

NYS Soil & Water Conservation Committee
1 Winners Circle, Albany, NY 12235 – Telephone (518) 457-3738

STATE COMMITTEE MEETING

January 30, 2003 – Utica, NY

Present: D. Hill, Chair; R. Aman, C. Yunker, G. Proios, Voting Members; R. Kaplewicz, Director; M. Latham, Assistant Director; E. Dodd, J. Schumacher, Staff; T. Brace, Wyoming SWCD, L. Miller, Dutchess SWCD; R. Zimmerman, S. Hall Peak, R. Christensen, J. Rusnica, D. Cordier, NYSDAM; B. Silvestri, B. Steinmuller, Schenectady SWCD; G. Chartier, NYSDEC; J. Del Vecchio, R. Lewis, USDA NRCS; L. Travis, NYCDEA; A. Cartin, NYACD, J. Herring, NYSDOS; P. Kaczmarczyk, NYSDOH.

Call To Order

Meeting convened at 10:15 a.m.
Introductions were made.

Review Minutes

R. Aman moved to approve the December 2002 minutes with the corrections submitted by J. Rusnica; seconded by G. Proios. Motion passed; carried.

Correspondence – R. Kaplewicz

Letters & Memos

1. From C. Joseph Newberg, Chair of the NACD Great Lakes Committee, to Ron Kaplewicz, letter of thanks for the State Committee's presentation at their fall meeting. December 11, 2002.
2. From Richard I. Coombe, Chair and CEO of the Watershed Agricultural Council, to Ron Kaplewicz, regarding Alan White's resignation as the WAC Executive Director. January 9, 2003.
3. From Susan A. Henry, Dean of Agriculture and Life Sciences at Cornell University, to Dennis Hill, regarding the appointment of Professor Danny Fox as the new Advisory Member of the NYSSWCC. January 8, 2003.
4. From Joseph M. Gregela, President of NYACD, to Melissa Hammond, TSP Coordinator for NRCS, draft comment on the USDA-NRCS Interim Rule in regards to Technical Service Providers.
5. Memo from Robert K. Davis, to State Forest Stewardship Coordinating Committee Members, regarding the State Priority Plan for implementation of the Forest Land Enhancement Program. Attached is the second draft of the State Priority plan for consideration and comment. January 22, 2003.

Reports & News Letters

1. Buffer Notes, Introducing Florida's CREP. November 2002.
2. CTIC Partners, *National Tillage Survey, Farm Bill Changes: A Look At the New EQIP*. November/December 2002.
3. What's Cropping Up? *Mesotrione-A New Herbicide and Mode of Action. Volume 12, Number 6, Nov-DEC., 2002.*
4. Monroe County Water Quality Management Agency Annual Report 2002
5. NASCA Update, *Notes from President Ray Beck, Annual Meeting Update*. December 2002.
6. CDEA News, Employee Evaluations, Streams and then Some...December 2002.
7. NACD News and Views, The Next Golden Age of Conservation, Conservation Districts' Battle for Technical Assistance Continues. November-December 2002.
8. USDA-Economic Research Service, Income, Wealth, and the Economic Well-Being of Farm Households. Report Number 812.

Conferences & Seminars

1. Soil and Water Conservation Society, 2003 Annual Conference, July 26-30, 2003, Spokane Convention Center, Spokane, Washington.
2. A National Conference, Urban Storm Water Enhancing Programs at the Local Level, February 17-20, 2003, The Westin Michigan Avenue, Chicago, Illinois.
3. The Groundwater Pollution and Hydrology Course, East Coast, February 10-14, 2003, Orlando Florida, West Coast, February 24-28, 2003, San Francisco, California.
4. Stormwater Workshop Series, Winter/Spring 2003, Dutchess County, Holiday Inn, Fishkill, NY.

Annual Plans

Annual plans from the following Districts were approved: Allegany, Cayuga, Delaware, Genesee, Hamilton, Oneida, Ontario, and Oswego.

Agricultural NPS Abatement and Control Grant Program-E. Dodd **STATUS OF ROUNDS I-VIII**

Of 275 projects, 119 are active and 156 are complete. All Round VIII projects are active. There is still one pending contract in Round VI and one in Round VII.

ROUND IX

Of the 37 projects funded through Round IX, plans of work have been submitted for 16 and contract development is in progress.

