

MINUTES
NORTH CAROLINA
SOIL AND WATER CONSERVATION COMMISSION

Archdale Building
Ground Floor Hearing Room
512 N. Salisbury Street
Raleigh, N.C.
September 16, 2009

MEMBERS PRESENT

Don Cox
Manly West
Richard Smith
Bobby Stanley
James Ferguson
William Pickett, Jr.

OTHERS PRESENT

Pat Harris	David Williams
Mary K. Combs	Jennie Wilhelm Hauser
Michelle Raquet	Dick Fowler
Sandra Weitzel	Cecil Settle
Julie Henshaw	Dewitt Hardee
Kelly Ibrahim	Kristina Fischer
David Cash	Tom Hill
Lisa Fine	Jeff Harris
Michelle Lovejoy	Davis Ferguson
Jerry Dorsett	Bill Dunlap
Steve Bennett	Cindy Draughon
Chester Lowder	Ken Parks
Natalie Woolard	Merle Carr
Mel Nevils	Donna Stearns

SUMMARY OF ACTIONS TAKEN BY THE COMMISSION

1. The following supervisor appointments were **approved**:
 - Ben Hege of Davidson SWCD
 - Andy Myers of Rowan SWCD
 - Thomas Russell Fox of Yancey SWCD

2. The Commission **approved** the following supervisor contracts:
 - Eddie Vanderford of Martin SWCD –Contract #58-10-01-13
BMP: Pond Restoration-Sediment Removal - \$3,000

 - Doug Harrell of Mitchell SWCD–Contract #61-10-04-05 – BMP: Waste Application Equipment - \$5,250

 - Bruce Whitfield of Person SWCD –Contract #73-10-01-12 - BMP: Grassed Waterway and Field Borders - \$2,245

 - Thurston James of Pitt SWCD – Contract #74-10-05-13 – BMP: Crop Residue Management - \$7,500

 - David Hight of Warren SWCD – Contract #93-10-06-13 – BMP: Sod-Based Rotation - \$858.00

3. The Commission **approved** the Application for Designation as a “Technical Specialist” for Henry Lee Cherry, Jr. of Washington, North Carolina.

4. The Commission **approved** the request of the Division Director for delegated authority to approve the requests from districts to meet outside of their respective district boundaries.

5. The Commission **approved** the request of the Division Director to sign the minutes as approved for the Commission Chairman, incorporate any corrections as approved by the Commission, and insert the approval date on the document.

6. The Commission **approved** the request of Natalie Woolard, CREP Manager, to delegate the authority to the Division to refuse enrollment where water quality benefits do not justify the payments, or where the acquisition is impractical or nuisance conditions exist on the land.

7. The Commission **approved** a change in the Supervisor Travel allowance, reducing the allowed reimbursement for supervisors for all monthly board meetings by \$7.75 (the allowance for breakfast).

8. The Commission **approved** the recommendation of the TRC to modify the crop residue management incentive.

9. The Commission **approved** the recommendation of the TRC for modifications to the prescribed grazing incentive to allow a greater stocking rate so as to not exceed a limit of 30% external feed.
10. The Commission **approved** the recommendation of the TRC to modify the Conservation Irrigation Conversion practice to add a provision to encourage conversion of traveling gun irrigation systems to center-pivot or lateral move system with low-pressure or drop nozzles and to reduce the cap on this practice to \$15,000.
11. The Commission **approved** changes to the Detailed Implementation Plan in response to the previously approved TRC recommendations.
12. The Commission **approved** the Swain SWCD's extension request for Contract #87-07-141-07 in the amount of \$1,656.
13. The Commission **approved** the request for exception to average cost for well construction for Doug Bell in Gaston SWCD.
14. The Commission **approved** a new Policy for addressing non-compliance on cost share contracts.
15. The Commission **established** a cost share committee to review the process for allocating cost share funds to districts and to ensure appropriate accountability for cost share program implementation.
16. The Commission **approved** the proposal of the Division to use a hierarchy to respond to future reversion demands.

