

**Virginia Soil and Water Conservation Board
Wednesday, November 15, 2006 – 9:30 a.m.
Association of Electric Cooperatives Offices
4201 Dominion Boulevard
Richmond, Virginia**

Virginia Soil and Water Conservation Board Members Present

Linda S. Campbell, Chair	Michael Altizer
Susan Taylor Hansen	Benjamin H. Graham
Joseph H. Maroon, Director, DCR	Granville M. Maitland, Vice Chair
Jean R. Packard	Raymond L. Simms
Michael J. Russell	
M. Denise Doetzer, NRCS Ex Officio	

Virginia Soil and Water Conservation Board Members Not Present

Richard E. McNear

DCR Staff Present

Russell W. Baxter	William G. Browning
David C. Dowling	Michael R. Fletcher
J. Michael Foreman	Jack E. Frye
Lee Hill	Mark Meador
Jim Robinson	Christine Watlington
Ryan Brown, Office of the Attorney General	

Others Present

John Bailey, Lake of the Woods Association
Jim Byrne, Virginia Association of Soil and Water Conservation Districts
Scott Cahill, Watershed Services, Inc.
Lisa Cahill, Watershed Services, Inc.
Steve Calos, Virginia Association of Soil and Water Conservation Districts
Davis Grant, Lake Barcroft WID
Kathy Jones, City of Richmond
Robin Knepper, Fredericksburg Freelance Star
Peter G. Rainey, Lake of the Woods Association
Doug Rogers, Lake of the Woods Association
Cameron Smith, Watershed Services, Inc.

Call to Order

Chairman Campbell called the meeting to order and declared a quorum present. Ms. Campbell welcomed Mr. Altizer as the new member.

Mr. Maroon recognized Mr. Foreman who has joined DCR as Assistant Director of the Division of Soil and Water Conservation.

Mr. Maroon thanked Mr. Jeb Hockman and the Association of Electric Cooperatives for the use of the facility.

Minutes of September 28, 2006 Meeting

MOTION: Ms. Packard moved that the minutes of the September 28, 2006 meeting be approved as submitted.

SECOND: Mr. Maitland

DISCUSSION: Mr. Meador noted that not all appointments as listed were extension agents. He agreed to provide the necessary corrections to Mr. Fletcher

VOTE: Motion carried unanimously

Director's Report

Mr. Maroon gave the Director's report.

He noted that the Board would be asked to authorize DCR to move forward with the proposed Impounding Structure (Dam Safety) regulations. He noted that DCR intended to postpone action on the Stormwater Management Regulations.

Mr. Maroon reviewed the agenda for the meeting.

Mr. Maroon said that the agency has established an annual award in honor of long time employee Linda Cox. For a number of years Mrs. Cox worked closely with the Soil and Water Conservation Board. Recipients of the Award were Sondra Tomlinson from Natural Tunnel State Park and Marie Quinn from the Division of State Parks in Richmond.

Impounding Structures (Dam Safety Regulations)

Mr. Maroon gave an introduction to the regulation development process. He recognized Mr. Dowling, Ms. Watlington and Mr. Brown for leading DCR and the Technical Advisory Committee (TAC) through the process.

Mr. Maroon acknowledged Peter Rainey and Scott Cahill who served as members of the TAC and were in attendance at the Board meeting. He noted also that Matt Lyons from NRCS was a member of the TAC. He said that Barbara Hulburt had served as the facilitator for the TAC meetings and was complimentary of her leadership.

Mr. Maroon said that at the last meeting of the TAC it was very notable that several members spoke positively regarding their experience with the TAC. He said that several began the process with low expectations but were pleasantly surprised by the outcome.

Mr. Maroon noted that, while it was unusual for an agency director to do so, he had also served as a member of the TAC.

Ms. Campbell thanked those who had participated in the process.

Overview of process and review of DRAFT proposed regulations

Mr. Dowling distributed a summary document and gave an overview of the process. A copy of the summary document is included as Attachment #1.

Mr. Dowling noted that the TAC met a total of seven times between May and October of 2006. There were also three subcommittee meetings.

The charge to the committee was as follows:

Consider improvements to the Virginia Soil and Water Conservation Board's Impounding Structure Regulations (§§ 4 VAC 50-20-10 et seq.) that will

- enhance the administration and implementation of the Dam Safety Program,
- clarify the meaning of the regulations, and
- give consideration to nonstructural criteria on a case-by-case basis that would permit a partial reduction of emergency spillway design flood requirements, provided there would be no unreasonable and/or significant reduction in public safety and the protection of life and property.

Mr. Dowling noted that there have been no changes made to the Regulations since their original adoption in the 1980's with the exception of the required amendments in response to the 2001 legislation.

Mr. Dowling reviewed the DRAFT proposed regulations. A copy of this DRAFT is available from DCR.

Opportunity for public comment

Ms. Campbell opened the floor for public comment.

Mr. Cahill said that he was absolutely supportive of the regulations. He said they were brilliantly drafted and very important. He said that this was one segment of a necessary thrust to bring Virginia dams up to speed.

Mr. Cahill said that Watershed Services sees dams all over the Eastern United States and that many in Virginia are in bad shape. He noted that Virginia's location means that many storms converge on the Commonwealth.

Mr. Cahill said that it was important to have the funding to back up these regulations. He said that Watershed Services will support the efforts to obtain sufficient funding.

Lisa Cahill said that the regulations level the playing field for a diverse group of people. She said that she was looking forward to seeing dams in Virginia made safer.

Mr. Bailey said that on behalf of the 8,000 residents of Lake of the Woods he wanted to thank the Soil and Water Conservation Board for agreeing to look at the regulations, and for appointing the TAC.

Mr. Bailey said that LOWA believes the proposed changes created sound public policy and are a great improvement.

Board Action to authorize DCR to proceed with filing of DRAFT proposed regulations

Mr. Maitland moved the following:

Motion to approve, authorize and direct the filing of proposed regulations related to the Board's Virginia Impounding Structure Regulations (§ 4 VAC 50-20)

The Board approves these proposed regulations and authorizes the Director of the Department of Conservation and Recreation and the Department Regulatory Coordinator to submit the Board's Virginia Impounding Structure proposed regulations and any other required documents to the Virginia TownHall and upon approval by the Administration to the Registrar of Virginia.

As part of the process, the Board further authorizes at least one public hearing to be held by the Department not less than 45 days after publication of the proposed regulations in the Virginia Register of Regulations and that the Department make provisions to receive public comment concerning the proposed regulations. Upon the closing of the public comment period, the Department is authorized to make revisions to the proposed regulations in response to the comments received and to hold additional stakeholder group meetings as it deems necessary.

This authorization is related to those changes that are subject to the Administrative Process Act and to the Virginia Register Act. The Department shall follow and conduct actions in accordance with the Administrative Process Act, the Virginia Register Act, the Board's Regulatory Public Participation Procedures, the Governor's Executive Order 36 (2006) on the "Development and Review of Regulations Proposed by State Agencies."

This authorization extends to, but is not limited to, the filing of the proposed regulations, the holding of public hearings as well as the coordination necessary to gain approvals from the Department of Planning and Budget, the Secretary of Natural Resources, the Governor, the Attorney General, and the Virginia Register of Regulations.

The Board requests that the Director or the Regulatory Coordinator report to the Board on these actions at subsequent Board meetings.

SECOND: Mr. Simms

DISCUSSION: Ms. Hansen suggested the addition of the following statement:

The Board shall direct staff to develop a separate level of fees for incremental analysis, review and work on a definition for agricultural use.

Mr. Maitland accepted the addition as a friendly amendment.

VOTE: Motion carried with Mr. Maroon abstaining.

Soil and Water Conservation District Related Topics

Director Resignations and Appointments

Mr. Meador presented the following list of District Director Resignations and Appointments.

Colonial

Resignation of George W. Fisher, New Kent County, effective 7/20/06, appointed director position (term of office expires 1/1/07).

