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

### STATE COMMITTEE MEETING

July 16, 2003, Albany

**Present:** D. Hill, C. Yunker, G. Proios, R. Aman, Voting Members; R. Kaplewicz, Executive Director; B. Steinmuller, Schenectady County SWCD; A. Wright, SWCC Intern, R. Lewis, S. Machovec, NRCS; L. Hurtgen, Farm Bureau; E. Svenson, J. Ten Eyck, SWCC Staff; J. Rusnica, R. Zimmerman, S. Collins, D. Cordier, NYS Dept. of Ag & Markets; G. Chartier, L. King NYS DEC; P. Kaczmarczyk, NYS DOH; D. Fox, Cornell; K. Lewis, NYSCDEA; B. Schwabenbauer, FSA; R. Brower, Essex County SWCD.

#### Call to Order

D. Hill called the meeting to order at 10:23. Introductions were made.

#### Review/Approval of Minutes

**C. Yunker moved to approve the June 2003 minutes; seconded by R. Aman. Motion passed; carried.**

#### Correspondence - R. Kaplewicz

R. Kaplewicz advised the Committee that the agenda has been announced for the NASCA Annual Meeting, to be held on September 10-12 in Colorado Springs. R. Kaplewicz distributed copies of Pro-Dairy's publication, "The Manager", which includes a comprehensive article on dairy's public image, written by CCE Senior Extension Agent, Lee Telega.

1. From Robert K. Davies, NYS DEC, to SFSCC Members Herbert Boyce, Dr. Peter Smallidge, Ronald Pedersen, and Regional Foresters P. Trotta, D. Smith and W. Cooper. Subject of memo: Forest Land Enhancement Program – Practice component costs. **Memo dated June 10, 2003.**
2. From Daniel J. Palm, Executive Director, Watershed Agricultural Council announcing the appointment of Kevin Brazill as Watershed Forestry Program Manager. **Letter dated June 9, 2003.**
3. From Joel D. Holtrop, Deputy Chief State and Private Forestry, USDA, seeking nominations to fill four positions on the National Urban and Community Forestry Advisory Council. The Council serves in an advisory capacity to the Secretary of Agriculture on the urban and community forestry program. **Letter dated June 24, 2003.**
4. From Sandra Allen, Director, Division of Water, NYS DEC to Dennis Hill, Chair, SWCC, regarding a draft memorandum of understanding for implementation of Agricultural Best Management Practices in conformance with the State Pollutant Discharge Elimination System general permit for stormwater discharges from construction activity. **Letter dated July 7, 2003.**

#### Reports & News Letters

1. Erosion control grants to improve water quality. Great Lakes Commission Media Advisory. June 9, 2003.
2. State Priority Plan for the implementation of the Forest Land Enhancement Program (FLEP).
3. **Draft:** New York FLEP Practices: Landowner Forest Stewardship Plans (LFSP).
4. **Keeping New York's Waters Pure** – Financial and Technical Assistance Guide to Programs for Rural Community Water & Sewer Infrastructure Development and Water Quality Management. Published by NYS Legislative Commission on Rural Resources – **Spring 2003.**
5. **USDA: Linking Land Quality, Agricultural Productivity, and Food Security**, Agricultural Economic Report Number 823.
6. **What's Cropping Up?** – A newsletter for New York field crops and soils. **Volume 13, Number 3, May-June, 2003.**
7. **Buffer Notes – April 2003.**
8. **New York Fruit Tree and Vineyard Survey 2001.**
9. **FYI** – Soil and Water Conservation Districts in New York State – **July 2003.**
10. **USDA Inside Agroforestry – Spring 2003.**

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11. CDEA News – June 2003.
12. Rural Futures – The NYS Legislative Commission on Rural Resources Newsletter – July/August 2003.

## Conferences & Seminars.

1. Preliminary Program Schedule – Registration – **International Conference On Remediation of Contaminated Sediments. September 30 – October 3, 2003. Venice, Italy.**

## **Ag. Nonpoint Source Abatement and Control Program** – E. Svenson

**STATUS OF ROUNDS I-VIII**-Of 275 projects, 103 are active and 172 are complete. All Round VIII projects are active. There is one pending contract in Round VI and one in Round VII.

**ROUND IX**-Plans of work have been submitted for all 37 projects originally funded through Round IX, and contract development is in progress. 21 contracts are fully executed. An additional two projects are being funded through the Bond Act in Suffolk County.

