagant SL-6’s that have numerous upland troughs and interior fence that aren’t managed properly. Mr. Bradford suggested that the new SL-6 include cost share for temporary fencing for those producers who do wish to do some form of rotational grazing with their basic SL-6. Mr. Wootton clarified that interior fence would be an eligible component for cost share in “fields that have exclusion fence.” Mr. Higgs suggested that we as a group clarify the term “upland”, to prevent any confusion in the future. Mr. Wootton said he would change the word upland to “fields not receiving exclusion fence.” Mr. Turner motioned to accept the changes to the SL-6 as amended per the discussion of the group. Mr. Lucas seconded the motion. The motion passed unanimously (15Y, 0N).

## SL-9 DISCUSSION

Mr. Wootton presented the changes and tweaks he made to the new SL-9 following the last TAC Meeting. He said that he used the exact language from the old SL-10T, without the infrastructure aspect of it. He also added the NRCS 528 Prescribed Grazing requirements for this new SL-9. The group discussed the language in B(5) regarding “*chain harrow pastures at least twice a year...*” The group felt that wording may be discouraging to some producers. Mr. Wootton suggested changing the words “chain harrow” to “drag pasture” to allow for tire drags or other methods of manure distribution. The group discussed whether or not to keep the Pasture Condition Score requirement of 34 or below to qualify. The general consensus was to keep it as is. There was more conversation regarding the Pasture Condition Scoresheet to ensure accuracy. The group suggestions included clarifying the Pasture Condition Score being performed during the growing season, and at the same time annually. Everyone agreed. Mr. Hollberg then brought up B(7) “*State cost share will be provided only one time per field*”, and suggested it be changed to “*...one time per field, per owner*” akin to SL-1. The group demurred. The final edit to the SL-9 spec was to remove the requirement of a Nutrient Management Plan for this practice. The Bay Model does not credit NMP’s on pasture, and this is just another hoop for a producer to jump through to implement this BMP. The group struck B(9) from the SL-9 spec. Mr. Turner moved to approve this practice as amended with the caveat of checking with Mr. Roland Owens if the three year lifespan for this practice was feasible and applicable to receive Bay Model credit. Mr. Higgs seconded the motion. Mr. Carter brought up discussion regarding the application of this practice on a basic SL-6 with no rotational grazing paddocks in the system. Mr. Wootton highlighted the NRCS 528 Prescribed Grazing requirements that would address this issue. Following the discussion the motion passed unanimously (15Y, 0N).

### SL-7 DISCUSSION

To lead off the talk surrounding edits to the SL-7, the group unanimously agreed that the SL-7 should be allowed to be installed concurrently with an SL-6, for those producers who want to implement higher level of management from the very beginning. Allowing this should be at the discretion and professional opinion of the SWCD Technical Staff. Mr. Wootton asked the group whether or not to leave the language in the spec regarding troughs and cross fencing in an existing CREP field. The group agreed to keep this language to be able to come back and implement this practice on an existing CREP field. Eligible expenses and components were discussed at length. Mr. Wootton emphasized this is an extension of an existing watering system, so the pipeline and pressure tank should already be sized to service the existing herd size. Mr. Kowalski brought up the point of “it is up to the SWCD Staff and Board to approve the *least cost technically feasible* components of the project”, in regards to completely renovating a water system. Drilling new wells as an eligible component of the SL-7 created a large conversation. Some members of the group felt that this should be eligible due to increasing herd size resulting from improved pasture of a rotational grazing system. Other members felt as if the well should already be adequate to service the existing herd size, and the point of rotational grazing is not to greatly increase herd size. Wells are a costly component, and are also not guaranteed to always hit water. Mr. Turner suggested in B(5) to include the eligible water system components as “installing pumps, pressure tanks, reservoirs, pipelines, and troughs.” The group then discussed whether an SL-7 could be applied to an LE-2 or 10 foot setback. The issue with this is providing 75% cost share on a narrow buffer that only received 50% cost share in the beginning. Mr. Kowalski asked if an existing exclusion fence was less than 35 feet, could the producer move the fence to 35’ and be eligible for an SL-7? The group agreed that this would be acceptable. To eliminate any future confusion, the group agreed to change the language in the SL-7 for a field to be eligible, the exclusion fence must have a 35’ setback. Following this conversation, the group agreed that our Sub-Committee must step back and re-visit all cost share rates for each of these amended practices once we agree on the concepts of each. Mr. Turner made a motion to advance the SL-7 as amended by the group’s discussion, with the caveat of discussing cost-share rates at a later meeting. Mr. Bradford seconded the motion. The motion passed unanimously (15Y, 0N).