Recommendation of Shirley M. Willis, James City County, to fill unexpired appointed term of George W. Fisher (term of office to begin on or before 12/15/06 – 1/1/07).

Recommendation of Shirley M. Willis, James City County, to fill four-year appointed term (term of office to begin on 1/1/07 – 1/1/11).

Lord Fairfax

Resignation of M. Lauck Walton, Shenandoah County, effective 7/20/06, elected director position (term of office expires 1/1/08).

Recommendation of Mary Gessner, Shenandoah County, to fill unexpired elected term of M. Lauck Walton (term of office to begin on or before 12/15/06 – 1/1/08).

New River

Recommendations of Betty Whitaker, Carroll County, to fill four year appointed position (term of office to begin on 1/1/07 – 1/1/11).

Prince William

Resignation of Daniel W. Berrios, Prince William County, effective 12/31/06, elected director position (term of office expires 1/1/08).

Recommendation of Ronald G. Simkulet, Jr., Prince William County, to fill unexpired elected term of Daniel W. Berrios (term of office to begin on 1/1/07 – 1/1/08).

Recommendation of Alex P. Lucas, III, Prince William County, to fill unexpired elected term of Steven M. Danziger (term of office to being on 1/1/07 – 1/1/08).

MOTION: Ms. Packard moved that the list of District Director resignations and appointments be approved as submitted.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

Thomas Jefferson Soil and Water Conservation District Realignment

Mr. Meador gave an update on the realignment of the Thomas Jefferson Soil and Water Conservation District. He provided members with a copy of the letter of approval from the Department of Justice and a copy of the Certification from the Secretary of the Commonwealth. Copies of both are available from DCR.

SWCB Grant Agreement Compliance

Mr. Meador presented the DCR assessment of SWCD compliance with DCR/SWCD FY05-06 grant agreement deliverables. A copy of this assessment is available from DCR.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board accept the report of SWCD compliance with DCR/SWCD FY05-06 grant agreement deliverables as presented by staff.

SECOND: Mr. Altizer

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Meador gave an update regarding the agricultural marketing research and communications plan as presented by Mr. Waugh at the September meeting.

The preceding day the marketing firm presented the material to six districts in the Shenandoah Valley region. The information was well received.

The districts have been asked to respond to the information by January.

At this time the Board recessed for lunch.

Dam Safety Certificates and Permits

Mr. Browning presented the Dam Safety Certificates and Permits.

Compliance Issues

Enforcement Actions

Mr. Browning presented the list of Enforcement Actions. A copy of that list is available from DCR. No board action was required on this list.

Certificates

Mr. Browning presented the Conditional Operation and Maintenance Certificate recommendations:

08527 Clifton Pond Dam	HANOVER	Class III Conditional	11/30/2008
76011 Winston Lake Dam	CITY OF	Class II Conditional	11/30/2008
	RICHMOND		

MOTION: Mr. Graham moved that the Virginia Soil and Water Conservation Board approve the Conditional 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. Packard

DISCUSSION: None

VOTE: Motion carried unanimously.

Mr. Maroon asked if Mr. Browning could provide a total of how many dams currently have conditional permits.

Mr. Browning said that he did not have that information at hand, but would in the future provide a bimonthly update for the Board.

Regular Certificates

Mr. Browning presented the Regular Certificate recommendations.

00908	Graham Creek Reservoir Dam #1	AMHERST	Class II Regular	11/30/2012
00919	Sweet Briar College Lower Dam	AMHERST	Class III Regular	11/30/2012
00920	Sweet Briar College Upper Dam	AMHERST	Class III Regular	11/30/2012
01519	Coles Run Dam	AUGUSTA	Class III Regular	11/30/2012
06123	Winslow Dam	FAUQUIER	Class II Regular	11/30/2012
08501	Camp Hanover Dam	HANOVER	Class II Regular	11/30/2012

MOTION: Ms. Hansen 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: Mr. Simms

DISUCSSION: Mr. Robinson noted that of the six dams recommended, four were previously listed as conditional. He said that indicated good progress towards bringing dams into compliance.

VOTE: Motion carried unanimously

Construction and Alteration Permits

Mr. Browning presented the Construction and Alteration Permit recommendations.

00393	Woolen Mills Dam	ALBEMARLE	Class IV Alteration	11/15/2006-3/31/2008
17926	Rocky Pen Run Reservoir Dam	STAFFORD	Class I Construction	11/15/2006-11/30/2008

Mr. Browning noted that the Woolen Mills Dam is being removed in January 2007.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the Permit Recommendations as presented by DCR staff and that staff be directed to communicate the Board actions the affected dam owners.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

Extensions

Mr. Browning presented the recommended list of Extensions.

00345	Crozet Sportsman Club Dam	ALBEMARLE	Class III Regular	7/31/2007
00351	Peacock Hill Dam	ALBEMARLE	Class III Regular	3/31/2007
01702	John Lawrence Dam	BLAND	Class II Regular	7/31/2007
01903	Beaverdam Creek Dam	BEDFORD	Class II Conditional	7/31/2007
01921	Lake Vista Dam #1	BEDFORD	Class II Regular	3/31/2007
02303	Rainbow Forest Dam	BOTETOURT	Class I Conditional	7/31/2007
02304	Blue Ridge Estates Dam	BOTETOURT	Class I Conditional	7/31/2007
03504	Olde Mill Golf Club Dam	CARROLL	Class III Regular	3/31/2007
04502	Johns Creek Dam	CRAIG	Class I Conditional	11/30/2008
04503	Johns Creek Dam #3	CRAIG	Class I Conditional	11/30/2008
05923	Pohick Creek #2 Dam	FAIRFAX	Class I Conditional	3/31/2007
06102	DiGuiliam Dam	FAUQUIER	Class III Conditional	3/31/2007
06136	Hideaway Hills Dam	FAUQUIER	Class III Conditional	11/30/2007
08539	Mattawan Association Dam	HANOVER	Class II Conditional	3/31/2007
09906	Lake Monroe Dam	KING GEORGE	Class I Conditional	3/31/2007
14116	Ararat River Dam #32	PATRICK	Class III Regular	3/31/2007
15506	Lake Powhatan Dam	PULASKI	Class II Conditional	5/31/2007
17101	Stony Creek Dam #9	SHENANDOAH	Class I Conditional	11/30/2007
17710	Lee Lake Dam	SPOTSYLVANIA	Class II Conditional	5/31/2007
18704	Deer Dam	WARREN	Class III Conditional	3/31/2007
18712	Loch Linden Dam	WARREN	Class III Conditional	11/30/2007

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the extension recommendations as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Mr. Russell

DISCUSSION: None

VOTE: Motion carried unanimously

Erosion and Sediment Control Program

Mr. Hill presented the update on the Erosion and Sediment Control Program.

Status of Local Erosion and Sediment Control Program Compliance

Mr. Hill noted that the Board had received a local erosion and sediment program progress chart at the last meeting. The recommended Board changes have been incorporated. The categories will be consistent, provisionally consistent (have signed agreement) and a column for “needs work.”

Mr. Hill said staff would present the revised chart at the January meeting. This will include information for 2005, 2006 and 2007 and will allow the Board to view the length of time necessary for a program to become consistent.

Mr. Hill said that approximately 25 out of 166 programs are consistent. He said there are many that are provisionally consistent and have signed a Corrective Action Agreement (CAA).

Mr. Hill presented the list of compliant local Erosion and Sediment Control programs for recognition.

MOTION: Ms. Packard moved the following:

The Virginia Soil and Water Conservation Board commends the City of Bedford, the City of Manassas, the City of Manassas Park, New Kent County, and the Town of Vienna for successfully improving the City’s 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: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Mr. Simms moved that the Virginia Soil and Water Conservation Board approves the proposed Alternative Inspection Program for

Orange County as being consistent with the requirements of the Erosion and Sediment Control Law and Regulations and that the Board request DCR staff to monitor the implementation of the alternative inspection program by the County to ensure compliance.