Sufficient unused funds remain from the Round IX appropriation and returned funds from previous rounds to fund five additional projects proposed through Round IX. Pending department approval, award letters will be sent out for the following projects:

Cayuga	5-5	Fessenden Manure Management Project
Tioga	50-3	Rotational Grazing Implementation, Upper Susquehanna Watershed
Cortland	11-2	Knapp Farm Composting
Suffolk	48-1	Irrigation Wellhead Protection
Ontario	33-2	Canandaigua Lake Watershed Ag Program Phase V (partial funding)

**ROUND X**-The Technical Advisory Committee has met twice to discuss changes for the Round X RFP. Steps are being taken to ensure there is no appearance of conflict of interest in the RFP process. When this is resolved, the RFP will be available for review and approval.

**CNMP Policy**-As a policy issue, the TAC recommends that the state follow NRCS's new policy of only requiring a full CNMP when implementing an agricultural waste storage facility. Discussion ensued. It was noted that this policy determination is practical because the lack of resources available may make it difficult for farmers to pay for a CNMP as a prerequisite to implementing BMPs. A CNMP requirement could deter farmers from implementing BMPs. It was stated that CNMPs may be required for smaller farms in the future, so it is important to maintain a strong planning component for the AEM program. It was also noted that the rationale for changing planning requirements should not be driven by the economy; it should be water quality driven. If changing the planning requirement leads to more water quality practices being implemented than the State Committee should embrace the policy change. Still, others on the Committee felt that Tier 3 planning is important because it allows one to see the big picture on a farm. By implementing a barnyard practice, but ignoring nutrient application on the fields, a potential water quality risk could remain. It was decided to monitor the impact of the new policy. It was stated that even if CNMPs are not required for some practices, Tier 3 planning is still recommended for the entire farm.

**Grant Compatibility Initiative**-A discussion took place in May regarding the compatibility of the EQIP and Ag. NPS grant programs. The two programs are growing increasingly similar on eligible projects and expenses.

Several areas for action were identified:

1. NRCS could increase the EQIP point bonus for completing AEM Tier II.
2. NYS could provide greater resources for AEM planning as a way to increase farms' competitiveness for federal and state implementation funding.
3. NYS's AEM Technical Subcommittee could work with NRCS to make sure AEM worksheets meet the needs of EQIP and other Farm Bill programs.

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4. AEM Watershed Site Evaluation worksheet could be better utilized by both programs to see how proposed activities fit in to watershed needs. A recommendation on use of this worksheet for EQIP scoring could be developed.
5. NYS could compile models of program combination at the local/watershed level.
6. NYS could time state grant applications to follow EQIP decisions so that unfunded projects can be considered for state funding applications.

## AMENDMENT REQUESTS → MOTIONS NEEDED

1. Schuyler SWCD – Seneca Lake Pollution Abatement in 6 Subwatersheds, Stage II – Round IX – 45-1  
*Request 1:* change one landowner and implement only one BMP on the new farm instead of two (funds reduced accordingly)  
*Reason 1:* original landowner unable to meet match; new farm only needs one BMP  
*Request 2:* change a BMP on one farm  
*Reason 2:* BMP was inaccurately named in the proposal  
*Request 3:* change budget to slightly decrease landowner match and slightly increase state share  
*Reason 3:* an error in the proposal made the landowner match unreasonably high; the District reduced state share for their time and increased their match to help compensate

**G. Proios moved to approve this amendment; seconded by C. Yunker. Motion passed; carried.**

2. Suffolk SWCD – Wellhead Protection Demonstration Project – Round VII – C700655  
*Request:* remove petroleum storage BMP, use funds for larger pesticide handling facility  
*Reason:* landowner change resulted in need for larger pesticide handling facility  
*Previous amendments:* one time extension  
*(Time extension and landowner change approved by staff.)*

**R. Aman moved to approve this amendment; seconded by C. Yunker. Motion passed; carried.**  
**G. Proios recused himself.**