### SL-6 RATES DISCUSSION

Mr. Turner presented his chart of cost share rates that vary by practice, exclusion setback, and contract lifespan. Buffers of 35 feet or more received a buffer payment, broken down into herbaceous and forested buffer acres. Mr. Turner set a cap for the buffer payment, and highlighted the maximum buffer width would be 100 feet or 1/3 of the flood plain. Mr. Kowalski suggested that we extend the maximum buffer width to 150 feet due to the increased wildlife habitat benefits. Mr. Turner passed around two research articles illustrating the benefits of varying buffer widths. According to these articles, there is little to no water quality benefit of buffers less than 35’. That was Mr. Turner’s justification to provide no buffer bonus to setbacks less than 35’. Mr. Longanecker asked whether a “forested buffer” is defined by existing forest, or if planted trees qualify. Mr. Turner and some in the group clarified that it meant “existing forest” to get a forested buffer payment. Discussion arose in the group regarding the buffer payments competing with CREP. After some talk, it was determined that CREP has been a better deal for the producer than this payment, and that we are all in the interest of utilizing all possible programs the state and federal government have to offer to stretch funds.

## RATES DISCUSSION CONTINUED

The group then delved into the conversation regarding “average minimum” setback for exclusion fence. This is to account for locations on the farm with existing infrastructure, unusual bends in the creek, or shade where it would be convenient for the producer to have a small stretch of fence closer than the required setback. The committee determined that the words and concept of “average minimum” is too confusing for producers and for technicians. Instead, Mr. Turner proposed that exclusion could be “95% of fence at minimum setback.” This would account for 5% of total exclusion fence length to be less than the minimum required setback to account for various issues. Mr. Carter suggested that for the SL-6.50, we consider 90% exclusion fence at minimum setback. His reasoning for this was the reality of fencing out many shade trees with a 50 foot buffer, and the cattle’s requirement for shade in the hot summer. The group agreed that shade should be considered with stream exclusion fencing, and we should re-visit this at the next Sub-Committee meeting. After this discussion, many members of the group felt that there are re-occurring planning issues from technical staff, presenting a need for more technical training from DCR. Ms. Horton then brought up a question of eligibility for exclusion fencing around “sky ponds” (ponds that aren’t spring fed, have no inflow/outflow). The general consensus of the group is that “sky ponds” were never ineligible for exclusion fencing; however, they may not be the sole trigger for an SL-6, due to no resource concern. There must be a perennial water body in the field to qualify, and the “sky pond” may be fenced out along with it. Mr. Turner agreed to re-work the Rates Sheet and bring it back to the group for further discussion at our next meeting. Mr. Turner moved to approve the SL-6.’s as amended per group discussion, with the caveat of re-visiting the 95% setback rule. Mr. Bradford seconded the motion. The motion passed unanimously (15Y, 0N).

## SP-1 Discussion

The SP-1 discussion began by recapping Mr. Lucas’ presentation at the full TAC Meeting. At the full TAC Meeting, the requirement of the SP-1 only being implemented in the Chesapeake Bay Watershed was shot down. The group agreed this is a good, needed practice, and that it is ok to have it open to the whole state of Virginia. Mr. Turner asked why the SP-1 only had a 10 foot setback. Mr. Lucas answered that in his experience, it is hard to get leased land producers to participate with a 35’ minimum setback. This created some conversation regarding cost-share rates on this practice being 80%, when an LE-2 is only cost shared at 50% with the same setback. Mr. Wootton weighed in saying if we made the SP-1 50% cost-shared, then it would essentially be providing the leased land producer the materials for the project, while asking them to install it on their own dime. Many group members felt as if this practice is now essentially a WP-2.10, which could be a new practice. There would be a WP-2.10 and a WP-2.35 cost shared at 50% and 80% respectively. Management and planning methods for fencing requirements were talked about, bringing up the issue of insufficient DCR technical trainings again. The limited access point requirements were discussed at length. A limited access point on a perennial stream would be the sole watering point for a herd after this BMP is installed. Concerns regarding maintenance arose due to heavy use, and flooding. A question was brought up whether the planner should design such an access point, or should it be handled through the DCR Engineering staff. The group concluded that it should be approved through the DCR Engineering staff, unless the technician has proper Engineering Job Approval Authority. Planners should consider installing limited access points that exceed the minimum standard to ensure that it lasts the lifespan with minimal maintenance. Examples of this “Cadillac” access point would be upside down concrete cattle guards, or poured concrete ramps. Mr. Lucas agreed to take these suggestions back and re-work the language of the SP-1/WP-2.10. Mr. Turner moved to address

