

**Water Quality Improvement Fund Stabilization
Stakeholder Advisory Group
Friday, September 15, 2017
East Reading Room, Patrick Henry Building, Richmond, Virginia**

Stakeholder Advisory Group Members Present

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
Adrienne Kotula, James River Association
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
Scott Ambler, Resource Management Protection Coordinator
Michael Fletcher, Board and Constituent Services Liaison
Darryl Glover, Director, Division of Soil and Water Conservation
Wendy Howard Cooper, Business and Administration Manager
Melissa Jackson, Budget Manager
Stephanie Martin, Soil and Water Conservation District Liaison
Barbara McGarry, Resource Management Protection Plan Specialist
Christine Watlington, Senior Policy and Planning Analyst

Others Present

Ann Jennings, Chesapeake Bay Commission
Lisa Ochsenhirt, Aqualaw
Lucia Suarez, Grupo Urban
Joe Wood, Chesapeake Bay Foundation

Mr. Cristman called the meeting to order and welcomed attendees. He thanked members for being flexible with the time for the meeting. He noted that this was the third and potentially final meeting of the Water Quality Improvement Fund Stakeholder Advisory Group (SAG).

Mr. Cristman advised that the SAG would review an outline of potential recommendations to be included in the final report.

Mr. Cristman called attention to the recent reports on the 2017 revenue surplus. Of that surplus, \$13.4 million is obligated as a deposit to the Water Quality Improvement Fund (WQIF). Additionally, 10% of the obligated state balance, totaling \$9.1 million will also be deposited to the WQIF, bringing the total deposit to \$22.5 million. The Secretary of Natural Resources will make a recommendation to the Governor regarding the usage of those funds, either for nonpoint or point source water quality improvements. The Department has recommended to Secretary Ward that the full amount be placed in the Virginia Natural Resources Commitment Fund (VNRCF) and directed to agricultural best management practices. It is still very early in the budget process; the Governor's budget will be released in mid-December.

The SAG reviewed and discussed a document entitled "Discussion and Recommendations." A copy of this document is included as Attachment A. Based on the discussion document, members had the following comments.

Mr. Cristman noted that the Soil and Water Conservation Districts (Districts) had been quite efficient in obligating the substantial FY 2017 funding. Nearly a third of the funding was allocated to the SL-6 livestock stream exclusion practice backlog.

Funding for technical assistance for Soil and Water Conservation Districts (SWCDs) was also discussed. It was recognized that while the statute requires 8% of funds deposited to the VNRCF be allocated for technical assistance funding, the General Assembly has provided between 12-13% in the Appropriation Act. The General Assembly provides a base amount in general funds for operational support of the Districts. Establishing a set amount for technical assistance that does not fluctuate with the WQIF deposits and is not directly allocated from the WQIF would allow for more funds to be put into cost-share. A goal statement will be included in the report recognizing the need for adequate operational, administrative, and technical assistance funding for the SWCDs.

It was noted that the current budget projections for FY 2018 are modest. Virginia's economy is linked to the federal budget due to the large amounts of federal spending in the state.

Previously, the SAG discussed stabilizing agricultural cost-share funding at \$35 million per year as a base program amount. The SAG mentioned that while there was near consensus on the amount of base funding needed, there was not consensus regarding a supplemental funding source for years when there was not a general fund surplus. The potential sources of supplemental funding should be included in the report but it needs to be noted that no consensus was reached.

It was stated that while there was consensus in a \$35 million base program, that amount does not represent the full needs of the agricultural cost-share program. The agricultural needs assessment details a need for approximately \$65 million each year in the next biennium.

It was noted that SWCDs' technical assistance funding needs to be stable. Stable funding enables SWCDs to provide consistent services to producers and to property train and retain employees. A member suggested that operational assistance and technical assistance be allocated together, rather than as separate budget items. It was recognized that it could be difficult to recommend a specific source of funding for technical assistance including utilizing the second half of the recordation fee.

Mr. Cristman reminded the SAG that the recordation fee is at \$20. Half of that (\$10) is dedicated to the Natural Resources Commitment Fund, while the remainder is deposited in the state's general fund. The recordation fee is not a stable source of revenue; it fluctuates with the housing market. While the appropriation for the current year was \$10 million, the revenue was \$9.1 million.

One idea that was discussed was using the second half of the recordation fee as a deposit into the WQIF reserve fund. This could act as a stabilizing influence on the WQIF. If the balance in the reserve exceeded \$50 million, the Department would be able to begin utilizing the funds in the reserve for agricultural BMPs.

The SAG discussed the need for statutory language to address potential recommendations rather than depending on continuing authorities set out in appropriation language. It was noted that it was too late for the Department to submit legislative recommendations for the 2018 Session.