## Staff Approved Amendments

1. Cayuga SWCD – Rotational Grazing Implementation in Cayuga & Owasco Lake – Round IX – 51-2  
*Request:* change one landowner  
*Reason:* landowner voluntarily withdrew  
*Approved by J. Schumacher, 7/7/03*
2. Erie SWCD – Eighteenmile Creek Ag Planning Grant – Round IX – 14-2  
*Request:* change two landowners  
*Reason:* one withdrew for financial reasons; the other farm changed ownership  
*Approved by T. Brace/E. Svenson, 7/11/03*
3. Orange SWCD – Nutrient Management in the Walkkill Watershed – Round VII – C700645  
*Request:* time extension from 6/30/03 to 9/30/03  
*Reason:* additional time needed to complete project  
*Approved by L. Miller/E. Svenson, 7/11/03*
4. Sullivan SWCD – Callicoon Creek Watershed Comprehensive Program – Round VII – C700656  
*Request:* time extension from 6/30/03 to 9/30/03  
*Reason:* rainy weather delayed work  
*Approved by L. Miller/E. Svenson, 7/11/03*
5. Tompkins SWCD – Eastern Susquehanna Basin Management Intensive Grazing – Round VII – C700658  
*Request:* change three landowners

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*Reason: landowners withdrew voluntarily – two were unable to meet match requirements  
Approved by J. Schumacher, 6/27/03*

6. Yates SWCD – Keuka Lake Watershed AEM Pilot Project, Tier IV Implementation – Round VI – C700602

*Request: add two landowners*

*Reason: funds remaining from completed projects*

*Approved by T. Brace/E. Svenson, 7/15/03*

## **Stormwater Subcommittee**-G. Proios

**Upcoming Funding Opportunities-** G. Chartier reported that the Request for Proposals for EPF is currently being printed. The target date for releasing the RFP is July 30<sup>th</sup> and proposals will be due September 30, 2003. Municipalities and SWCDs will be eligible for funding. These grants will focus on assisting MS4 Communities to develop and implement their Stormwater Management Plans. The Division of Water will not be hosting information sessions related to this RFP.

Clarification was made on the next round of mini-grants. At this time, the details of eligible projects are still unknown. The request for proposals has not been written yet, but will include multiple funding levels and a non-competitive discretionary funding level, as it has in the past. G. Chartier will recommend a meeting to discuss ideas for mini-grant levels.

**Stormwater Specialist Positions-** The position descriptions for the five Stormwater Specialist positions have been completed. Minor revisions may be needed to ensure liability concerns are addressed to the maximum extent possible. The State Committee has requested the DEC prepare an inter-personal agreement for these positions as liability protection for the five SWCDs that will administer these contracts.

**Stormwater Liability Concerns-** The Counsel's office at Ag. and Markets has suggested that the SWCC invite Pat Martinelli from the Attorney General's office to attend a future State Committee meeting to discuss SWCD liability as it relates to the Stormwater Program. G. Proios will take the lead on researching past opinions on liability questions prior to this meeting. In addition, it was discussed that the SWCC staff should continue to promote general liability/risk management to the SWCDs.

**SWCD Non-Ag. Reimbursement-** The Stormwater Committee reviewed a draft outline of the non-ag. reimbursement procedure. Minor revisions are needed for clarification and liability purposes. *The draft will be shared with Regional DEC Water Engineers and will be presented at a future State Committee for endorsement.*

**Stormwater Education Needs-** Ideas for SWCD and District Director training sessions were discussed. Although many opportunities for erosion and sediment/stormwater certification training have been provided, the State Committee will continue to make all possible efforts to provide these opportunities. Adding a review session for the Certified Professional in Erosion and Sediment Control, followed by the certification exam was discussed as a possible training opportunity at the 2004 Water Quality Symposium. The need to provide Stormwater training to District Directors was also mentioned.

## **Principals Meeting**-R. Zimmerman

The Principals meeting is scheduled for September 16<sup>th</sup>. R. Zimmerman advised the Committee that the Department is moving forward with the details. Invitations have gone out and response has been positive. A State Committee meeting is scheduled on the following day. R. Zimmerman encouraged the advisory members to let the Department know if there are others within their agencies and organizations that should be invited

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## **Agricultural Environmental Management**-J. Ten Eyck

### AEM Subcommittee Reports

**Certification**-Thirty-two planners have been certified, 25 have conditional certification with 17 of the 25 having submitted plans for review. Nine of the 17 have at least one plan approved. The subcommittee has offered to provide CNMP awareness training for DEC employees involved in CAFO inspections and ag. complaint response. The subcommittee is working to improve groundwater contamination risk reduction through tool development and education of planners. Upcoming meetings of the subcommittee will address CNMP implementation.