Preliminary Items

The September 16, 2009 meeting of the North Carolina Soil and Water Conservation Commission was held in the Ground Floor Hearing Room of the Archdale Building, 512 N. Salisbury Street, Raleigh, N.C.

Vice Chairman Richard Smith called the meeting to order at 9:10 a.m. He welcomed everyone to the meeting and asked that they introduce themselves.

Vice Chairman Smith charged the Commission members to declare any conflict of interest or appearance of conflict of interest that may exist for agenda items to be considered by the Commission as mandated by the State Ethics Act. None was noted.

Approval of Agenda

Commissioner William Pickett, Jr. made a motion to approve the agenda with Commissioner Manly West providing a second. The motion carried.

Approval of the Minutes

Commissioner Don Cox made a motion to approve the minutes as presented for July 15, 2009 and August 14, 2009. Commissioner Pickett provided a second. The motion carried.

INFORMATIONAL ITEMS
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Division Report

Division Director Pat Harris stated that a logo for the Commission had been created by Cindy Draughon, Public Information Officer. The Commission agreed to use this logo.

Director Harris introduced Jennie Wilhelm Hauser as counsel for the Commission. She is the Special Deputy Attorney General of the Environmental Division of the NC Department of Justice. She also introduced new employee, Tom Hill, who is now the Non-Point Source Planning Coordinator for the Division.

The 2009 Canon Envirothon was held at UNC Asheville. Forty-five states and 7 Canadian provinces participated. The “Sequoias “of West Johnson High School placed second behind the team from Pennsylvania. Area 4 Coordinator Steve Bennett was selected for the National Envirothon Hall of Fame.

Director Harris stated that the District Employees Workshop was a huge success. One hundred twelve district employees participated along with 7 district supervisors, 16 division staff and 11 representatives from outside agencies.

Director Harris spoke about the Cooperative Conservation Partnership Initiative (CCPI) in North Carolina. The division submitted a proposal to the NRCS state office to direct funding towards projects that would meet the criteria for lagoon conversions. NRCS approved the proposal for a \$1,180,000 grant to the division.

Director Harris presented the NC Conservation District Employee Training & Certification Initiative and the following points:

- Districts employ 270 individuals to promote voluntary natural resource management and conservation on the state’s working lands.
- FY 2008-09 the State provided \$2,719,838 as match to local governments to fund 116 district employees to administer conservation & education programs.
- NRCS has provided a majority of technical training but staff and budget constraints have limited their ability to provide these training opportunities.

- Districts objectives have become more diverse (e.g., community conservation)
- Comprehensive training needs exist for administrative, educational and technical district staff.
- National Association of State Conservation Agencies (NASCA) selected North Carolina as one of three pilot states.
- A strategic planning workgroup was formed_- 4 district, 2 division and 1 NRCS, facilitated by Ray Ledgerwood of NASCA.
- Developed objective for initiative , statement of need, plan of action and desired outcomes
- NASCA provided 2 scholarships for DSWC staff to participate in national meeting.
- Scheduled teleconference with other states to share information
- Objective: develop a sustainable, statewide, comprehensive, comprehensive training and certification program for district employees that will foster professional, qualified district staff to maintain the highest levels of customer service and program delivery

Director Harris introduced Michelle Lovejoy and Jerry Dorsett who have been working on the Working Lands Initiative. Ms. Lovejoy discussed the Working Lands Initiative guidance notebook. A copy was sent to all districts. The Altria Group Inc. sponsored a grant which enabled districts to be trained in writing grants. Ms. Lovejoy presented a copy of the notebook to Cecil Settle, NC Foundation for Soil and Water Conservation, on behalf of grant sponsor, the Altria Group, Inc. along with their expressed appreciation.

ASSOCIATION REPORT

Leadership Initiative - Commissioner/Association President Bill Pickett, Jr. announced that the NC Foundation for Soil Water Conservation received a grant from the Altria Group, Inc. to assist with the Leadership Initiative. Topics for sessions include Emerging Natural Resources, Environmental and Agricultural Issues; Organizational Structure of the Association and Commission; and Becoming an Effective Leader. The first session is planned for September 28-29 and will focus on Emerging Issues.