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

Stormwater Management Program

Update on Regulatory Process

Mr. Dowling presented the update on the Stormwater Management Regulator Process.

STORMWATER REGULATORY ACTION

PAST MEETINGS

- The 1st meeting of the TAC: May 4, 2006 at the Science Museum of Virginia.
 - Committee charge;
 - Discussion of what led up to this regulatory action;
 - Review of the NOIRA and regulatory process;
 - Stormwater program overview presentation;
 - Brainstorming on general issues that may need to be addressed associated with:
 - Part II (Minimum Local stormwater management program Water Quality and Quantity Criteria)
 - Part III (Local Program Administrative and Delegation Procedures and Requirements)
 - Part XIII (Fees)
- DCR internal drafting team developed draft language for Part II: May 8, 2006
- DCR internal drafting team developed draft language for Part II (conference call): May 17, 2006
- The 2nd meeting of the TAC: May 18, 2006 at Department of Forestry.
 - Discussion of the Part II draft language
- DCR internal drafting team developed revised draft language for Part II: May 26, 2006.

- Discussion of regulation status with Director: June 6, 2006.
- The 3rd meeting of the TAC: June 8, 2006 at Department of Forestry.
 - Presentation of existing Part III language (local program administration)
 - Detailed discussion of Part III components
- DCR internal drafting team developed revised draft language for Part II: June 16, 2006.
- The 4th meeting of the TAC: June 20, 2006 at the Science Museum of Virginia.
 - Discussion of Part XIII (fees);
 - Continued detailed discussion of Part III components;
 - Refined subcommittee structure for Parts II, III, and XIII.
- Discussion of the revised draft language for Part II with the AG's Office: June 27, 2006.
- DCR internal drafting team developed draft language for Part III: June 28, 2006.
- DCR internal drafting team developed draft language for Part III: July 5, 2006.
- Cancelled Tuesday, July 11th and Tuesday, July 25th TAC meetings. Required additional time to draft and for subcommittees to meet. [Dates did not work for subcom members.]
- DCR internal drafting team developed draft language for Part III: July 11, 2006.
- Discussion of regulation status with Director: July 12, 2006.
- DCR internal drafting team developed draft language for Part III: July 5, 2006.
- DCR internal drafting team developed Part XIII survey language: July 14, 2006.
- DCR internal drafting team developed draft language for Part III: July 25, 2006.
- DCR internal drafting team developed draft language for Part II: August 3, 2006.
- Part III subcommittee meeting: August 8, 2006 at DEQ regional office.
- Part II subcommittee meeting: August 16, 2006.
- DCR internal drafting team developed draft language for Part III: August 17, 2006.
- The 5th meeting of the TAC: August 21, 2006 at the Science Museum.

- Discussion of Part III
- DCR internal drafting team developed draft language for Part XIII: August 23, 2006.
- **Part XIII subcommittee meeting**: August 29, 2006 at DEQ regional office.
- Preliminary conference call with EPA on regulations: August 31, 2006.
- DCR internal drafting team developed draft language for Part II: September 7, 2006.
- DCR internal drafting team developed draft language for Part XIII: September 11, 2006.
- DCR internal drafting team developed draft language for Part II: September 12, 2006.
- **Part II subcommittee meeting (2nd meeting)**: August 21, 2006 at DOF in New Kent.
- DCR internal drafting team developed draft language for Part II and III: September 26, 2006.
- The **6th meeting of the TAC**: October 3, 2006 at DOF in New Kent.
 - Discussion of Part II to ensure the entire TAC's familiarity with the concepts that the Part II subcommittee has been discussing and
 - Review of Part III changes in response to the TAC's questions and suggestions.
- DCR internal drafting team developed draft language for Part XIII: October 5, 6, and 10, 2006.
- **Part II technical discussion meeting**: October 12 at DCR.
- The **7th meeting of the TAC**: October 16, 2006.
- October 23, 2006: DCR (after advising the DPB and the Administration) advised TAC that the Department was **extending the target date for filing proposed regulations from November 30, 2006 to May 31, 2007**. The extended time will enable DCR to address several key items as listed below. Our intention is to complete the analyses and then to reconvene the TAC to discuss our findings.
 - 1) Allow for a thorough scientific review and evaluation of the current Part II water quality and quantity draft regulations. Such review by technical experts would potentially result in a critique of the draft proposed

regulations, a determination of whether BMPs and other practices exist to achieve the draft load limits, and recommendations of potential regulatory amendments for the TAC's consideration should further revisions be advisable; and

- 2) Allow for the Department to discuss the current Part III local Stormwater Management Regulations and delegation procedures with the EPA and to consider potential revisions to this and perhaps related sections.
- The 8th meeting of the TAC: October 26, 2006. - CANCELLED
- DCR internal drafting team developed draft language for Part II and Part III: October 26, 2006.
- Conference call with EPA to discuss their review of the proposed regulations: October 27, 2006.
- DCR internal drafting team developed draft language for Part II and Part III and outlined technical study deliverables: November 2, 2006.
- DCR is working to complete a draft of the proposed regulations by the end of November to share with EPA for formal review and comment.
- DCR is working to finalize the deliverables for a technical study.

Update on General Permit Issuance

Mr. Hill said that from July 1, 2005 through June 30, 2006 DCR issued 2,433 permits. The goal is to reach at least sixty percent coverage.

Update MS4 Large/Medium Individual Permits

Mr. Hill said DCR is working on the renewal of the six MS4 individual permits. He distributed a DRAFT narrative fact sheet. A copy of this DRAFT is available from DCR.

Mr. Hill said that the fact sheet is being prepared for each locality to discuss the permit and possible changes.

Update MS4 General Permit (Small) NOIRA

Mr. Hill said that at the last meeting the Board authorized DCR to develop a Notice of Intended Regulatory Action (NOIRA) for the MS4 Small General Permit.

Staff is working on the draft of the NOIRA.

Mr. Hill said that DCR wants to make sure the wording is clear. He is working with Mr. Dowling and Mr. Brown to develop this.

Mr. Dowling said that this is tied to the Stormwater Regulations because some of the actions with the MS4 permit are actions that DCR hopes to include in the Stormwater Regulations. There are logistical issues to consider.

Mr. Hill said that the General Permit states that the locality will have a Stormwater Management plan that complies with the regulations. The concern is whether that applies to the existing or the proposed Stormwater Regulations.

Discussion of Board Responsibility for Agriculture Stewardship Act Appeals

Mr. Dowling presented information with regard to the Board's responsibility under the Agriculture Stewardship Act. A copy of the handout is available from DCR.

Mr. Dowling addressed a current request to appeal to the Virginia Soil and Water Conservation Board a complaint decision rendered by the Virginia Department of Agriculture and Consumer Services under the Agricultural Stewardship Act. Copies of correspondence regarding that appeal were provided to the Board and are available from DCR.

Mr. Dowling said that the original complaint was investigated and determined to be unfounded by VDACS. The complainant is appealing that decision to the Board.

Mr. Dowling said that on November 6, 2006 the Department received a letter requesting the Board to hear the appeal.

Mr. Dowling said that at this time, there did not appear to be a need to proceed with a formal hearing. He said that the Board could instruct DCR to appoint a hearing officer and to handle the matter independent of the Board. However, the information would still need to be presented to the Board.

Mr. Dowling reviewed the staff recommendation.

Mr. Brown suggested that the term "informal fact finding" be substituted for "hearing."

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board instruct the Department of Conservation and Recreation to notice an informal fact finding for the appeal of ASA Complaint #331. The informal fact finding by the Board shall provide notice to Mr. Buchanan, the Spenards, and the Department of Agriculture of the informal fact finding following the conclusion of the November 15, 2006 Board meeting. Further, the Department is instructed to

contact each of the parties and request all case information in their files be provided to the Department. Such materials will be sent to the Board and all parties in advance of the scheduled informal fact finding. The Department may also contact such other parties as determined necessary to develop a complete record. All information provided for the record shall not be more current than September 1, 2006, the most recent determination made by the Department of Agriculture.