The SAG noted that there was a nexus between the work of the WQIF SAG and the work of the Resource Management Plan stakeholder advisory group. There should be a cross reference between the two reports.

Mr. Cristman advised that, based on these discussions, staff would formalize the report into a draft that would be distributed for comments.

Next Steps

The report is due to the Governor and the General Assembly on November 15, 2017. Staff will prepare a draft report and distribute it to members within the next several weeks. Members will be given a sufficient amount of time to review the report and offer comments.

At this time, there is no additional meeting scheduled. Should comments regarding the draft warrant another meeting, staff will contact members to arrange an additional meeting prior to the November 15 deadline.

There was no further business and the meeting was adjourned.

Attachment #A

Discussion and Recommendations

Overview and Recap

Over the course of two Water Quality Improvement Fund Stabilization Stakeholder Advisory Group meetings on May 17, 2017 and June 13, 2017, recommendations were presented to the Group that could assist with stabilizing the funding for the WQIF. The agriculture community needs a stable and predictable source of funding to maintain confidence in the Virginia Cost-Share Program and for their own financial planning. Depending on the BMP implemented or installed, producers incur a potentially significant amount of upfront investment, often having to borrow or obligate profits. Sufficiency of District funding also equally needs to be addressed. This remains a very complicated initiative to meet the needs of all the stakeholders and members of the stakeholder group have been meeting to find a path to consensus.

Concepts presented and discussed.

- **Original Funding options for consideration**
 - Total Operational Support for the SWCDs
 - Stabilize cost-share funding at \$35 million
 - § Use of priority practices
 - Combines administration, operation, and technical assistance
 - § Use of remaining recordation percentage
 - § Use of general funds
 - Use of unclaimed Land Preservation Tax Credit funds
 - Line of credit

Current Recommendations and Discussion:

- 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.

These items are intertwined as written and are being recommended to be addressed in the following matter:

- 1) **Merge and Stabilize Administration and Technical Assistance to Support District Base Program Delivery [Near Consensus]**
- **Merge and Stabilize Administration, Operations, and Technical Assistance to Support District Base Program Delivery through infusion of the 2nd half of recordation fee to obtain a level of approximately \$16.3 M based on budget template results.**
 - The base operational support for SWCDs has always been supported through the general fund and allows SWCDs to provide basic services. Funding for technical assistance, which provides for personnel, is not included in the operational support for SWCDs. Including the necessary technical assistance funding as part of the base funding

for SWCDs would reduce the need to address the technical assistance funding as part of the WQIF deposit and would stabilize the funding for SWCDs. See Appendix A for potential budget language.

- § District Stakeholders – Strongly support dedicating the remainder of the recordation fees to assist and prefer these dollars be dedicated to a re-benchmarking effort for District TA and Operational needs based on the budget template process.
- § Agricultural Stakeholders – Develop a baseline amount commensurate with a \$35 M program funding level and appropriate this amount with operations and administration.
- § Environmental Organization Stakeholders:
 - JRA believes that in order to support the vital role of Soil and Water Conservation Districts, the budget must provide full (re-benchmarked) operational support for Districts. JRA supports dedicating the second half of the recordation fee to the VRNCF and/or Soil and Water Conservation District Technical Assistance, administration, and operations.
 - CBF recommended dedication of the entire revenue from recordation fee program to support VACS. They do acknowledge that enhancement of the VACS Program is intended to build on the strong VACS program administration and implementation that has characterized the work to date of the Department of Conservation and Recreation (DCR), the Soil and Water Conservation Board, the soil and water conservation districts (SWCDs) and the farm producers across Virginia.

2) Cap Agricultural Cost-Share Funding from the Surplus/ Reserve at \$35 million

- Stabilize VACS funding at \$35 million annually, excluding 1st half variable recordation funds that are additive, for the Virginia cost-share program. In the event that the Water Quality Improvement Fund (WQIF) deposit for agricultural BMPs was less than \$35 million, the additional funding necessary to meet the \$35 target would come from the general fund (or other stable funding source). In the event that the WQIF deposit for agricultural BMPs exceeded \$35 million, the funds provided above the \$35 million would be deposited to the WQIF reserve until the following year's funding level was determined. A cap would be placed on the Reserve of \$50 M (after WQIF and VNRCF needs met) (DCR nonpoint portion). If overage, additional funds may be applied to the agricultural cost-share program to meet needs assessment funding levels.
 - Outside of this \$35 million are about \$2 million in funds annually appropriated for CREP, silviculture, database, etc.
 - This could include limiting the cost-share program to a set of priority practices. See Attachment A for potential budget language.
 - § District Stakeholders – Support for a stable cost-share program at a base funding level of \$35 million annually.
 - § Agricultural Stakeholders:
 - Stabilize the funding at a MINIMUM of \$35 million each year with an escalation factor to keep with increased costs and to take advantage of additional farmers wanting to participate.