Strategic Planning - The NC Foundation for Soil and Water Conservation received a grant from the NC Agricultural Development and Farmland Preservation Trust Fund to help the Association prepare for the hiring of an Executive Director. An important step in the process is the development of a Strategic Plan. The Aycock Group has been hired to help in the process. Completion of the strategic planning process is anticipated for late winter or early spring in 2010.

Articles of Association and By-Laws Amendment - The By-laws Committee, chaired by District Supervisor Marvin Cavanaugh of Stokes County, is actively working on the next draft of the Articles of Association and Association By-Laws. Progress updates will be provided at the 2010 Annual Meeting for a vote.

Commissioner Pickett reported he had attended the SE NACD meeting. He said that former DSWC employee, Lynn Sprague, was selected for the SE NACD Hall of Fame.

NRCS REPORT

State Conservationist Mary Combs reported on the Environmental Quality Incentives Program (EQIP). The general EQIP program has obligated all funds for 2009 with the exception of a small number of contracts that remain in process due to vendor issues. The final amount of 2009 funds for general EQIP is \$12,544,377. The funding categories included Organic Farming, Air Quality, Forestry, Pasture, Cropland, Animal Headquarters, Socially Disadvantaged, and Beginning Farmer.

State Conservationist Combs stated that her Programs staff will soon begin preparing for the 2010 program and will be soliciting ideas from Districts and from all staff over the next 30 days.

NUTRIENT SENSITIVE WATERS STRATEGY UPDATE

Ms. Julie Henshaw reported that the Jordan Lake Nutrient Sensitive Waters Rules were adopted and were effective as of August 11, 2009. There are separate nitrogen and phosphorus percentage reduction goals for each of the three arms of Jordan Lake. The goals are as follows:

- Haw subwatershed – with 8% nitrogen and 5% phosphorous
- Upper New Hope subwatershed- 35% nitrogen and 5% phosphorous
- Lower New Hope subwatershed – no increase in nitrogen and phosphorus

She stated that the Agriculture Rule involves a collective strategy similar to the Neuse and Tar-Pamlico agricultural rules. The baseline will be the average nitrogen and phosphorus loss for the period 1997-2001. There will be a Watershed Oversight Committee, who must approve an accounting methodology within 2 years. The local plans need to try to achieve the watershed-specific reduction goals within 6 years. If the goals are not met within 9 years, then additional BMPs may be required by the Environmental Management Commission.

CONSENT AGENDA

Commissioner West made a motion to approve the Consent Agenda. Commissioner Pickett provided a second. The motion carried.

The following supervisor appointments were approved:

- Ben Hege filling the unexpired term of H. L. "Doc" Hill of Davidson SWCD.
- Andy Myers filling the unexpired term of J. Ben Knox of Rowan SWCD.
- Thomas Russell Fox filling the unexpired term of Claude Deyton of the Yancey SWCD.

The following ACSP contracts for a district supervisor were approved:

- Eddie Vanderford – Contract #58-10-01-13 –Martin SWCD -Pond Restoration – Sediment Removal -\$3,000.
- Doug Harrell –Contract #61-10-04-05 –Mitchell SWCD -Waste Application Equipment - \$5,250.
- Bruce Whitfield – Contract #73-10-01-12 –Person SWCD - Grassed Waterway and Field Borders - \$2,245.
- Thurston James –Contract #74-10-05-13 –Pitt SWCD- Crop Residue Management - \$7,500.
- David Hight – Contract #93-10-06-13 – Warren SWCD - Sod Based Rotation -\$858.

The following technical specialist was approved:

- Henry Lee Cherry, Jr. – Washington – Waste Utilization Planning/Nutrient Management

Request for Delegation Authority

Director Harris stated that the policy of the Commission for paying supervisor’s travel and per diem was updated and states: “A Supervisor shall be authorized to receive travel and per diem allowances for any local District Board meeting held outside the district in which she ordinarily serves, provided written approval is obtained from the Soil and Water Conservation Commission or its designee.”

