

NYS Soil & Water Conservation Committee
10B Airline Drive, Albany NY 12235 – Telephone (518) 457-3738

STATE COMMITTEE MEETING
May 18, 2004—Utica

Present: D. Hill, G. Proios, B. Aman, Voting Members; R. Kaplewicz, Executive Director; M. Latham, Assistant Director; J. Ten Eyck, L. Miller, M. Moore, J. Schumacher, B. Silvestri, B. Steinmuller, SWCC Staff; D. Cordier, R. Moore, R. Zimmerman, NYSDAM; G. Chartier, A. Eaton, NYSDEC; S. Machovec, NRCS; K. Lewis, NYSCDEA; A. Barber, NYSCDEA, Cortland SWCD; L. Coffin, R. Lewis, NYACD; K. Czymmek, S. Telega, CCE; D. Fox, Cornell; P. Black, SUNY ESF; J. Tauzel, NYFB.

Call to order

D. Hill called the meeting to order at 10:30 a.m. Introductions were made.

Review/Approval of Minutes

G. Proios moved to approve the minutes of the April meeting with corrections submitted by D. Hill; seconded by B. Aman. Motion passed; carried.

Correspondence – R. Kaplewicz

Letters & Memos

1. Letter to Jim Unser, USDA-NRSC Troy, NY, and Richard Martin, USDA-NRCS Cobleskill, NY, from Marilyn Stephenson, USDA-NRCS Albany, NY, thanking them for assisting the NYS SWCC staff in the review and updating of CREP Hydrologic Unit Codes. Letters dated April 23, 2004.
2. Letter to Governor George Pataki, NYSDAM Commissioner Nathan Rudgers, SWCC Chair Dennis Hill, and SWCC Director Ron Kaplewicz, from State Committee voting member At-Large, C. Yunker, respectfully submitting is resignation from the Committee.

Reports & News Letters

1. NASCA Update – April 2004
2. NACD News & Views, March/April 2004

Conferences & Seminars

1. Watershed 2004 –WEF 2004 Specialty Conference Series. July 11-14, 2004 at the Hyatt Regency Dearborn, Dearborn, Michigan.

Discussion

R. Kaplewicz took the opportunity to thank everyone who participated in the process of going through the recommendations for eligible Watersheds for CREP.

At the request of Chairman D. Hill, R. Kaplewicz will prepare a letter, on behalf of the State Committee, thanking C. Yunker for his hard work and dedication to the State Committee.

R. Zimmerman commented that C. Yunker resigned due to his over-commitment in numerous areas. R. Zimmerman expressed that C. Yunker commended the Committee for its work and noted that it was an honor for him to participate.

R. Zimmerman noted that they have begun the process of filling the now vacant At-Large position. Nominees for that position can be submitted to R. Zimmerman.

The point was made that the committee is now down a voting member. B. Aman wondered if there was any way to move forward on the process of reappointment before a resignation is officially submitted. R. Zimmerman recognized that appointments to the State Committee can be a lengthy process.

R. Kaplewicz noted that since B. Aman has recused himself from Round XI discussions, and there are only three of the four remaining voting members present at the meeting, no decisions regarding Round XI

could be made at this meeting. Discussion ensued regarding the idea of allowing alternate voting members to serve on the committee. D. Cordier noted that this could potentially require a statute change. **B. Aman moved to ask D. Cordier to explore available options within the statute, and research possible changes to the statute, to accommodate the Committee's concerns with regards to expediting the reappointment of voting members, as well as the appointment of alternate voting members; seconded by G. Proios. Motion passed; carried.**

Ag Non-point Source Abatement and Control Program – B. Steinmuller

Status of Round IX

Of 321 projects, 129 are active, 3 are pending, and 189 are complete. All originally funded Round IX projects are active. An additional two projects are being funded through the Bond Act in Suffolk County, and five additional projects were awarded EPF funds. Contract development is continuing for these Round IX projects. There is one pending contract in Round VI and one in Round VII. A meeting has been scheduled to discuss how the scope of the pending Round VII project has changed.

Round X

The EPF grant awards for Round X were announced on March 22, 2004. Through Round X, a total of 31 projects were funded for a grant total of \$6,134,000. The deadline to submit plans of work for those projects was extended to June 1st.