- Through a separate funding mechanism, provide funding for the backlog of the SL-6 practices whereby the Commonwealth has committed to 100% funding.
- Separate tying the funding for technical assistance from a percentage of Virginia Agriculture Cost Share Program or other cost-share programs.

§ Environmental Organization Stakeholders:

- JRA supports a stable \$35 million annual investment in the agricultural cost share program as a starting point. Soil and Water Conservation Districts have proven that they are capable of administering a program funded at this level and we believe this is a good starting point. They also support budget or legislative language calling for an annual escalation above the \$35 million. Annual support of \$35 million falls far short of the overall need, as established by the annual Agricultural Needs Assessment; therefore, we believe that it is necessary to secure this escalation. The biennial update of the Chesapeake Bay milestones provide justification for the escalation.
- CBF noted that to ensure Virginia achieves its Chesapeake Bay restoration goals, the VACS program should be enhanced and included as part of Virginia's effort to develop an effective and realistic Phase III Watershed Implementation Plan (WIP). They recommended that the Commonwealth consider the viability of securing new sources of revenue to support this program. They further recommended that to ensure the program continues to provide the best value to the Commonwealth, we urge a continuing stakeholder group to study the VACS program in depth and to make appropriate recommendations to enhance its design and administration to yield the maximum reductions in nitrogen, phosphorus and sediment with the greatest cost-efficiency for taxpayers. They further recommended dedication of the entire revenue from recordation fee program to support VACS.

3) Identify an alternative stable fund mechanism(s).

- An alternative funding source is critical to stabilizing WQIF funding. There was stakeholder support for the other half of recordation fees being used to support District Administration, Operations, and Technical Assistance and/or the VNRCF. The SAG has studied a number of additional potential mechanisms with no consensus on approach.
 - Stakeholders examined a suite of potential funding mechanisms and past legislative initiatives were presented to the SAG for consideration during the meeting. It was noted by stakeholders that adequate funding will never be achieved until a funding stream is dedicated to meet or maintain water quality goal commitments of the Commonwealth. Ideas recommended but not finding any universal support included:
 - a) Use of Unallocated Land Preservation Tax Credits for Agricultural BMP Cost-Share (Based on Senator Hanger's SB 470 during the 2008 session that would have deposited this into the VNRCF).
 - b) A line of credit for certain BMPs provided that there is a funding mechanism in place to retire any debt.
 - c) Taking funding from other land programs.

- d) A voluntary check off for users on the Virginia state tax form.
- e) A “round up” program at the point of sale similar to the program implemented by Virginia State Parks.
- f) Stabilize the reserve, similar to the state’s rainy day fund.
- g) 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.
- h) \$1/month electric utility fee for each metered and non-metered account collected by electricity distributors.
- i) Non-farm fertilizer sales tax.
- j) Agricultural Fertilizer sales tax.

Attachment A Language for Recommendation 1:

Item § 3-6.01 (Establishment and Uses of the RECORDATION TAX FEE)

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~~ utilized for stabilizing and providing sufficient funding for Financial Assistance to Soil and Water Conservation Districts (subprogram 50320) for administration and operations and delivery of the agricultural best management practices cost-share program. 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. The funds deposited to this subfund shall be disbursed for ~~the agricultural best management cost-share practices cost share program, pursuant to § 10.1-2128.1, Code of Virginia.~~ Distributions shall be 60% for agricultural best management practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed and 40% for agricultural best management practices on lands in the Commonwealth exclusively outside of the Chesapeake Bay watershed.

Item 364 A.1. (District Administration and Operations Funds)

A.1. Out of the amounts appropriated for Financial Assistance to Virginia Soil and Water Conservation Districts, \$7,191,091 the first year and \$7,191,091 the second year from the general fund shall be provided to soil and water conservation districts for administrative and operational support. These funds shall be distributed upon approval by the Virginia Soil and Water Conservation Board to the districts in accordance with the Board's established financial allocation policy. These amounts shall be in addition to any other funding provided to the districts for technical assistance pursuant to subsections B. and D. of this item. Of this amount, \$6,209,091 the first year and \$6,209,091 the second year from the general fund shall be distributed to the districts for core administrative and operational expenses (personnel, training, travel, rent, utilities, office support, and equipment) based on identified budget projections and in accordance with the Board's financial allocation policy; \$312,000 the first year and \$312,000 the second year from the general fund shall be distributed at a rate of \$3,000 per dam for maintenance; \$500,000 the first year and \$500,000 the second year from the general fund for small dam repairs of known or suspected deficiencies; and \$170,000 the first year and \$170,000 the second year to the department to provide district support in accordance with Board policy, including, but not limited to, services related to auditing, bonding, contracts, and training. The amount appropriated for small dam repairs of known or suspected deficiencies is authorized for transfer to the Soil and Water Conservation District Dam Maintenance, Repair, and Rehabilitation Fund.