SECOND: Mr. Altizer

DISCUSSION: None

VOTE: Motion carried unanimously

District Funding Formula Presentation by VASWCD President

Mr. Byrne gave a presentation regarding the District Funding formula. He provided members with historical information regarding Districts. He indicated that he was not making his proposal on behalf of the Association of Soil and Water Conservation Districts.

Mr. Byrne noted how prices have skyrocketed since the District Funding formula was established.

He expressed a concern that there needed to be a way to address these spiraling costs and the associated workload.

He said an appeal should be made to the General Assembly as follows:

1. The appeal should include in the purpose the reasons districts were formed.
2. There should be an increase in the core funding.
3. The appeal should be for minimum funding for districts to be able to operate.

Mr. Byrne said the Association would provide written information in this regard as well.

Mr. Maitland asked if this would be discussed at the Annual Meeting of the Virginia Association of Soil and Water Conservation Districts.

Mr. Byrne said he did not believe the item would be discussed.

Partner Agency Reports

Department of Conservation and Recreation

Mr. Frye presented the report for the Department of Conservation and Recreation. A copy of this report is included at Attachment #2.

Natural Resources Conservation Service

Ms. Doetzer presented the report for the Natural Resources Conservation Service. A copy of this report is included as Attachment #3.

Public Comment

There was no additional public comment.

Other Business

Mr. Maitland expressed appreciation to the staff and TAC members for the work on the Dam Safety Regulations.

Mr. Dowling reminded members of the need to submit their Conflict of Interest training certificates by the end of November.

Next Meeting

The next meeting of the Virginia Soil and Water Conservation Board will be on Friday, January 19, 2007 at the Natural Resources Conservation Service offices in Richmond.

Adjourn

Being no further business, the meeting was adjourned.

Respectfully submitted,

Linda S. Campbell
Chairman

Joseph H. Maroon
Director

Attachment #1

Presentation of Proposed Virginia Impounding Structure Regulations (§ 4 VAC 50-20) to the Virginia Soil and Water Conservation Board

November 15, 2006

DAM SAFETY REGULATORY ACTION

The proposed regulations before the Board today for discussion and action represent the work of a 28 member technical advisory committee between May and October of 2006. Seven full meetings of the TAC were held and 3 subcommittee meetings during this period.

Barbara Hulburt of McCammon Group facilitated the TAC.

Committee Charge

Consider improvements to the Virginia Soil and Water Conservation Board's Impounding Structure Regulations (§§ 4 VAC 50-20-10 et seq.) that will

- enhance the administration and implementation of the Dam Safety Program,
- clarify the meaning of the regulations, and
- give consideration to nonstructural criteria on a case-by-case basis that would permit a partial reduction of emergency spillway design flood requirements, provided there would be no unreasonable and/or significant reduction in public safety and the protection of life and property.

No regulatory changes have been made to the Virginia Impounding Structure Regulations since 1989 except to update the definition of regulated dams to match the 2001 legislation. The regulations deserved a thorough review.

The Board authorized the DCR in July of 2005 to submit a NOIRA to consider changes and solicit recommendations related to the Board's Virginia Impounding Structure Regulations. The changes may include, but not be limited to amendments:

- to address the Ad Hoc Dam Safety Committee's recommendations relative to Classes of Impounding Structures (§ 4 VAC50-20-40), Performance Standards Required for Impounding Structures (§ 4 VAC50-20-50), and the attendant Table 1 established in the 2004 Virginia Impounding Structures Regulations;
- to clarify vague words/wording (e.g. possible, probable, reasonable, appropriate, etc.);
- to make Table 1 more understandable and consistent in application;
- to eliminate the reference to "new" and "existing" dams;
- to establish alteration permit requirements similar to construction permit requirements;
- to remove DCR forms currently contained in the regulations; and
- to make other technical or administrative amendments necessary to improve and clarify the regulations.

TAC MEETINGS

- The 1st meeting of the TAC: May 1, 2006 at VCU.
 - Committee charge;
 - Background presentations on the Ad Hoc and Board workgroup study activities;
 - Discussion of the NOIRA and regulatory process;
 - Overview of the dam safety program;
 - Review of key Code and regulatory authorities.
- Emergency Action Plan subcommittee (conference call): June 6 2006.
- The 2nd meeting of the TAC: June 13, 2006 at Department of Forestry.
 - Discussion of Emergency Action Plan draft language;
 - Review of Virginia's dam classification criteria and related definitions;
 - Overview of Federal Technical Guidance for Dam Safety Programs;
 - Review of Other States' Approaches to Dam Classifications.
- Table 1 subcommittee meeting: June 29 2006 at Schnabel Engineering.
- Incorporation of 2006 Enforcement legislation concepts into the draft language.
- The 3rd meeting of the TAC: July 13, 2006, at North Anna Nuclear Information Center
 - How Virginia Regulations Affect the Values of One PMF – Peter Rainey;
 - Got rain? – Dave Campbell;
 - Virginia Dams: A status report – Lisa Cahill;
 - Discussion of Table 1 Subcommittee draft language.
- DCR Dam Safety staff meeting to discuss the regulations: July 19, 2006.
- The 4th meeting of the TAC: Thursday, July 27
 - Revisit Table 1 revised draft language
 - Revisit revised EAP language
 - Preliminary Discussion of Alternative Procedures (decision matrix) for SDF Reductions
- DCR internal meeting to discuss the fee portion of the regulations: August 4, 2006.
- DCR Dam Safety staff meeting to discuss the regulations: August 10, 2006.
- DCR Dam Safety staff meeting to discuss the regulations: August 24, 2006.

- **Alternative Procedures subcommittee meeting:** August 28, 2006.
- The **5th meeting of the TAC:** September 6, 2006 at Department of Forestry.
 - Refinement of Table 1
 - Discussion of Delayed effective date language
 - Review of Incremental Analysis language
 - Review of Dam Break Inundation Zone Mapping language
 - Discussion of Alternative Procedures (decision matrix) for SDF reductions (Subcommittee report)
 - Discussion of Dam Break Inundation Zone Draft Legislation
 - Discussion of Emergency Repair Notification language
 - Emergency Preparedness for low hazard dams language
 - Construction Permit language
 - Alteration Permit language.
- DCR internal meeting to discuss the regulations: September 20, 2006.
- DCR internal meeting to discuss the regulations: September 25, 2006.
- DCR internal meeting to discuss the regulations: September 27, 2006.

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- The **6th meeting of the TAC:** Wednesday, October 11, 2006 at John Tyler in Chester.
 - Review of regulation refinements including Table 1 modifications
 - Fees discussion
 - Forms discussion
 - Decommissioning procedures
 - DCR internal meeting to discuss the regulations: October 19 and 20, 2006.
 - DCR internal meeting to discuss the regulations: October 30, 2006.
 - The **7th meeting of the TAC:** Tuesday, October 31, 2006 at VCU.
 - Review of the entire proposed regulation with the TAC focusing specifically on items changed since the last meeting and an explanation of how we addressed member e-mail suggestions.
 - Tested for consensus with the draft proposed regulations.
 - Board review of proposed regulations at the November 15th Board meeting (Targeting end of November for submission).

**DISCUSSION OF CHANGES TO THE IMPOUNDING STRUCTURES
REGULATIONS**

**Version: Thursday, November 9, 2006
VIRGINIA IMPOUNDING STRUCTURE REGULATIONS (§ 4 VAC
50-20)**

Lines 155 - 191:

4VAC50-20-40. Hazard Potential Classifications ~~Classes~~ of impounding structures.