the SP-1 and related matrix in WP-2 language, creating a WP-2.10 and WP-2.35. Mr. Thomas seconded the motion. The motion passed unanimously (15Y, 0N).

## **NEW BUSINESS**

### **MEASURING EXCLUSION FENCE**

In all of our discussions regarding buffer widths, the question came up of where do technicians actually measure the minimum setback for exclusion fence from. From polling the group, some Districts measure from “Top of Bank” and some measure from “the stream.” The group decided it was important to define this for clarity among new staff. Again, the issue of lack of training came up. Mr. Turner moved that we clearly define our measurement from “Top of Bank”. Mrs. Wendt seconded the motion. The motion did not pass due to lack of an 80% accepting vote (11Y, 4N). The group will re-visit this topic at the next Sub-Committee meeting.

### **SHORELINE STABILIZATION**

Mrs. Wendt presented the Three Rivers SWCD request for cost-share of Shoreline Stabilization. Last sub-committee meeting, we tabled the discussion due to lack of information. Mrs. Wendt covered the need for shoreline stabilization on agriculture fields that farm right up to the stream or riverbank. Currently the SE-2 practice which covers shoreline stabilization is only a tax-credit program. The group discussed the necessary components of shoreline stabilization, and how costly these items are. The group felt as if there is a lot of need for this practice, especially in the Tidewater region; however, there aren’t enough cost-share funds to justify making it a VACS program. No one in the group cared to make a motion to create an SP-2 Cost Share BMP. Mr. Turner moved that we table this discussion until we have more information from S.E.A.S. regarding eligible components with estimated cost. Mr. Longanecker seconded the motion. The motion was passed unanimously (15Y, 0N).

### **CCI DISCUSSION**

Mr. Turner had a question for the sub-committee regarding CCI. The last sub-committee meeting had a vote that did not pass regarding CCI, mainly due to a discrepancy whether or not a producer should receive a buffer payment with CCI. Mr. Turner agreed to modify the new CCI specs to eliminate the buffer payment. This new CCI practice would break down cost share based off of setback to pay for different elements of the stream exclusion BMP; including fence, water system components, and stream crossings. A question was asked whether or not existing/voluntary stream exclusion that did not meet NRCS specs would qualify for CCI. Mr. Bradford felt if it was functioning as part of the grazing system, it should be eligible regardless (using a spring development as an example). Mr. Turner stated that the CCI should be for the overall system, not the individual components. Mr. Longanecker suggested that the CCI be a maintenance payment to ensure the existing troughs and fencing are functional. Mr. Turner suggested that a practice could be approved for CCI, and then paid after it was certified by SWCD staff as “functional.” Mr. Turner said that he would re-work the language of this spec, and bring it back to present at our next Sub-Committee meeting.

**MAINTAINING RIVER FENCING**

Mr. Higgs asked the group a question regarding his VDACS work and ASA complaints along the Shenandoah River. During his visits with producers that have “river herds”, he is often asked the question of who will repair/pay for the exclusion fencing that they are required to put up to keep their cattle out of the river. The Shenandoah River flooded numerous times this past year, and has the potential to destroy huge sections of fence along the riverbank. Mr. Longanecker explained that this would be covered in the “Practice Failure” section of the BMP. Mr. Wootton also added that it is the responsibility of the producer and the planner to install proper fence, and the producer has the obligation to maintain his contract for the lifespan.

**RECAP**

Mr. Hollberg did a quick recap of action items, old and new business discussed in this meeting to ensure that Mr. Livesay had accurate minutes.

**ADJOURN**

The Stream Protection Sub-Committee meeting adjourned at 3:20 pm.