Staff Approved Amendments

1. Madison SWCD – Oneida Lake Watershed Ag. NPS Reduction Project – Round IX – C700712
Request 1: change of landowners
Reason 1: one landowner has sold farm, and one is selling farm
Request 2: change BMPs
Reason 2: the BMPs for the new farms were identified as a priority by the AEM planning process
Approved by J. Schumacher 5/14/04

2. Madison SWCD – Oneida Lake Watershed Grazing Initiative – Round IX – C700713
Request 1: change of landowners
Reason 1: landowner has sold farm
Request 1: change BMPs
Reason 2: the BMPs for the new farm was identified as a priority through AEM Tier IIIB planning
Approved by J. Schumacher 5/14/04

J. Schumacher suggested that the Committee investigate the possibility of greater staff involvement in approving amendments dealing with grazing projects due to their expansive nature.

R. Kaplewicz agreed that it might be appropriate for the Committee Staff to take on greater responsibility and report back to the Committee, with respect to amendments. Discussion ensued with regards to the amendment process and how multiple amendments could possibly alter the original intent of the project selected.

It was the consensus of the Committee that J. Schumacher work with B. Steinmuller and other staff to have a recommendation prepared for the July Committee meeting.

Round XI

Please note: B. Aman recused himself from Round XI, and a quorum cannot be upheld. However, the Committee agreed that discussion on Round XI would be appropriate even though no voting would take place at this meeting.

B. Steinmuller distributed a proposal to establish non-competitive funding for AEM Tier 1 and 2 by dedicating \$600,000 from the annual agricultural allocation of the Environmental Protection Fund (EPF). The proposal provides funding for Districts to provide direct AEM inventory and assessment services to producers in the form of non-competitive grants. The State Committee endorsed this concept at the April

20th, 2004 meeting and gave its staff the authority to develop a proposal on how to accomplish the TAC's recommendation.

B. Steinmuller reviewed the benefits to establishing non-competitive funding for AEM.

The TAC also recommended, and the State Committee previously endorsed, requiring that AEM Tier II assessments, at a minimum, be completed on farms prior to applying for funds for BMP implementation through the competitive Round XI process.

B. Steinmuller distributed the TAC meeting notes from the May 17th meeting held in Marcy, NY. Four major recommendations to the current draft of the proposal were reviewed.

Level of Funding

The TAC recommended that dedicating \$600,000 from this year's EPF, regardless of the outcome of the agricultural allocation, is necessary to achieve program goals.

Tier 3a

The TAC also recommended that funding Tier 3a natural resource plans should be eligible through this program. This will allow greater flexibility for Districts that identify a need to address a natural resource concern on a single farm, providing that they have made an attempt to complete Tier 1 and 2 on every farm within the watershed. The TAC suggested that the State Committee staff research the average cost associated with developing a Tier 3a plan and establish a cost-share rate for completing such a plan. Tier 3a-c, planning, along with Tier 4, implementation, will also remain eligible under the competitive Round XI RFP.

Updating Tier 2 Assessments

The TAC recommends making updating a Tier 2 assessment every three years an eligible expense through this program. This will help assure that the information is current and a documented need still exists before a farm proceeds with implementing a recommended BMP.

Term of Contract

The TAC recommends that the work under these contracts should not exceed 12 months. A District can only have two contracts open at one time. This will allow ample time to close out the active grant while applying and receiving funds for the subsequent year.

R. Kaplewicz said that dedicated funding for AEM assessments is a progressive approach to establish a base for making strategic implementation decisions. He also stated that a dedicated funding source for AEM assessments may provide a foundation for linking federal and state conservation programs to better serve the financial and technical assistance needs of farmers, which is also a long term goal of the State Committee.

G. Proios wondered approximately how many farms would need to be assessed, and how many years of dedicated funding would be required. G. Proios wants to make sure that the Committee is not caught in a cycle of only completing inventories and assessments without any implementation. B. Steinmuller replied that the proposal would allow for redoing assessments on farms to keep the information current, which will provide a foundation for receiving funds for implementation through federal and state programs.

A. Barber commended the staff for this proposal and said that the Committee should not assume that the burden for completing assessments will fall on District staff alone.

S. Machovec believed that NRCS would support this concept and said that this proposal seems to be well thought out.

R. Zimmerman asked for clarification on the fact that this proposal would not completely eliminate money for planning in the competitive process because Tier 3a-c would still be eligible to compete for competitive funding. K. Lewis replied that assessment will not be a part of the competitive process, only the farm specific plans of Tier 3a-c and Tier 4 implementation.

Discussion continued.