- Changed the dam classification system from four categories (Class I, II, III, and IV) to three hazard classifications (High, Significant, and Low). (I's became High; II's became Significant, and III's and IV's became Low)
- Definitions of High, Significant, and Low were refined:
 - High – failure will cause probable loss of life or serious economic damage.
 - Significant – failure may cause the loss of life or appreciable economic damage.
 - Low – failure would result in no expected loss of life and would cause no more than minimal economic damage.
- Specified that economic damage includes agricultural interests.
- Specified that to support the appropriate hazard potential classification, dam break analysis shall be conducted by the owner's engineer.
- Specified that classification will be based on present and planned land-use in the dam break inundation zones rather than projected development.

Lines 193- 260:

4VAC50-20-50. Performance standards required for impounding structures.

- Specified that Table 1 is applicable to all dams not just “new” (post July 1982)
- Table 1 was revised to:
 - Reflect the revised dam classifications.
 - Eliminate spillway design flood ranges which resulted in inconsistency in application.
 - Require that the spillway of all High hazard dams be engineered to pass the full Probable Maximum Flood.
 - Insert a column that specifies the minimum threshold for incremental damage assessment.
- Clarified that the appropriate size category is determined by the largest size associated with the maximum impounding capacity and height of the impounding structure.
- Stipulated that reductions to the established spillway design flood (SDF) may be evaluated for all dams through the use of incremental damage assessment.
- Specified that any deviation in the application of established developmental procedures for the PMF must be explained and justified by the owner’s engineer. The owner’s engineer must develop PMF hydrographs for 6, 12, and 24 hour durations. The hydrograph that creates the largest peak outflow is to be used to determine capacity for non-failure and failure analysis.

TABLE 1--Impounding Structure Regulations

Class of Dam	Hazard Potential If Impounding Structure Fails	SIZE CLASSIFICATION		Spillway Design Flood (SDF) ^b
		Maximum Capacity (Ac-Ft) ^a	Height(Ft) ^a	
I	Probable Loss of Life; Excessive Economic Loss	Large $\geq 50,000$	≥ 100	PMF ^c
		Medium $\geq 1,000$ & $< 50,000$	≥ 40 & < 100	PMF
		Small ≥ 50 & $< 1,000$	≥ 25 & < 40	1/2 PMF to PMF
II	Possible Loss of Life; Appreciable Economic Loss	Large $\geq 50,000$	≥ 100	PMF ^b
		Medium $\geq 1,000$ & $< 50,000$	≥ 40 & < 100	1/2 PMF to PMF
		Small ≥ 50 & $< 1,000$	≥ 25 & < 40	100 YR to 1/2 PMF
III	No Loss of Life Expected; Minimal Economic Loss	Large $\geq 50,000$	≥ 100	1/2 PMF to PMF
		Medium $\geq 1,000$ & $< 50,000$	≥ 40 & < 100	100 YR to 1/2 PMF
		Small ≥ 50 & $< 1,000$	≥ 25 & < 40	50 YR ^d to 100 YR ^e
IV	No Loss of Life Expected; No Economic Loss to Others	≥ 50 (-non agricultural)	≥ 25 (both)	50 YR to 100 YR
		≥ 100		
		≥ 100 (-agricultural)		

Hazard Potential Class of Dam	SIZE CATEGORIES ^B		Spillway Design Flood (SDF) ^C	Minimum Threshold for Incremental Damage Assessment
	Maximum Impounding Capacity (Ac-Ft)	Height (Ft)		
HIGH	All ^B	All ^B	PMF ^D	.50 PMF

<u>SIGNIFICANT</u>	<u>Large = 50,000</u>	<u>= 100</u>	<u>PMF^D</u>	<u>.50 PMF</u>
	<u>Medium > 1,000 & < 50,000</u>	<u>> 40 & < 100</u>	<u>.75 PMF</u>	<u>100-YR^E</u>
	<u>Small = 15 & < 1,000</u>	<u>= 6 & < 40</u>	<u>.50 PMF</u>	<u>100-YR^E</u>
<u>LOW</u>	<u>Large = 50,000</u>	<u>= 100</u>	<u>.50 PMF</u>	<u>100-YR^E</u>
	<u>Medium = 1,000 & < 50,000</u>	<u>= 40 & < 100</u>	<u>100-YR^E</u>	<u>50-YR^F</u>
	<u>Small = 15 & < 1,000</u>	<u>= 6 & < 40</u>	<u>100-YR^E</u>	<u>50-YR^F</u>

Lines 262- 293:

4VAC50-20-52. Incremental damage assessment.

- Created a new section that allows for the potential reduction of the spillway design flood requirement through an incremental damage assessment. This is now applicable to all dams.
- Established certain conditions that must be adequately addressed before proceeding with an incremental damage assessment. These include:
 - Operation and maintenance is satisfactory;
 - The dam is not in need of other alteration related to the integrity of the structure;
 - Emergency Action Plan or Emergency Preparedness requirements have been satisfied;
 - Inspection report requirements have been met;
 - The applicant demonstrates that the impounding structure does not pose an unreasonable hazard to life and property;
 - The owner satisfies all special requirements imposed by the Board.
- Specified that in no situation shall the allowable reduction be less than the level at which the incremental increase in water surface elevation downstream due to failure of a dam is no longer considered to present an unacceptable additional downstream threat.
- Established water depths greater than two feet and overbank flow velocities greater than three feet per second shall be used to define conditions for unacceptable additional downstream threat to persons or property.
- Specified that the spillway design flood shall not be reduced below the minimum threshold values as determined by Table 1.

Lines 295- 332:

4VAC50-20-54. Dam break inundation zone mapping

- Created a new section that sets out dam break inundation zone mapping requirements.
- Specified that the location of the end of the inundation mapping should be where the water surface elevation of the dam break inundation zone and the water surface elevation of the spillway design flood during a non-dam failure event converge to

- within one foot of each other. This would demonstrate a level where failure of the dam does not further constitute a hazard to downstream life or property.
- Specified that all inundation zone map(s), except those utilized in meeting the requirements of Emergency Preparedness for Low Hazard Potential shall be signed and sealed by a licensed professional engineer.
 - For determining the hazard potential classification, established that the following shall be provided to the Department:
 - A sunny-day dam break analysis;
 - A dam break analysis utilizing a probable maximum flood with a dam failure; and
 - A dam break analysis utilizing a probable maximum flood without a dam failure.
 - Tied the mapping requirements to the Emergency Action Plan requirements.

Lines 334- 340:**4VAC50-20-58. Local government notifications.**

- Specified that for each certificate issued, the impounding structure owner shall send a copy of the certificate to the appropriate local government(s) with planning and zoning responsibilities.

Lines 1084- 1107:**4VAC50-20-125. Delayed effective date for Spillway Design Flood requirements for impounding structures.**

- Developed language establishing a delayed effective date for dams determined to have an adequate spillway capacity prior to the effective date of these regulations but that would require modifications due to changes in the regulations.
 - Specified that this would only apply to dams currently operating under a Regular Operation and Maintenance Certificate.
 - Specified that the owner shall submit to the Board an Alteration Permit Application in to address spillway capacity at the time of the expiration of their Regular Operation and Maintenance Certificate or within 3 years of the effective date of these regulations, whichever is later. (NOTE: As regular certificates are good for 6 years from time of issuance, this would mean that applications would be due no sooner than 3 years and no later than 6 years.)
 - Specified that the Alteration Permit Application shall contain a construction sequence with milestones for completing the necessary improvements within 5 years of Alteration Permit issuance. (NOTE: 8 to 11 years in total to come into compliance)
 - Established that the Board may approve an extension of the prescribed time frame for good cause.
- Specified that if circumstances warranted more immediate repairs to the impounding structure, the Board may direct alterations to the spillway to be completed sooner.
- Specified that during this delay period, owners are required to address other deficiencies that may exist that are not related to the SDF.