At the last State Committee meeting, we discussed awarding funding to one or two additional projects through Round IX. It appears that enough money will be available in the next month or two to fund two more projects.

AMENDMENT REQUESTS

For State Committee Consideration

1. Tioga County SWCD – Pipe Creek Ag Waste Project – Round VII (C700667)

Request: remove two BMPs and transfer funds to another BMP

Reason: farm relocation made two BMPs unnecessary

Previous Amendments: none

C. Yunker moved to approve the amendment; seconded by G. Proios. Motion passed; carried. R. Aman recused himself from voting.

2. Schoharie County SWCD – CAFO Farm Implementation – Round IX (44-2)

Request: change BMPs on four farms

Reason: further planning and EQIP funding caused reconsideration of BMPs

Previous Amendments: none – still in contract development stage

C. Yunker moved to approve the change; seconded by R. Aman. Motion passed; carried.

Staff Approved

1. Broome County SWCD – Rotational Grazing, Susquehanna East & Nanticoke WS – Round VII (C700620)

Request: no-cost time extension from 3/31/03 to 3/31/04

Reason: additional time needed to complete implementation

Approved by J. Schumacher, 12/29/02

2. Broome County SWCD – E. Susquehanna River Basin CNMP – Round VII (C700621)

Request: no-cost time extension from 3/31/03 to 3/31/04

Reason: additional time needed for CNMPs for medium CAFOs

Approved by J. Schumacher, 12/29/02

3. Cayuga County SWCD – Twin Birch Dairy Anaerobic Digestion System – Round VII (C700054)
Request: no-cost time extension from 3/31/03 to 3/31/04
Reason: additional time needed to resolve operational problems
Approved by J. Schumacher, 1/21/03
4. Columbia County SWCD – Mill Creek Liquid Manure Composting – Round VII (C700049)
Request: no-cost time extension from 3/31/03 to 9/30/03
Reason: weather-related delays
Approved by L. Miller/E. Dodd, 1/27/03
5. Erie County SWCD – Upper Buffalo River WS Project, Phase II – Round VI (C700604)
Request: no-cost time extension from 12/31/02 to 12/31/03
Reason: additional time needed to complete BMPs
Approved by T. Brace/E. Dodd, 1/10/03
6. Niagara County SWCD – Twelvemile Creek Ag Assessment & Pollution Abatement – Round VI (C700614)
Request: no-cost time extension from 12/31/02 to 12/31/03
Reason: additional time needed to complete tiered planning and BMPs
Approved by T. Brace/E. Dodd, 1/23/03
7. Orleans County SWCD – Johnson Creek Implementation Project, Phase 2 – Round VII (C700646)
Request: no-cost time extension from 3/31/03 to 3/31/04
Reason: design delays, financial constraints, etc. delayed implementation
Approved by T. Brace/E. Dodd, 1/10/03
8. Rensselaer County SWCD – Tomhannock Watershed Partner II – Round V (C700575)
Request: no-cost time extension from 12/31/02 to 6/30/03
Reason: additional time needed to complete BMPs
Approved by L. Miller/E. Dodd, 1/23/03
9. Steuben County SWCD – Chemung River Basin Prescribed Grazing – Round VIII (C700695)
Request: change one landowner
Reason: landowner withdrew because of financial difficulties
Approved by T. Brace/E. Dodd, 1/10/03
10. Steuben County SWCD – Steuben County CNMP Project – Round VII (C700653)
Request: add one landowner
Reason: funds remaining from completed farms
Approved by T. Brace/E. Dodd, 1/10/03
11. Suffolk County SWCD – Duck Farm CAFO Planning – Round VII (T700654)
Request: no-cost time extension from 12/31/02 to 6/15/03
Reason: awaiting planning decisions from landowner
Approved by L. Miller/E. Dodd, 1/10/03
12. Tompkins County SWCD – Mgmt Intensive Grazing, Cayuga & Owasco WS – Round VII (C700051)
Request: change two landowners, change BMP on one farm
Reason: unable to complete projects on original farms
Approved by J. Schumacher, 1/6/03
13. Tompkins County SWCD – Owasco Lake Inlet WS Protection Implementation – Round IX (51-1)
Request: remove part of one landowner's project and add three new landowners
Reason: original landowner could not use full grant allocation
Approved by J. Schumacher, 1/22/03