J. Tauzel asked if this was going to be a reimbursement program and if the cost sharing portion of this program would include in-kind farmer time. He also asked if there would be a cutoff date for available funds. M. Latham said that the Districts may receive a 25% advance. B. Steinmuller added that districts may be able to submit a voucher for the remaining funds when they submit progress reports. R. Kaplewicz assured that in-kind contributions would be considered a matchable contribution. R. Kaplewicz also mentioned that remaining money could roll over into implementation.

G. Proios said that in order to receive continued funding, Congressional supporters need to be more involved in the process so they can feel that they have a vested interest in the program.

A. Barber reminded the Committee to keep in mind that the local Districts' capacity for assessment needs to be built up. Districts need to know if they are reaching the priority farms and then pass this information along to the Committee and other Districts.

K. Lewis noted that the SWCC asked for suggestions on how to make the Ag. NPS program better. He feels that the proposal will make the program better and is the next logical step to assist in AEM planning. He hopes that the Committee will adopt these changes for Round XI.

R. Kaplewicz restated that this proposal is a major change to consider but it is something that SWCDs have been asking for, for a long time. He also appreciated the thoughtful discussion that the Committee was conducting on this issue.

Round XI Request For Proposals (RFP)

B. Steinmuller reviewed the Round XI RFP for competitive funding and the TAC's recommendations.

Bob Aman rejoined the meeting at this time.

Land Use Planning—Developing a strategy – R. Kaplewicz

The Committee reviewed N. Rudgers comments on land use planning from the April 20th, 2004 meeting.

R. Kaplewicz asked the State Committee if it is prepared to address N. Rudgers challenge of becoming involved with protecting the state's agricultural resources from development pressures. R. Zimmerman added that N. Rudgers wanted to challenge conventional thinking and asked the Committee to brainstorm to see what recommendations can be made.

G. Proios suggested that a sub-committee be established to review this issue. He felt that we should examine who, not only in NY, but in other states have addressed the agricultural issues we face. He added that the Department of State's (DOS) Quality Communities section on Farmland should be recognized by the State Committee as a viable program to address this issue. G. Proios also felt that the State Committee should somehow become a part of the decision making process in regards to land use planning. G. Proios also thought that the Committee may need to provide an educational forum to the Districts in order to further inform and educate them on this issue.

D. Hill suggested that a questionnaire or survey be sent to the Districts to see if they would like to be involved and in what capacity.

K. Lewis pointed out that Community Environmental Management (CEM) is a perfect tool to advance the goal of farmland protection and has already been endorsed by the State Committee. K. Lewis suggested that NYSDAM use CEM as a possible tool for addressing the Commissioner's request.

Discussion ensued about possible models which could address land use planning issues.

A. Barber reiterated the need to be careful how a survey would be worded and presented to the districts. She felt that it would be a great opportunity for districts to put their ideas in but they will need further education before they can be asked to make recommendations.

G. Chartier suggested surveying County Water Quality Coordinating Committees as well. D. Hill suggested that a subcommittee be established to come up with a survey. He recommended that a representative be present from the State Committee, the Committee Staff, DAM, and the Districts. P. Black volunteered. R. Zimmerman questioned whether or not the subcommittee should have a broader representation than what the State Committee has at this time. M. Latham suggested that a broader Subcommittee may be needed further down the road, but should not be developed until the Committee determines what role they want to play. R. Kaplewicz agreed that the first step would be to formulate some questions in order to find out what is needed at the local level. R. Lewis suggested that Managers meetings might be an appropriate way to present the issue and get some feedback. He also suggested that a joint division meeting would be a good forum to make a presentation on this issue.

The Committee further discussed the ways to address land use planning and how to involve local Districts in this initial investigation into the SWCC's involvement.

R. Kaplewicz said that the State Committee Staff will come up with a forum for feedback and discussion on this issue and will report back to the Committee after the issue has been presented to Districts through Managers meetings.

Medium CAFO's: Determination and Compliance Issues – J. Ten Eyck, A. Eaton, L. Telega
J. Ten Eyck alerted the Committee that all medium CAFOs will have to have their CNMP complete by June 30, 2004. J. Ten Eyck reported that currently approximately half of all medium CAFOs have not submitted an Appendix B, which indicates a completed CNMP for their operation.