Lines 1109- 1127:

4VAC50-20-130. Repealed.

- Repealed the section that authorized the use of incremental analysis on only those dams constructed before July 1982. As mentioned previously, 4VAC50-20-52 allows for incremental analysis on all dams once certain criteria have been met.

Lines 1129- 1135:

4VAC50-20-140. Repealed.

- Repealed the section that stated that dams issued a construction permit after July 1, 1982, shall not require upgrading to meet new more stringent criteria unless the board determines that the new criteria must be applied to prevent an unreasonable hazard to life or property. As mentioned previously, eliminated the dichotomy between new and existing dams.

Lines 1229- 1317:

4VAC50-20-175. Emergency Action Plan (EAP) for High and Significant Hazard Potential Dams.

- Created a new section establishing emergency action plan requirements for each High and Significant Hazard Potential dam.
- Established that an EAP shall be submitted every six years with the owner's submittal of their Regular Operation and Maintenance Certificate application.
- Required a drill to be conducted annually and for a table-top exercise once every 3 years.
- Required dam owners to test existing monitoring, sensing, and warning equipment at remote or unattended dams at least twice per year and maintain a record of such tests.
- Established that an EAP shall contain the following elements:
 - Notification chart.
 - A discussion of the procedures for timely and reliable detection, evaluation, and classification of emergency situations considered to be relevant to the project setting and impounding features.
 - Responsible parties for EAP-related tasks.
 - A section that describes preparedness actions to be taken both before and following development of emergency conditions.
 - A dam break inundation map.
 - Appendices.
 - A certification section that is signed by all parties with assigned responsibilities in the EAP.
- Specified that development of the EAP shall be coordinated with all entities, jurisdictions, and agencies that would be affected by a dam failure or that have statutory responsibilities for warning, evacuation, and post-flood actions.

Lines 1319- 1370:

4VAC50-20-177. Emergency Preparedness Plan for Low Hazard Dams.

- Created a new section establishing emergency preparedness plan requirements for each Low Hazard Potential dam.
- Specified the required information to be provided to the Agency.

Lines 1638- 1716 [Fees]:**4VAC 50-20-340 Authority to establish fees**

- Created a new section that cites the authority for the Board to establish and collect application fees for the administration of the dam safety program, administrative review, certifications, and the repair and maintenance of dams.
- Specified that the fees will be deposited into the Dam Safety, Flood Prevention and Protection Assistance Fund.

4VAC 50-20-350 Fee Submittal Procedures

- Specified that no application for an Operation and Maintenance Certificate or a Construction Permit will be acted upon by the Board without full payment of the required fee
- Sets out fee submittal procedures.

4VAC 50-20-360 Fee Exemptions

- Specified that dams owned by Virginia Soil and Water Conservation Districts are exempt from all fees.
- Specified that there will be no fee assessed for the decommissioning of an impounding structure.

4VAC 50-20-370 Construction Permit Application Fees

- Established the following construction permit fees:
 - \$2,500 for High or Significant Hazard Potential impounding structures
 - \$1,000 for Low Hazard Potential impounding structures

4VAC 50-20-380 Regular Operation and Maintenance Certificate Application Fees

- Established the following 6-year Regular Operation and Maintenance Certificate fees:
 - \$1,500 for High Hazard Potential
 - \$1,000 for Significant Hazard Potential
 - \$600 for Low Hazard Potential

4VAC 50-20-390 Conditional Operation and Maintenance Certificate Application Fee

- Established the following Conditional Operation and Maintenance Certificate or extension of a Conditional Operation and Maintenance Certificate fees for High or Significant Hazard Potential dams:
 - For a 2-year Certificate: \$1000
 - For a 1.5-year Certificate: \$750
 - For a 1-year Certificate: \$500
 - For a 6-month Certificate: \$250

- Established the following Conditional Operation and Maintenance Certificate or extension of a Conditional Operation and Maintenance Certificate fees for Low Hazard Potential dams:
 - For a 2-year Certificate: \$500
 - For a 1.5-year Certificate: \$375
 - For a 1-year Certificate: \$250
 - For a 6-month Certificate: \$125
- Established the following Conditional Operation and Maintenance Certificate or extension of a Conditional Operation and Maintenance Certificate fees for any impounding structure that requires a modification in spillway capacity due to changes in the regulations and that is eligible for a delayed effective date:
 - For a 2-year Certificate: \$200
 - For a 1.5-year Certificate: \$150
 - For a 1-year Certificate: \$100
 - For a 6-month Certificate: \$50
- Specified that Board may allow a partial credit towards the Regular Operation and Maintenance Certificate fee if the owner of the impounding structure has completed, to the Director's satisfaction, the conditions of the Conditional Certificate prior to its expiration.

**Lines 1718- 1741 Repealed:
FORMS**

- Struck all of the forms incorporated by reference and incorporated required elements of the forms into the regulations. This will allow for the modification of forms without going through a regulatory action. The Department will still utilize a public process to make substantial changes to the forms.

Lines 11 - 32:

4VAC50-20-20. General provisions.

- Specified that the design, inspection and maintenance of impounding structures shall be conducted utilizing competent, experienced, engineering judgment that takes into consideration factors including but not limited to local topography and meteorological conditions.

Lines 34 - 153:

4VAC50-20-30. Definitions.

- Provided definitions or modifications to definitions for "Alteration", "Construction", "Dam break inundation zone", "Department", "Emergency Action Plan or EAP", "Emergency Action Plan Exercise, Emergency Preparedness Plan", "Freeboard", "Spillway", "Sunny Day Failure", and "Tabletop Exercise".

Lines 344 - 365:

4VAC50-20-60. Required permits.

- Clarified that if an owner or the owner's engineer has determined that circumstances are impacting the integrity of the dam which could result in the

imminent failure of the impounding structure, temporary repairs may be initiated prior to approval from the Board. The owner shall notify the Department within 24 hours of identifying the circumstances impacting the integrity of the impounding structure.

- Specified that such emergency notification shall not relieve the owner of the need to obtain an alteration permit as soon as may be practicable, nor shall the owner take action beyond that necessary to address the emergency situation.

Lines 367 - 636:

4VAC50-20-70. Construction permits.

- Reworked the section on construction permits; incorporated authorities provide in the Code during the 2006 Session.
- Established preliminary design report requirements.
- Established design report requirements.
- Established plan of construction requirements including the requirements for a construction sequence with milestones, an E&S plan, a Stormwater Management Plan, and a temporary emergency Action Plan.
- Specified that within 120 days of receipt of a complete construction permit application the Board shall act on the application.
- Specified that the construction must commence within two years after the permit is issued.
- Articulated that the Board, the Director, or both may take any necessary action consistent with the Dam Safety Act (§10.1-604 et seq. of the Code of Virginia) if any terms of this section or of the permit are violated, if the activities of the owner are not in accordance with the approved plans and specifications, if construction is conducted in a manner hazardous to downstream life or property, or for other cause as described in the Act.
- Specified that within 90 days after completion of the construction of an impounding structure, the owner shall submit:
 - A complete set of record drawings signed and sealed by a licensed professional engineer and signed by the owner;
 - A complete Record Report signed and sealed by a licensed professional engineer and signed by the owner
 - Certification from the licensed professional engineer who has monitored construction of the impounding structure during construction that, to the best of the engineer's judgment, knowledge and belief, the impounding structure and its appurtenances were constructed in conformance with the plans, specifications, drawings and other requirements approved by the Board;
 - An Operation and Maintenance Certificate Application; and
 - An Emergency Action Plan or Emergency Preparedness Plan.
- Specified that upon completion of construction, the impoundment may be filled upon Board issuance of an Operation and Maintenance Certificate.

Lines 637 - 831:

4VAC50-20-80. Alterations permits.