14. Ulster County SWCD – Wallkill-Rondout Nutrient Management Implementation – Round VI (C700606)

Request: no-cost time extension from 3/31/03 to 3/31/04

Reason: additional time needed to complete projects

Approved by L. Miller/E. Dodd, 1/10/03

15. Westchester County SWCD – Ag NPS Pollution Assessment & GIS, Croton/Kenisco – Round VI (C700598)

Request: no-cost time extension from 12/31/02 to 12/31/03

Reason: delays in subcontracting process

Approved by L. Miller/E. Dodd, 1/27/03

NEW PROCEDURES

E. Dodd distributed a copy of the two new procedures that will be instituted:

AEM Tier 1 & 2 Final Report Requirements

The new reporting requirements are for final reports for Ag NPS grants through Round IX (and subsequent rounds) that include Tier 1 and/or Tier 2 activities. These requirements were developed for two reasons: As the number of planning grants increase, we need to ensure that final reports provide consistent information. Also, with the advent of the AEM GIS initiative, we need to institute the reporting of locations and basic statistics on farms participating in AEM. The Round IX RFP explained that new final report requirements would be instituted.

Discussion ensued regarding finalizing the AEM Tier 1 and 2 final report requirements. L. Travis noted that tracking farms in a statewide database may create a level of concern with participants and he raises the question of how Districts will be able to assure confidentiality. G. Chartier noted that the federal Office of Management and Budget (OMB) is critical of the Environmental Protection Agency's (EPA) management of the Federal NPS program and this reporting requirement will help track program goals and effectiveness to secure future funding for AEM in New York State.

G. Proios moved to authorize the staff to collect AEM data for the purpose of assessing the effectiveness and progress of the program and that all attempts be made to ensure this information can be integrated into a unified database. This resolution in no way undermines the confidentiality provisions specified in NYS AEM Legislation; seconded by C. Yunker. Motion denied; D. Hill and R. Aman dissenting.

Motion was not required, the AEM Tier 1 and 2 final report requirements were approved through the Round IX RFP.

• **Procurement Guidelines**

When Districts make purchases, they must still follow their District procurement policies. This guideline describes the minimum requirements for purchases made by farm owners/operators. We will no longer require that farm owners/operators follow the District procurement policy; instead, the District must simply ensure that the minimum requirements are upheld. The District always has the option of instituting additional measures to ensure that farm owners/operators make cost-effective purchases.

POLICY ISSUES

As discussed at the last meeting, concerns have been raised over a proposed anaerobic digester project in Cayuga County. It is unclear whether certain aspects of the project fit within the intent of the grant program.

Several policy questions were raised that the State Committee considered:

1. Is it acceptable to invest state funds in a BMP if a previous grant addressed the same pollutant from the same source?

Discussion ensued regarding the acceptability to invest state funds in a BMP if a previous grant addressed the same pollutant from the same source. It was decided that it could be possible. However, a decision on this issue will be made on a case by case basis. As a result, the wording of the policy question was changed to read "Is it **possible**...

G. Proios moved that it is possible to invest state funds in a BMP if a previous grant addressed the same pollutant from the same source if analysis and documentation exists of why the problem still exists; seconded by C. Yunker. Motion passed; carried.

2. Is it acceptable for a BMP to be located on a farm but owned and operated by an outside company? Is it acceptable for the "landowner" match to be contributed by the company?

Discussion ensued regarding the acceptability of a BMP to be located on a farm but owned and operated by an outside company. It was decided that this issue will also need to be decided on a case by case basis. As a result, the wording of the policy question was changed to read "Is it **possible**...

C. Yunker moved that it is possible for a BMP to be located on a farm but owned and operated by an outside company and it is possible for the "landowner" match to be contributed by the company; seconded by G. Proios. Motion passed; carried.

3. How should the Committee protect its investment in an emerging technology (performance bond, bench-top study)?

Discussion ensued regarding how the Committee should protect its investment in an emerging technology. The point that the grant program does not fund Research and Development projects was raised. It was noted that acceptable BMPs may incorporate some innovative technology, but still be allowable under the constraints of the program. R. Aman said that a performance bond may be requested as one step in the process to protect the state's investment in these cases. M. Latham added that the Districts, as the grant sponsor, may have to be the entity that holds the bond.