Director Harris receives requests from districts to meet outside their respective district boundaries. To facilitate this process in a timely manner, Director Harris requested delegated authority to approve these requests on behalf of the Commission. For a request the director deems as excessive or unreasonable, the director will refer the request to the Commission for its approval.

Commissioner Cox made a motion to approve this request for delegation of authority. Commissioner Pickett provided a second. The motion carried.

Finalizing Commission Meeting Minutes

Director Harris requested the following: In accordance with Robert’s Rule, the minutes from a Commission meeting are approved by the Commission at its next meeting. To expedite distribution of approved minutes, to promote transparency by posting the approved minutes on the division’s website, and to better facilitate finalization of the minutes, the division director respectfully requests that after the Commission approves its minutes the director has the delegated authority to incorporate any corrections as approved by the Commission, insert the approval date on the document, and sign the minutes as approved for the Commission Chairman.

Commissioner West made a motion to adopt this request. Commissioner James Ferguson provided a second. The motion carried.

CREP Enrollments

Ms. Natalie Woolard, CREP Manager, stated that the Commission may refuse enrollment where water quality benefits do not justify the payments, or where the acquisition is impractical, or nuisance conditions exist on the land. According to 15A NCAC06G .0104, the Division has the final authority to approve CREP State contracts, but authority to deny the easement acquisition remains with the Commission. Ms. Woolard request that the Commission delegate the authority to the Division to refuse enrollment where water quality benefits do not justify the payments, where the acquisition is impractical due to title issues, or where nuisance conditions exist on the land.

Commissioner Ferguson made a motion to delegate authority to the Division to refuse enrollment. Commissioner Bobby Stanley provided a second, and the motion carried.

District Supervisor Travel Policies

Mr. Dick Fowler presented a power point on Budget Planning – Supervisor Travel. He spoke about the projected shortfall for fiscal year 2009-2010 which is nearly \$16,000. To eliminate the shortfall, the Commission considered several options. The Commission chose Option B which is to:

- Hold area spring meetings as usual
- Reduce allowed reimbursement for meals for all monthly board meetings by \$7.75 – the equivalent to the allowance for breakfast.

Commissioner Ferguson made a motion to approve Option B. Commissioner Stanley provided a second, and the motion carried.

TRC Recommendations

Mr. David Williams reported that the Technical Review Committee met on September 2, 2009 at the Farm Bureau State Office in Raleigh. The TRC offered three recommendations for the Commission's considerations.

Modifications to the Crop Residue Management Incentive

The TRC recommends that the Commission approve modifications to the crop residue management incentive. The change would clarify the purpose of the practice and better specify at which points the practice is to be inspected. The TRC recommended changes to the policies for this practice as follows:

- Clarify the definition/purpose to indicate the purpose is to maintain 60% ground cover at planting to protect water quality and improve soil quality.
- Two inspections of fields will be made prior to payment; one after fields are planted and the second before the soil is disturbed before planting subsequent crop.
- Eliminate the statement allowing light disking.
- Clarify that annual contracts do not have to be consecutive years and that up to three annual contracts per cooperator are allowed, not to exceed a total of \$15,000.

Commissioner Stanley made a motion to approve these modifications. Commissioner Pickett provided a second. The motion carried. Commissioner West asked for the record to reflect that he opposed the motion because the policy requires the inspection to be done after planting. He also asked for the minutes to include clarification that a field is the smallest unit of delineation by the Farm Service Agency, generally corresponding to a cut in fields drained by open ditches.

Modifications to the Prescribed Grazing Incentive

The TRC recommended that the Commission approve modifications to the prescribed grazing incentive to allow a greater stocking rate so as to not exceed a limit of allowing 30% external feed. This revision would match the 30% that NRCS has as its standard.

Also the cooperator can receive incentive of up to \$30 per acre per year for up to 3 years, not to exceed a lifetime cap of \$15,000 per applicant.