- Reworked the section on alteration permits; incorporated authorities provide in the Code during the 2006 Session.
- Established design report requirements.
- Established plan of construction requirements including the requirements for a construction sequence with milestones and an E&S plan.
- Specified that within 120 days of receipt of a complete alteration permit application the Board shall act on the application. Such application shall include any necessary interim provisions to the current Emergency Action Plan or Emergency Preparedness Plan.
- Specified that the work identified in the Alteration Permit must commence within the time frame identified in the Alteration Permit.
- Articulated that the Board, the Director, or both may take any necessary action consistent with the Dam Safety Act (§10.1-604 et seq. of the Code of Virginia) if any terms of this section or of the permit are violated, if the activities of the owner are not in accordance with the approved plans and specifications, if construction is conducted in a manner hazardous to downstream life or property, or for other cause as described in the Act.
- Specified that within 90 days after completion of the alteration of an impounding structure, the owner shall submit:
 - A complete Record Report signed and sealed by a licensed professional engineer and signed by the owner
 - Certification from the licensed professional engineer who has monitored alteration of the impounding structure that, to the best of the engineer's judgment, knowledge and belief, the impounding structure and its appurtenances were altered in conformance with the plans, specifications, drawings and other requirements approved by the Board;

Lines 833 - 857:**4VAC50-20-90. Transfer of permits.**

- Clarified that prior to the transfer of ownership of a permitted impounding structure the permittee shall notify the Director in writing and the new owner shall file a transfer notification with the Department.
- Established transfer notification requirements.

Lines 863 – 888 and Lines 1036 - 1082 Repealed:**4VAC50-20-100. Regular Operation and Maintenance Certificates.****4VAC50-20-120. Operation and maintenance certificates for existing impounding structures.**

- Created a new section on Regular Operation and Maintenance Certificates that incorporated elements from both of these sections in a more understandable format.

Lines 890 - 1014:**4VAC50-20-105. Regular Operation and Maintenance Certificates.**

- Created a new section on Regular Operation and Maintenance Certificates.
- Specified that a Regular (High, Significant or Low Hazard Potential) Operation and Maintenance Certificate is required for an impounding structure.
- Specified that the owner shall apply for the renewal of the six-year Regular Operation and Maintenance Certificate 90 days prior to its expiration.
- Established Operation and Maintenance Certificate Application requirements including the requirements for an Inspection Report and an Emergency Action Plan or an Emergency Preparedness Plan.
- Specified that if the Operation and Maintenance Certificate Application submittal is found to be not complete, the Director shall inform the applicant within 30 days and shall explain what changes are required for an acceptable submission.
- Specified that within 60 days of receipt of a complete application the Board shall act upon the application.
- Specified that inspections shall be performed on an impounding structure annually.
 - Inspection Reports signed and sealed by a licensed professional engineer shall be submitted to the Department in accordance with the following schedule:
 - For a High Hazard Potential impounding structure, every two years
 - For a Significant Hazard Potential impounding structure, every three years
 - For a Low Hazard Potential impounding structure, every six years.
 - In years when an Inspection Report signed and sealed by a licensed professional engineer is not required, an owner shall submit the Annual Inspection Report for Virginia Regulated Impounding Structures.
- Specified that the owner of an impounding structure shall notify the Department immediately of any change in the use of the area downstream that would impose hazard to life or property in the event of failure.

Lines 1016 – 1034 Repealed:

4VAC50-20-110. Operation and maintenance certificate Maintenance Certificate for newly constructed impounding structures.

- Incorporated this section into the Construction and Alteration sections.

Lines 1137 – 1158:

4VAC50-20-150. Conditional operation and maintenance certificate.

- Updated the section to refer to conditional certificates for High, Significant and Low Hazard Potential dams.
- Clarified that conditional permits are “extended” and not “renewed”.

Lines 1160 – 1165

4VAC50-20-155. Extension of Operation and Maintenance Certificates.

- Created a new section specifying that the Board may extend an Operation and Maintenance Certificate for impounding structures provided that the owner submits a written request justifying an extension, the amount of time needed to comply with

the requirements set out in the current Operation and Maintenance Certificate, and any required fees. The owner must have demonstrated substantial and continual progress towards meeting the requirements.

Lines 1167 – 1174**4VAC50-20-160. Additional operation and maintenance requirements.**

- Updated the section to specify the new Code requirement that dam owners shall not permit the growth of trees and other woody vegetation and shall remove any such vegetation from the slopes and crest of embankments and the emergency spillway area, and within a distance of 25 feet from the toe of the embankment and abutments of the dam.

Lines 1176 – 1198**4VAC50-20-165. Agricultural Exemption.**

- Created a new section stating that dams operated primarily for agricultural purposes which are less than 25 feet in height or which create a maximum impoundment capacity smaller than 100 acre-feet are exempt from the regulations.
- Established a non-mandatory owner exemption validation process.

Lines 1200 – 1227**4VAC50-20-170. Transfer of certificates.**

- Clarified that prior to the transfer of ownership of a permitted impounding structure the permittee shall notify the Director in writing and the new owner shall file a transfer notification with the Department.
- Established transfer notification requirements.

Lines 1374 – 1400**4VAC50-20-180. Inspections.**

- Updated the section to reflect new Code authorities related to inspections.
- Specified that during the maintenance, construction, or alteration of any dam or reservoir, the Director shall require the owner to perform, at the owner's expense, such work or tests as necessary to obtain information sufficient to enable the Director to determine whether conformity with the plans and specifications approved by the certificate is being secured.

Lines 1402 – 1405**4VAC50-20-190. Right to hearing.**

- Capitalized "Director" and "Board".

Lines 1407 – 1415**4VAC50-20-200. Enforcement.**

- Updated the section to reference the new enforcement authorities set out in the Code.

Lines 1417 – 1427

4VAC50-20-210. Consulting ~~boards~~ committee.

- Changed consulting “boards” to “committees”.

Lines 1429 – 1455

4VAC50-20-220. Unsafe conditions.

- Referenced the new Code section that discusses the designation of dams as unsafe.
- Specified under imminent danger that if an owner or the owner’s engineer has determined that circumstances are impacting the integrity of the impounding structure which could result in the imminent failure of the impounding structure, temporary repairs may be initiated prior to approval from the Board. The owner shall notify the Department within 24 hours of identifying the circumstances impacting the integrity of the impounding structure. Such emergency notification shall not relieve the owner of the need to obtain an alteration permit as soon as may be practicable, nor shall the owner take action beyond that necessary to address the emergency situation.

Lines 1457 – 1465

4VAC50-20-230. Complaints.

- Capitalized “Director” and “Board” and inserted “alteration”.

Lines 1469 – 1492

4VAC50-20-240. Design of structures.

- Specified that present and “planned” land-use conditions shall be considered in determining the runoff characteristics of the drainage area rather than present, “projected and potential future”.

Lines 1494 – 1501 Repealed

4VAC50-20-250. Design flood.

- Concepts were incorporated elsewhere in the document.

Lines 1503 – 1604

Minor Amendments were made to the following sections.

4VAC50-20-260. ~~Emergency spillway~~ Spillway design.

4VAC50-20-270. Principal spillways and outlet works.

4VAC50-20-280. Drain requirements.

4VAC50-20-290. Life of the impounding structure.

4VAC50-20-300. Additional design requirements.

4VAC50-20-310. Plans and specifications.

Lines 1606 – 1624

4VAC50-20-320. Acceptable design procedures and references.

- Specified that to ensure consistency of approach, within the major engineering disciplines of hydrology, hydraulics, soils and foundations, structures, and general civil design, criteria and approaches from multiple sources shall not be mixed for

- developing the design of a given feature or facility without approval of the Director.
In all cases the owner's engineer shall identify the source of the criteria.
- Added design procedures, manuals and criteria used by the United States Federal Energy Regulatory Commission.

Lines 1626 – 1634

4VAC50-20-330. Other applicable dam safety references.

- Added additional FEMA references related to EAP's Inflow Design Floods.