G. Proios moved that the State Committee and Department of Agriculture and Markets' staff look at projects on a case by case basis and assure that the appropriate safeguards to protect its investment in an emerging technology are secure in each contract; seconded by R. Aman. Motion passed; carried.

G. Proios moved that the Technical Advisory Committee and State Committee staff will move forward with addressing the technical and procedural issues of the Cayuga County project in order to determine whether it can be funded; seconded by C. Yunker. Motion passed; carried.

Stormwater Subcommittee Update-G. Proios, L. Miller

G. Proios raised four policy issues for the Committee's consideration.

- **Liability** - Are Districts covered under current law to manage stormwater activities?
- **Reimbursement** – The State Committee must assure that the reimbursement for stormwater related projects will be at the highest rate possible (75%).
- **AEM and Stormwater Conflicts** – How does the State Committee deal with potential competition for resources between AEM and Stormwater activities.

- **Training** – The State Committee must assure access to programs, agendas, current information, etc. via a more proactive approach to the State Committee website.

L. Miller noted that the State Committee may want to seek further clarification on the DEC's response to the agricultural waiver request for farms that are already implementing water quality improvement projects. M. Latham suggested that the State Committee, with the assistance of the DAM's Counsel's office, redirect the question so that it can be answered in the original format that it was asked.

C. Yunker, with the consensus of the Committee, suggested that a letter should be sent to the DEC requiring additional clarification on the agricultural waiver request response.

G. Chartier distributed copies of the Construction Permit and NOI, the MS4 Permit and NOI, and the Designation Criteria for MS4s. He advised the Committee that the documents can be accessed on the DEC's website.

L. Miller reported that 43 Districts responded to the Stormwater Phase II Participation Survey. 41 Districts plan to participate in delivering the Phase II Program; 1 District does not plan to participate, and one is unsure. The average amount of staff time that is foreseen to be spent on Phase II implementation is 23%.

G. Chartier reported on the outreach activities related to Stormwater. He distributed the DEC's Stormwater Outreach and Public Participation Plan. B. Silvestri discussed updating the State Committee's website to include a link to the Stormwater Program and other NPS priorities.

Principals' Meeting-R. Zimmerman

R. Zimmerman suggested that the Principals' meeting be developed for the September 2003 State Committee meeting date at a place to be determined. He suggested that it be an abbreviated meeting with an opportunity to show and tell the Committee's accomplishments. He added that it should be orientated toward agricultural initiatives. Commissioner Rudgers will assist in garnering participation among the Principals.

Review of Draft Cooperative Agreement with NYSDEC-R. Kaplewicz, M. Latham, G. Chartier

The FFY 02 draft Cooperative Agreement was provided and discussed by M. Latham. The agreement is similar to previous years, but does provide enhancement for stormwater with the addition of a large contingency fund. If accepted, this will be the largest agreement ever entered into between the DAM, State Committee and the DEC. A detailed budget summary will be discussed at future meetings.

Technical Service Providers Interim Rule Discussion- L. Travis, A. Cartin, R. Kaplewicz

R. Kaplewicz advised the Committee that representatives of the State Committee, NRCS, NYCDEA, and NYACD discussed the Technical Service Provider Interim Rule. As federal conservation program funding increases to historic levels, the need for technical assistance will far exceed the resources of NRCS. The Technical Service Provider Interim Rule will set up a mechanism for technical assistance by the private sector. A. Cartin noted that the rule does not appear to be friendly to SWCDs and is slanted toward private sector involvement. L. Travis questioned the cost effectiveness of the Rule. He noted that a mechanism for Districts to provide technical assistance is already in place in NYS and technical assistance from the private sector is limited. G. Proios agreed that if the goals of this new initiative include making technical assistance more cost effective, then Districts should be able to meet that goal. J. Del Vecchio advised the Committee that the rule has been developed because existing NRCS and District staff will not be enough to support the expanding programs. He added that the provisions of the Farm Bill include technical assistance participation by the federal government, private

conservation organizations and state and local government agencies. He noted that one of the main differences to the new rule is in the methodology of payment that will, under the interim rule, allow NRCS to pay private sector partners directly if the program participant (landowner) submits an assignment of payment form. Del Vecchio also assured the Committee that every landowner will be able to choose their technical assistance provider.