Commissioner Pickett made a motion to approve the prescribed grazing incentive. Commissioner West provided a second. The motion carried.

Modifications to the Conservation Irrigation Conversion Practice

Mr. Williams stated that the TRC recommended the Commission approve modifications to the Conservation Irrigation Conversion practice to add a provision to encourage conversion of traveling gun irrigation systems to center-pivot or lateral move system with low-pressure or drop nozzles. This change would provide up to \$250/acre for this conversion. The TRC also recommended reducing the maximum payment for this practice from \$25,000 to \$15,000.

Commissioner Stanley made a motion to approve the modifications to the Conservation Irrigation Conversion practice. Commissioner Pickett provided a second. The motion carried.

Mr. Williams invited the Commission to the next TRC meeting on November 3 in Raleigh.

Revisions to the Detailed Implementation Plan

Mr. Williams presented the changes that needed to be made on the Detailed Implementation Plan – Program Year 2010. They are:

- For Number #9, conservation irrigation conversion, the second sentence was modified to read: Cost Share for this practice cannot exceed a total \$15,000 charge to NCACSP at 75% cost share and \$18,000 at 90%, including the cost of backflow prevention.
- Number #14, crop residue management, now reads: Crop residue management means maintaining cover on sixty Percent (60%) of the soil surface for 12 consecutive months to protect water quality. Crop residue management also provides seasonal soil protection from wind and rain erosion, adds organic matter to the soil, conserves soil moisture, and improves filtration, aeration, and tilth. Benefits may include reduction in soil erosion, sedimentation and pollution from dissolved sediment-attached substances. Cost share for this incentive practice is limited to \$15,000 per cooperator in a lifetime.

Commissioner Cox made a motion to approve these changes. Commissioner Stanley provided a second and the motion carried.

ACSP Issues from Districts

Extension Request for 2007 ACSP Contracts

Ms. Michelle Raquet introduced district technician Amanda Buchanan of the Swain Soil and Water District and Clint Carson, Jr., Swain SWCD supervisor who joined the meeting via teleconference.

Ms. Buchanan reported that cooperator Mark Hyatt has 3 current ACSP contracts: Contract #87-09-141-07 and #87-07-141-07 designed for the purpose of installing 2 watering facilities as well as 2 spring developments on-site. A new PY09 contract #87-09-156-07 was approved by the Swain SWCD to drill an agricultural well - using funds from the Drought Response Program.

The tanks from contract #87-07-141-07 could not be installed until the well was installed. The proposed agricultural well was drilled April 27th, 2009.

Contract #87-07-141-07 needed to be completed and met by June 30th. The deadline was not met due to extenuating circumstances affecting both the cooperator and the district. The tanks were installed on July 7, 2009.

Swain SWCD wants to utilize PY 2010 funds to pay for the two tanks installed per the PY 2007 contract, a reimbursement of \$1,656.

Commissioner Ferguson made a motion to approve this extension request. Commissioner West provided a second and the motion carried.

Mediation Request Involving Renovation of Hayland

Ms. Raquet reported that Mr. Nelson Rowell had a BMP of pasture renovation. When the site was visited, instead of pasture the fields were hayland fields. As discussed at the previous Commission meeting, a letter was sent from the division to Mr. Rowell and to Union SWCD stating the right to appeal. The Division has not received a response from Mr. Rowell. Ms Raquet stated that she did not have any additional information to share at this time.

Request for Exception to Average Cost for Well Construction

Ms. Raquet stated that Alleghany SWCD had come to Cost Share requesting exception to average cost for well construction. After meeting with their board, they decided they would like to gather up more support items and be heard at the November commission meeting.

Ms. Raquet presented the request for exception to average cost for well construction for Gaston SWCD. Representatives from Gaston SWCD, Danon Lawson, Conservation Programs Administrator and Bill Craig, supervisor, joined the meeting via teleconference. They stated that during well installation at the Bell farm, the standard 6” PVC well casing normally used was found to be inadequate to withstand the strain from the soil. McCall Brothers, Inc. a NC certified well contractor installed 168 feet of galvanized steel pipe.