**Technical**-Work progresses on the Odor Reporting and Response Procedure. The draft Air Quality Worksheet will be presented to the State Committee no later than October for review and approval. A workgroup of field personnel has been assembled to develop the protocol for odor complaint response.

**Outreach**-Work continues on the priority areas of the AEM Stewardship Curriculum.

**Evaluation**-The subcommittee is preparing for the Phase II AEM GIS Pilot Project which involves Tier II data collection in the Otsego Lake and Upper Susquehanna watersheds.

**Steering**-The AEM Steering subcommittee has been working on the development of a draft Strategic Plan for AEM.

### Long Term Strategy

The draft Long Term Strategy includes a list of four long term goals as well as objectives on how to reach those goals. The State Committee offered feedback and R. Zimmerman suggested some minor language changes. The finalized Long Term Strategy will be presented at the Principals Meeting in September.

### **CREP**-R. Kaplewicz

The Department has made some minor language changes to the CREP agreement between the State Committee, Ag. and Markets, and the USDA. The final CREP agreement is expected to be signed later this year. The agreement is for a five-year term, but USDA's intention is to extend the agreement until goals are met. Discussion ensued regarding outreach strategies and how payments to Districts for technical assistance will be made. It was noted that this agreement closely mirrors those from other states where a program is already in place. It was also noted that flexibility on how the program is implemented still exists after the final agreement is signed.

**G. Proios moved to reaffirm support for the agreement allowing the staff to make any necessary changes; seconded by R. Aman. Motion passed; carried.**

### **CAFO**-J. Ten Eyck

J. Ten Eyck distributed a CAFO status report. The DEC has received a total of 651 NOIs. Out of that total, 135 are considered large CAFOs and 516 are considered medium CAFOs. 134 large CAFOs have completed their CNMPs. 197 medium CAFOs have completed their CNMPs. Permit renewal activities are underway. The current CAFO permit will expire on 7/1/04 and must be renewed with components of the new Federal CAFO Rule incorporated.

Timeline for renewal:

- |                                       |            |
|---------------------------------------|------------|
| ▪ Identify key issues to be addressed | 7/14/2003  |
| ▪ Department internal draft of permit | 10/15/2003 |
| ▪ Public notice                       | 2/1/2004   |
| ▪ Renewed Permit                      | 7/1/2004   |

Key issues include:

- Change from animal units (au) to herd thresholds
- Defining "discharge" for medium CAFOs (benefits and protections of the permit must be clearly defined as well)

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- Exit strategy for 52 operations that may no longer be CAFOs
- Erosion control
- Use of voluntary AEM Program to address simple environmental concerns and keeping potential medium CAFOs out of the regulatory program, if they so choose
- Differences in record keeping between large and medium CAFOs
- Implementation strategy

DEC will be sending a letter to 52 CAFOs that may no longer qualify as CAFOs under the new rule. The letter will ask for current herd numbers and ask them to be patient until more information is available.

### **Other Reports and Comments**

S. Machovec advised the Committee that NRCS in New York State has obligated all its available funds for this fiscal year. He also advised the Committee of the potential office consolidations to occur around the state. Currently NRCS is reviewing information; a determination will be made after October 1<sup>st</sup>. NRCS is working on an exclusionary amendment to the Technical Service Provider (TSP) rule that allows Districts to provide technical assistance without becoming a registered TSP. NRCS has been successful in retaining the mail and supply clerk function through a competitive outsourcing project. S. Machovec asked R. Kaplewicz to supply NRCS with AEM materials to be displayed at their exhibit for the State Fair.

E. Svenson introduced Amanda Wright, summer intern for the State Committee. Ms. Wright has been doing an outstanding job assisting with the development of visual communication tools, reports and newsletters.

D. Fox stated that not all farms in NYS are CAFOs and the State Committee must support getting AEM to as many farms in NYS as possible.

L. Hurtgen mentioned that the NYS Farm Bureau is looking forward to working with the CAFO Workgroup on the new permit. L. Hurtgen also advised the Committee that the NYS Farm Bureau is working on the FSA loan guarantee issue.

R. Zimmerman noted that the Department of Ag. and Markets and the DEC are discussing the agricultural and nonagricultural split in the nonpoint source portion of the EPF.

R. Kaplewicz distributed information regarding county appropriations for SWCDs.

Meeting adjourned at 3:00 p.m.

Next meeting will be held in Albany on August 19<sup>th</sup> at 10:00 a.m.