Attachment #2

Department of Conservation and Recreation
Report to the Virginia Soil & Water Conservation Board
November 15, 2006

1. DCR/SWCD Operational Funding:

All 47 SWCDs have endorsed a grant agreement with DCR for Operational funding this fiscal year ('07). Each district was issued an initial quarterly disbursement during August, second quarter disbursements are being issued to all districts during November.

This fiscal year (FY07), operational funding for all districts totals \$4,052,240. The total amount is the same as FY06 operational funding, however, FY07 funding is still roughly 6% less than the peak funding level experienced by districts in FY01 (\$4,301,000).

2. SWCD Audit Services:

The accounting firm of Robinson, Farmer, Cox Associates (RFCA) continues with field visits to SWCD offices to perform the necessary work for completion of district audits for the period that ended on June 30, 2006. Twenty-two districts will be audited by RFCA. Final audit reports will be provided to DCR towards the end of this calendar year.

3. SWCD Bonding Coverage:

This fiscal year is the second year of a 2-year contract for a surety bond policy for all SWCDs. The contract raises the deductible above the previous contract from \$5,000 to \$10,000 per claim, with an annual premium (paid by DCR) of nearly \$20,000 (twice previous rate). Information pertaining to these new arrangements was issued to all SWCDs through correspondence from Jack Frye in August, 2005. The recently updated "Desktop Guide for District Fiscal Operations" incorporates certain criteria SWCDs must fulfill in order to satisfy requirements of the insurance provider that carries the SWCD surety bond policy.

4. 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. A state level JED team meeting was held July 31, 2006 at the DOF state headquarters in Charlottesville. Follow up conference calls were conducted on August 21st, and October 21st.

The need to effectively collaborate among conservation partners is especially important with the addition of SWCD technical staff thanks to the \$2 million dollars appropriated by General Assembly this fiscal year and next. The additional SWCD technical staff will focus on implementation of agricultural BMPs. Training plans for newly employed staff are critical to rapidly advancing the "KSAs" (knowledge, skills and abilities) they will need to effectively perform their work activities.

Two “core” courses were scheduled in November. To accommodate SWCD technical staff SWCDs are continuing to employ over the next few months and hopefully fill every one of the 40 seats the course will accommodate, the Conservation Orientation for New Employees has been moved for delivery to February 26 through March 2, 2007. The Conservation Selling Skills course was held at the American Frontier Culture Museum near Staunton on November 1st and 2nd. Twenty-four employees of conservation partner agencies (primarily SWCDs) attended the session and provided excellent evaluations of the course. Further training needs continue to be assessed regionally through the 4 regional JED teams.

5. SWCD Dams:

The SWCD dam owner work group continues to meet and work on specific dam issues among districts. The last meeting was held on October 26, 2006 in Charlottesville at the DOF state headquarters. The focus of that session pertained to Emergency Action Plans. Attendance and participation by the group was very good with 10 of the 12 SWCDs owning dams having one or more representatives at the session. Now that most of the major training needs of the group have been addressed, a quarterly meeting frequency is scheduled. Of the roughly 4 meetings per year, one will address Emergency Action Plans, another will address routine maintenance of district dams and the remaining two meetings will address priority topic identified by the group. The group will meet again in January 2007.

6. Agricultural BMP Cost-Share Program:

The availability of the new 3-year contract practices and the increased financial allocations for BMPs continue to have major impacts on the current, 2007 program year. Emphasis this year (that began on July 1, 2006) is being placed on advancing farmer implementation of 5 agricultural conservation priorities. The priorities in no particular order are: livestock exclusion from state waters; vegetative riparian buffers; implementation of nutrient management plans; plantings of cover crops; and continuous no-till. Each SWCD received three different categories of cost-share financial allocations, with guidance as to which specific BMPs may be implemented for each allocation category.

Expected increases in practice implementation and the introduction of contract BMP necessitated development of a contract practice tracking program. The long standing BMP tracking program was migrated to Visual Basic and MY SQL to facilitate increased database processing speed and multi user capabilities. Both programs have been issued and districts across the state are entering program data. A second round of Ag. BMP cost-share program training was delivered to SWCDs during the last week in September and the first week in October. Addressing questions about new and changed practice specifications and data entry into the tracking programs were major topics during the trainings.

7. Conservation Reserve Enhancement Program (CREP):

New state CREP cost-share caps have stimulated interested in CREP enrollment. With less than eighteen months of guaranteed enrollment left, the push to sign up CREP participants

continues to be paramount. However, increases in state cost-share, and EQIP signup continue to compete for applicants. A revision of previously issued guidance on CREP buffering of sinkholes was issued in August. These changes are expected to further stimulate signup in the Southern Rivers Basins.

8. Stormwater Management:

DCR staff has issued coverage under the General Permit for Stormwater Discharges from Construction Activities to 920 projects since July 1, 2006.

9. Nutrient Management:

Nutrient Management practice information on the new Ag BMP Cost-Share Program practices were mailed to 100 certified planners. These were planners that have written plans in the last two years.

DCR staff held one meeting at Evers Restaurant in Mt. Crawford on October 10 to brief planners on new practices. 18 planners attended that meeting. Gary Moore and Mark Hollberg covered the practices and the procedures that relate to participating in these practices in great detail. Dave Kindig covered Key Changes in the regulations and Jay Marshall demonstrated NutMan 3.0 (the updated version of NutMan). Everyone agreed it was a very helpful meeting.

In the Coastal Plan area, some districts had meetings to introduce the new practices and invited some of the private sector planners to those meetings. The planners we have surveyed in this area feel confident they understand the practices. Therefore, at this time we are not planning additional meetings unless we find planners that express a training need that would justify a meeting.

Attachment #3

NRCS REPORT
VA Soil & Water Conservation Board Meeting
November 15, 2006
Association of Electric Cooperatives Offices
Glen Allen, VA

FARM BILL PROGRAMS

FINANCIAL (EQIP, WHIP)

Both the Environmental Quality Incentive Program (EQIP) and Wildlife Habitat Incentive Program (WHIP) concluded the end of the 2006 fiscal year with all available funds being obligated. This was over 12.3 million dollars for the programs combined.

Sign-up began for the FY 2007 program years on October 16. We will continue sign-up through December 15th. All applications will be evaluated and ranked by January 15, 2007; and approvals will be made by January 31, 2007. We hope to have all funding obligated by March 15, 2007.

Training has been held for all field staff on changes made to the practice list and a new automated ranking system.

STEWARDSHIP (CSP)

The Conservation Security Program (CSP) will continue in the four watersheds currently enrolled. Payments are scheduled to be made for the current year practices this month. One additional watershed, the Great Wicomico-Piankatank has been selected as eligible for the 2007 program. Sign-up in this watershed is dependant on the appropriation from congress in the 2007 budget.

EASEMENT (FRPP, GPR, and WRP)

Staff is currently working to close easements in the Farm and Ranchland Protection Program (FRPP), Grassland Protection Program (GRP), and Wetland Reserve Program (WRP).

Sign-up for the WRP is currently underway with the financial programs (EQIP and WHIP), and will run until December 15. There will be no GRP sign-up as this program is not being funded, and an Announcement of Program Funding (APF) will be issued when the budget allocations are finalized.

WATERSHED OPERATIONS

Buena Vista – NRCS has begun the surveying and design of the next phase of the project on the Indian Gap tributary. Items for implementation on Indian Gap include a debris basin, channel improvements and upgrades to two railroad crossings.

DAM REHABILITATION

Pohick Creek Site 4 (Royal Lake) – NRCS is working with Fairfax County to do a locally awarded contract to design and construct the dam rehabilitation of Pohick Creek Site 4 in Fairfax County. NRCS and the sponsors are awaiting the authorization of the dam rehabilitation plan by the NRCS Chief. Funds have been requested in FY-07 for the design and construction of this project. The Northern Virginia SWCD is also a project sponsor.