2. The source of an amount estimated at \$10,000,000 the first year and \$10,000,000 the second year to support the nongeneral fund appropriation for Financial Assistance to Virginia Soil and Water Conservation Districts shall be the recordation tax fee established in Part 3 of this act. Out of this appropriation, \$10,000,000 the first year and \$10,000,000 the second year from nongeneral funds are to be deposited for Financial Assistance to Virginia Soil and Water Conservation Districts. The funds shall be dispersed for administration and operations and delivery of the agricultural best management practices cost-share program based on identified budget projections and in accordance with the Board's financial allocation policy.

~~2.3.~~ The Department shall provide a semi-annual report on or before February 15 and August 15 of each year to the Chairmen of the House Appropriations and Senate Finance Committees on each Virginia soil and water conservation district's budget, revised budget, previous year's balance budget, and expenditure for the following: (i) the federal Conservation Reserve Enhancement Program, (ii) the use of Agricultural Best Management Cost-Share Program funds within the Chesapeake Bay watershed, (iii) the use of Agricultural Best Management Cost-Share Program funds within the Southern Rivers area, and (iv) the amount of Technical Assistance funding. The August 15 report shall reflect cumulative amounts.

Item 364 D.1. (Use of Recordation Fee Funds)

D.1 Out of this appropriation, \$10,000,000 the first year and \$10,000,000 the second year from nongeneral funds are to 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. The funds shall be dispersed for agricultural best management practices by the Department ~~pursuant to § 10.1-2128.1, Code of Virginia~~ in accordance with the Board's financial allocation policy. Distributions shall be 60% for agricultural best management practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed and 40% for agricultural best management practices on lands in the Commonwealth exclusively outside of the Chesapeake Bay watershed.

2. The source of an amount estimated at \$10,000,000 the first year and \$10,000,000 the second year to support the nongeneral fund appropriation to the Virginia Natural Resources Commitment Fund shall be the recordation tax fee established in Part 3 of this act.

~~3. Out of this amount, a total of eight percent, or \$1,200,000, whichever is greater, shall be appropriated to Virginia Soil and Water Conservation Districts for technical assistance to farmers implementing agricultural best management practices, and \$8,800,000 for Agricultural Best Management Practices Cost Share Assistance. Of the amount deposited for Cost Share Assistance, distributions between watersheds shall be in accordance with the allocation percentages set out in § 10.1-2128.1 B., Code of Virginia.~~

Language for Recommendation 2:

Amend Chapter 836 of the 2017 Virginia Acts of Assembly

Item 363 B (Creation of, Deposits to, and Uses of the Water Quality Improvement Fund Reserve)

B. It is the intent of the General Assembly that a reserve be created within the Virginia Water Quality Improvement Fund to support the purposes delineated within the Virginia Water Quality Improvement Act of 1997 (WQIA 1997) when year-end general fund surpluses are unavailable or are insufficient to provide for stable funding. Consequently, 15 percent of any amounts appropriated to the Virginia Water Quality Improvement Fund for point source allocation due to annual general fund revenue collections in excess of the official estimates contained in the general appropriation act shall be withheld from appropriation, unless otherwise specified.

Of the Virginia Water Quality Improvement Fund amounts allocated to nonpoint source from annual general fund revenue collections in excess of the official estimates contained in the general appropriation act, after meeting identified Virginia Water Quality Improvement Fund nonpoint source

uses, deposits to the Virginia Natural Resources Commitment Fund, a subfund of the Virginia Water Quality Improvement Fund, shall not exceed a total amount of \$35 million from this source to fund Virginia agricultural best management cost-share practices and \$4.2 million for technical assistance. Remaining surplus deposits, in excess of those directed by the General Assembly to meet the identified Virginia Water Quality Improvement Fund and Virginia Natural Resources Commitment Fund nonpoint source uses, shall be deposited to the reserve fund and shall not be subject to reversion.

~~When annual general fund revenue collections do not exceed the official revenue estimates contained in the general appropriation act, the reserve fund may be used for WQIA 1997 purposes as directed by the General Assembly within the general appropriation act.~~ The reserve fund may be utilized, as directed by the General Assembly within the general appropriation act, to meet identified Virginia Water Quality Improvement Fund nonpoint source uses; however, unless otherwise directed by the General Assembly, deposits to the Virginia Natural Resources Commitment Fund, a subfund of the Virginia Water Quality Improvement Fund, shall be in an amount annually, subject to availability, of \$35 million from this source to stably fund Virginia agricultural best management cost-share practices and \$4.2 million for technical assistance. A cap of \$50 million is placed on the nonpoint portion of the Reserve. Once an overage occurs, additional funds may be applied to the agricultural cost-share program to meet needs assessment.