The Gaston Soil and Water Conservation District is requesting authorization to pay 75% of the actual cost \$2,856 for 168 feet of the galvanized pipe.

Commissioner Ferguson made a motion to allow exception to average cost at \$17 per linear foot. Commissioner Stanley provided s second and the motion carried.

Recommendations for Program Improvements

Mr. Williams presented a proposed Commission policy regarding a cooperator non-compliance with maintenance requirements for cost share contracts. Districts are not consistent in determining how many times a cooperator can be found in non-compliance before being asked to repay cost share funds.

The proposed Statement of Policy for addressing non-compliance on cost share contracts shall be as follows:

1. For cost share practices:
 - a. First time found out of compliance—districts sends written warning by certified mail within 30 calendar days to cooperator with notification to correct non-compliance within 30 calendar days, or repay a prorated amount of contracted funds (with reasonable consideration for vegetation re-establishment up to 12 months):
 - b. If cooperator restored compliance, but was found out of compliance a second time, then the district must require cooperator to pay pro-rated funds.
2. For incentive practices, districts must require the cooperator to repay 100% of funds the first time the cooperator is found out of compliance, unless the cooperator has failed to achieve compliance despite making a good-faith effort.

This policy applies to all cost share programs under the Commission's authority. (See Attachment#14)

Commissioner Pickett made a motion to approve this policy. Commissioner Stanley provided a second. The motion carried.

Mr. Williams requested that the Commission establish a committee for cost share. This Committee would look into issues involving failure to adhere to Commission policy and allocation of ACSP resources.

Commissioner Pickett made a motion that the Commission begins a cost share committee. Commissioner Stanley provided a second, and the motion carried.

Vice Chairman Smith appointed Commissioner West and Commissioner Cox as representatives from the Commission for the committee. Director Harris will appoint 3 division employees, a NRCS employee will be chosen, along with a district employee.

Hierarchy for Responding to Budget Reversion Demand

Mr. Williams reported that in FY 2008-2009 the Governor demanded a significant reversion of appropriated funds to respond to a budget emergency. Fortunately, the Division was able to meet the reversion by withholding funds that had not yet been allocated to districts by the Commission. The Commission approved a measure to impose an earlier deadline for funds allocated to districts to be encumbered to contracts to provide a means to respond to further budget reversions at the end of the fiscal year.

The Division proposes that the Commission would use the following hierarchy to respond to future reversion demands:

1. First, use a portion of unallocated funds from the state balance.
2. If necessary, recall funds allocated to districts but not encumbered to contracts with cooperators by some specific date/time. (SWCC Rule 15A NCAC 6E.0103 (d) specifies that the Commission can recall allocated funds at any time if needed to respond to a natural disaster or other emergency.)
3. If necessary, freeze work on all fully approved cost share contracts for which the cooperator has not yet begun work. Allow work to resume and payments to be made as soon as funds become available.
4. If necessary, freeze work on all fully approved cost share contracts, regardless of whether work has begun, but honor requests for payments for completed BMPs submitted by some specific date/time. Allow work to resume and payments to be made as soon as funds become available.
5. If necessary, freeze all payments, regardless of whether work has been completed. Make payments for completed work as soon as funds become available,

Commissioner West offered a motion for the Commission to use the above hierarchy to respond to reversion demands. Commissioner Pickett seconded the motion. The motion carried.

Public Comments

Ms. Merle J. Carr spoke to the Commission citing concerns about implementation of a cost share contract on her property in Chatham County. Vice Chairman Smith informed Ms. Carr that the Commission was not in a position to take any action on her concerns, but that it would instruct the Division to look into her concerns.



Patricia K. Harris, SWC Division Director



Donna L. Stearns, Hearing Clerk

These minutes were approved by the North Carolina Soil & Water Conservation Commission on November 18, 2009



Patricia K. Harris, SWC Division Director