It is the concern of NYACD, NYCDEA and the State Committee that this and other provisions of the interim rule may result in eroding the successful relationship between NRCS and Districts. C. Yunker noted that the Committee should not be predisposed to thinking that all private sector TSPs are out to take over the duties of Districts. J. Schumacher reminded the Committee of its commitment to the CNMP certification process and the important role that private sector planners are filling in NYS. R. Zimmerman stressed the importance of creating and maintaining a level playing field between private sector and District involvement.

CAFO Update - R. Kaplewicz, R. Zimmerman

R. Kaplewicz advised the Committee that the EPA's Final CAFO Rule came out on December 15, 2002. One major difference is in how to determine the number of livestock that comprises a CAFO. There will no longer be an animal unit calculation. A large CAFO must have at least 700 mature dairy cattle. Medium CAFOs will have to have at least 200 mature dairy cattle. R. Zimmerman noted that the CAFO workgroup met earlier in the month and the general consensus was to offer greater flexibility to the state program as it does with the new federal rule. R. Kaplewicz advised the Committee that there will be more discussion on how the federal CAFO rule will affect the state program.

Other Reports and Comments – All

R. Kaplewicz distributed a handout on USDA FSA accomplishments for FY' 2002. He also noted that the Committee is moving forward with the development of an odor report complaint form to be used at the county level. He also announced the next NACD Legislative conference to be held on March 17-19, 2003 in Washington D.C. He asked that a State Committee member as well as a staff member attend this session.

R. Aman spoke about two conferences that he attended. The first one, in Riverdale, Maryland, focused on global warming, carbon credits and sequestration and methane digester technology. The second conference R. Aman spoke of was NYSERDA's Innovations in Agriculture. R. Aman advised the Committee that the net metering legislation that was recently passed in NYS will not result in any direct payments for farmers. It was explained at the conference that farmers will receive vouchers or credits that can be used toward future energy bills.

A. Cartin told the Committee that NYACD will be discussing District accomplishments and future opportunities at the Annual Legislative Days on February 24-25, 2003.

L. Travis reminded the Committee of the upcoming Annual Water Quality Symposium to be held on March 11-14, 2003 at the Binghamton Regency in Binghamton, NY.

M. Latham spoke about the AEM GIS proposal. Latham is seeking State Committee members' participation at the planning group meeting on March 20th.

J. Del Vecchio advised the Committee that the new EQIP Rule is out for comment. Comments are due at the end of February.

G. Proios spoke about NASCA's Strategic Plan. He advised the Committee that the Agricultural Economic Commission will be hosting a dinner on February 12th. Commissioner Rudgers will be speaking.

G. Chartier commented on the status of 319 spending. He noted that there will be a 2.9% reduction in spending this year. He advised the Committee that P. Bishop will be facilitating the discussion on the spending of the ag. portion. There will be 7 action items totaling \$413,000, including enhancing AEM and a cost analysis for CAFO compliance. Chartier told the Committee that the FY' 2003-2004 recommended budget for the EPF is \$125 million. The FY' 2003-2004 recommended budget for NPS is \$4 million. He added that the FY' 2002-2003 NPS budget was \$5.5 million with a supplemental budget of \$6 million, totaling 11.5 million.

P. Kaczmarcek spoke about SWAP. He advised the committee that public meetings on Long Island will occur on February 4th and 5th.

R. Zimmerman advised the Committee that the Governor's proposed state budget this year totals approximately \$90 billion.

Proposed Budget totals:

- EPF (NPS) - \$4 million
- Farmland Protection – \$5.5 million
- FLOWPA - \$1 million
- Historic Barn Preservation - \$750,000
- Land Acquisition - \$30 million
- Grow New York program - \$1.3 million

Zimmerman also advised the Committee that Commissioner Rudgers is in Washington D.C. seeking a Congressional Earmark for Conservation funding in NYS.

B. Silvestri distributed a copy of the web calendar that includes dates of upcoming meetings, workshops and conferences (www.agmkt.state.ny.us/SoilWater/home.html).

The next meeting is scheduled for Tuesday, March 11th, 2003 at the Binghamton Regency, beginning at 10:00 AM.

Meeting adjourned at 4:00 p.m.