

**Approval of Initial Actions to Evaluate Extent of Deficiencies in VACS Program Implementation at the Robert E. Lee Soil and Water Conservation District**

*§ 10.1-505. Duties of Board.*

In addition to other duties and powers conferred upon the Board, it shall have the following duties and powers:

3. To oversee the programs of the districts.

*§ 10.1-546.1. Delivery of Agricultural Best Management Practices Cost-Share Program.*

Districts shall locally deliver the Virginia Agricultural Best Management Practices Cost-Share Program described under § 10.1-2128.1, under the direction of the Board, as a means of promoting voluntary adoption of conservation management practices by farmers and land managers in support of the Department's nonpoint source pollution management program.

*FY2024 Cost-share and Technical Assistance Grant Agreement*

(10) COST-SHARE ALLOCATION AND DISTRIBUTION:

Cost-share shall be allocated to Districts in accordance with the *Policy and Procedures on Soil and Water Conservation District Cost-Share and Technical Assistance Funding Allocations (Fiscal Year 2024)* and shall be disbursed in accordance with the provisions of this Agreement and in the amounts set out or referenced in Attachment B. Department personnel will confer with District staff at least quarterly to determine their projected needs for cost-share payments for projected completed BMPs. Department personnel will generate a disbursement letter based upon their District's projected ninety-day needs and Agricultural BMP Tracking program data showing obligations. Cost-share payments to applicants shall be conducted in accordance with the Program Year 2024 Virginia Agricultural Cost Share (VACS) BMP Manual. Any application must meet appropriate technical agency standards and specifications of that practice before cost-share payment is made. Payment is issued after the participant and technical representative have certified practice installation in their Virginia BMP Incentives Contract. Information regarding cost-share payments made by Districts shall be entered into the BMP cost-share tracking database within one month of payments being rendered.

Background Information:

On November 20, 2023, the Department determined that the Robert E. Lee Soil and Water Conservation District (District) had provided payment to a producer for a structural practice that did not have an approved engineering plan, did not have as-built designs, and did not have a final practice inspection after construction was completed.

In January 2023, an Engineering Job Approval Authority (EJAA) review was conducted for the District's primary conservation specialist, Jonathan Wooldridge. In response to the issues found during that review, Mr. Wooldridge's EJAA was limited to investigation and evaluation (I&E); his EJAA for design and construction was removed. No other employee at the District has EJAA; therefore, all engineering plans, as-builts, and final practice inspections must be approved by Department's Agricultural BMP Engineering Services Program.

On October 16, 2023, the Department's Agricultural BMP Engineering Services Program received a request to review a livestock watering system design. After additional correspondence between Mr. Wooldridge and Department employee, Mr. Wooldridge was informed that the engineering review would take approximately two weeks. On November 20, 2023, as review of the engineering documents was nearly completed, it was determined that payment for the practice was provided to the producer on October 17, 2023. Additionally, the District falsely listed a Department employee as having approved a component of the practice. To date, the practice design has not been approved and several concerns have been identified with the design.

The failure to have practices appropriately designed and documented by individuals with the appropriate levels of EJAA is a violation of the District's cost-share and technical assistance grant agreement. Such failures increase the risks that a practice will not function as intended; enhance the likelihood for larger maintenance costs to be borne by the producer; reduce options to assist a producer with any future practice failures; and may cause harm to the reputation of the District and the VACS Program.

Recommended motion:

The Virginia Soil and Water Conservation Board (Board) directs the following actions to be taken in response to the severe deficiencies found in the administration of the Virginia Agricultural Best Management Cost-Share (VACS) Program at Robert E. Lee Soil and Water Conservation District (District):

1. The District is prohibited from issuing payment for any structural practices without the Department of Conservation and Recreation's written approval. The District's Conservation District Coordinator will coordinate with the Department's Agricultural BMP Engineering Services Program and the Agricultural Incentives Program Manager to provide notice of practices that are eligible for payment by the District Board on a monthly basis.
2. The Department will conduct a review of all structural practices that have been issued payment in FY2024, are in carryover status (approximately 20 practices), or have been approved by the District Board in FY2024 to determine if all the applicable VACS Program guidelines have been adhered to including requirements related to the design and approval of engineering plans, completion of as-built designs, and the final inspection of the practice by an authorized individual prior to payment being issued to the producer.
3. Any practices not yet under construction that are determined to have engineering plans designed and approved in accordance with the VACS Program guidelines will be eligible to proceed to construction.
4. For those practices not yet under construction that are determined to have either (i) no engineering plans or (ii) engineering plans that have not been designed and approved in accordance with the VACS Program guidelines, the Department's Agricultural BMP Engineering Services Program will work closely with District staff to ensure proper designs are developed, reviewed, and approved in accordance with the Program guidelines prior to initiation of construction.
5. Any practices that have been paid but failed to meet the VACS Program guidelines shall solely be the financial responsibility of the District. Additionally, the District bears the sole liability for any failure or issue(s) that arises from these practices. The District shall reimburse the Department

for any payments made for practices that were not implemented in accordance with the VACS Program guidelines.

6. For those practices that are currently under construction and do not have engineering plans designed and approved in accordance with the VACS Program guidelines, the producer will be encouraged to halt construction until the practice's engineering design is approved by the Department. These practices will receive priority for review by the Department's Agricultural BMP Engineering Services Program. Should the producer decide to continue with practice construction, they do so at their own risk. Any practices that continue with construction will solely be the financial and legal responsibility of the District and will be ineligible for payment from any cost-share allocations.
7. Department Manager(s) will attend a District Board meeting at their earliest opportunity to discuss the concerns of the Board and the Department regarding the administration of the VACS Program and any other relevant concerns.
8. At the March 2024 Board meeting, the Department will provide an update on the status of VACS Program administration at the District as well as any additional actions that may be warranted in response to the deficiencies found.

District Name	Contract Number	Practice Code	Status	Approved Cost Share Payment	Actual Instance Cost Share Payment	Total Cost Share Payments	Payment Dates
Robert E. Lee	10-22-0029	SL-6W	Complete	\$117,085.00	\$91,423.75	\$91,423.75	07/20/2023
Robert E. Lee	10-22-0031	SL-6W	Carryover	\$85,478.50	\$0.00		
Robert E. Lee	10-23-0043	SL-6W	Carryover	\$157,619.75	\$0.00		
Robert E. Lee	10-22-0001	SL-6W	Carryover	\$89,523.00	\$0.00		
Robert E. Lee	10-23-0041	SL-6W	Carryover	\$126,926.00	\$0.00		
Robert E. Lee	10-23-0038	SL-6W	Carryover	\$75,158.25	\$0.00		
Robert E. Lee	10-23-0039	SL-6W	Carryover	\$29,967.50	\$0.00		
Robert E. Lee	10-23-0040	SL-6W	Carryover	\$130,917.00	\$0.00		
Robert E. Lee	10-24-0001	SL-6W	Approved	\$28,825.00	\$0.00		
Robert E. Lee	10-23-0046	SL-6W	Carryover	\$90,487.28	\$0.00		
Robert E. Lee	10-23-0050	SL-6W	Carryover	\$73,115.50	\$0.00		
Robert E. Lee	10-23-0049	SL-6W	Carryover	\$102,419.75	\$0.00		
Robert E. Lee	10-23-0054	SL-6W	Carryover	\$62,380.00	\$0.00		
Robert E. Lee	10-23-0009	SL-6W	Carryover	\$121,996.00	\$0.00		
Robert E. Lee	10-23-0010	SL-6W	Carryover	\$230,450.00	\$0.00		
Robert E. Lee	10-23-0011	SL-6W	Complete	\$95,157.00	\$89,979.50	\$89,979.50	10/17/2023
Robert E. Lee	10-23-0012	SL-6W	Complete	\$111,417.58	\$78,776.84	\$78,776.84	10/16/2023
Robert E. Lee	10-23-0055	SL-6W	Carryover	\$118,580.00	\$0.00		
Robert E. Lee	10-23-0056	SL-6W	Carryover	\$109,535.00	\$0.00		
Robert E. Lee	10-23-0057	SL-6W	Carryover	\$44,274.00	\$0.00		
Robert E. Lee	10-23-0059	SL-6W	Carryover	\$137,418.50	\$0.00		
Robert E. Lee	10-24-0003	SL-6W	Approved	\$36,528.00	\$0.00		
Totals				\$2,175,258.61	\$260,180.09	\$260,180.09	

Tracking screenshot RE Lee SWCD

Bottenfield, Sara (DCR) <Sara.Bottenfield@dcr.virginia.gov>

Tue 11/28/2023 9:52 AM

To:WATLINGTON JONES, Christine (DCR) <Christine.Watlington@dcr.virginia.gov>

Here is the screenshot from Tracking (Contract 10-23-0011, BMP ID 507106) with Tracy entered as the person approving. Date/time in lower right.

EJAA Approval		Contract Year 1
Were components installed that required EJAA? (Yes/No) *		Yes
EJAA Component and Person Approving (1) (Text)		Culbertson 516 pipeline
EJAA Component and Person Approving (2) (Text)		
EJAA Component and Person Approving (3) (Text)		
EJAA Component and Person Approving (4) (Text)		
EJAA Component and Person Approving (5) (Text)		

District Specific Info (Optional)		Contract Year 1
Staff Recommendation (Yes/No/Discuss)		<< Select One >>
Ranking (Count)		
Total Area Grazed (Acres)		
Potential Approval Date (Date)		
SWCD Assigned Staff (Text)		

1:47 PM  
11/20/2023

**Sara Bottenfield**

Agricultural Incentives Program Manager

Virginia Department of Conservation & Recreation

Division of Soil & Water Conservation

600 E. Main Street, 4th Floor | Richmond, VA 23219

(804)221-2555 | [sara.bottenfield@dcr.virginia.gov](mailto:sara.bottenfield@dcr.virginia.gov)



Frank N. Stovall  
*Deputy Director  
for Operations*

Darryl Glover  
*Deputy Director for  
Dam Safety,  
Floodplain Management and  
Soil and Water Conservation*

Laura Ellis  
*Interim Deputy Director for  
Administration and Finance*

**COMMONWEALTH of VIRGINIA**  
**DEPARTMENT OF CONSERVATION AND RECREATION**

January 5, 2023

Jonathan Wooldrige  
Robert E. Lee SWCD

RE: Engineering Job Approval Authority (EJAA) Review

Mr. Wooldrige,

Thank you for your cooperation during your EJAA review on December 19, 2022. Please find the attached EJAA Certification Sheet. There are a few things to note:

- Do not sign off on projects outside of your EJAA.
- The pumping plant (pressure switch/pressure tank etc.) should be designed by the district not the well driller (pump sized by well driller/pump installer).
- Pressure tanks need to be properly sized for the project.
- Do not use USGS/Tracking elevations to complete designs as the contour lines are 20' contours and are not accurate. Use lidar information or 4' or better contours for pressure systems. Gravity systems must be surveyed.
- Document all materials and installation, including but not limited to stone, piping, pressure tanks, pressure switches, pumping plants, well information, depth of pipe, pipe materials, trough type, concrete reinforcement, concrete tickets, etc.
- Include photos in folder, not just grouped on a camera's SD Card with many other projects.
- Include T&E documentation in your folders.
- When completing as-builts, document any change in material (for instance different stone installed then planned, even if it is acceptable).
- When completing as-builts, show all changes to the layout and revise the calculations if necessary (for instance relocating or removing cross fencing and troughs).
- Input elevations accurately on the livestock watering system worksheet or the calculations will be inaccurate and may lead to operational and maintenance issues.
- Make sure that the cover page has the appropriate landowner, contractor, as-built etc. signatures.
- Do not hesitate to ask me questions about any designs or planning that you have.

Based on these issues you will no longer have design or as-built EJAA and will need to work with DCR staff to complete designs and as-builts moving forward. Once you have completed several projects with DCR you will have the opportunity to receive further EJAA at the next review. Your next review will be January of 2024.

If you should have any questions or concerns, please do not hesitate to contact me at 540-553-6263.

Sincerely,

A handwritten signature in blue ink, reading "Benjamin S. Chester". The signature is fluid and cursive, with the first name "Benjamin" being larger and more prominent than the last name "Chester".

Benjamin S. Chester, PE  
Ag BMP Engineer  
Division of Soil and Water Conservation