L. Telega handed out a preliminary survey which attempted to quantify the number of Medium CAFOs that will not meet the June 30th deadline. His report indicated that DEC's CAFO database currently shows 250 Medium CAFOs that have not filed an Appendix B. A letter, containing four questions and the listed farms for that county, was sent to a District Manager or CNMP planner and the field crop or dairy Extension Agent in each county having farms on the list. 23 counties responded, covering 127 of the 250 farms on the DEC list. The survey also asked for the number of farms in their county that should be in the CAFO Permit program, but had not filed a Notice of Intent (NOI). The survey results were meant to help DEC conceptualize how they are going to deal with compliance issues. Recognizing the limitations of the information collected, it can be inferred that there will be approximately 100 farms which may be out of compliance on June 30, 2004. The majority of the farms are well on the way to completing a plan, with an estimated 60% needing another 3 months. Another 15-20% may need up to 6 more months to complete their plan. Approximately 20% of these farms have no intention of completing a CNMP. The survey also suggests that most farms are aware of the approaching deadline.

The Committee discussed the survey results and K. Czymmek commended L. Telega for his work on this survey. J. Ten Eyck told the Committee that counties should encourage farmers to keep working on completing the CNMPs by the June 30th deadline.

Discussion shifted to how DEC intends to identify farms that have made no attempt to comply with the permit. The question was asked where resources would be better allocated; finding and dealing with non-compliance, or regulating the farms that are on their way to compliance. B. Aman shared his concerns that some farmers may be driven out of business with impending compliance strategy.

A. Eaton assured the Committee that all possible CAFOs were notified of the new criteria and were advised to file a Notice of Termination (NOT) if their operation no longer applies under the new CAFO criteria. DEC has also sent out a letter notifying CAFOs of their intent to enforce compliance. A. Eaton said that DEC is going to try to seek out operations that never filed a NOI, and penalties will be more severe for those who have made no attempt to comply if a problem should arise. B. Aman told the Committee that DEC needs to educate the farmers on the benefits of the permit protection. The point was made that farmers should be given certain protections for complying with CAFO regulations.

A. Eaton distributed a copy of the "Draft CAFO Permit '2004' for Permit Renewal NYSDEC General SPDES Permit for CAFOs" for the Committee to review.

AEM Report – J. Ten Eyck

The Committee was supplied with Final Drafts of Tier 2 worksheets for Livestock Odor Management, and the Greenhouse Management Series (six in all).

B. Aman moved to accept the Livestock Odor Management Worksheet; seconded by G. Proios. Motion Passed; carried

G. Proios moved to accept the series of six Greenhouse Worksheets with two caveats: First that the subcommittee will fine tune them, and second that additional input may be provided; seconded by B. Aman. Motion Passed; carried.

Other Program Updates

CREP– R. Kaplewicz

R. Kaplewicz attended the CREP Steering Committee meeting last week. R. Kaplewicz advised the Committee that the Districts' requests for additional eligible HUCs were reviewed by an interagency team and the results will be shared as soon as possible. He said that the Steering Committee heard a presentation by a representative from SUNY College of Environmental Science and Forestry (ESF) on the use of willows on CREP farms.

G. Proios said that the Committee should reconsider the 1000 foot protection radius around a well-head because it may not adequately remedy the problem. He suggested that it take into consideration where the water is flowing to and from.

G. Proios will draft a resolution to be presented at a later meeting regarding this issue.

Stormwater – L. Miller

L. Miller reported that the Stormwater Subcommittee had a meeting on May 17th, 2004 Deb Caraco is the new Stormwater Management Specialist that will be assisting Don Lake. Deb is currently working on updating the DOS/DEC Power Point Presentations for Planning Boards and Local Officials. Deb has also been working to establish the Stormwater Cadre which will assist with meeting local training needs statewide.

Stormwater Specialist Positions

The new Stormwater specialists have been on the job for about a month now, and DEC seems to be happy with how things are working out.

DEC Reimbursement procedures

Stormwater reimbursement procedures are reportedly working well. The next cutoff point for vouchering for reimbursement is June 30, 2004. After that point the DEC and SWCC should have a better idea of how the program is going and how funds are holding out.

Mini Grant Suggestions

There is about \$750K-800K in minigrant funds. The Subcommittee has drafted a list of potential projects for consideration by DEC. Funding for each suggested project cannot exceed \$15,000.

The Stormwater Sub-committee is moving ahead on establishing a question and answer website for SWCDs. They are working with the NYS CDEA to add it to their website, which would provide some level of confidentiality for Districts.

Discussion ensued regarding the implementation of the Phase 2 Stormwater permit.

L. Miller reviewed some of the clarifications that DEC has made to the Ag. BMP Exemption for Stormwater. A. Eaton provided additional clarification.

B. Silvestri reported that minor changes to the Stormwater brochure have been made and emailed to the DEC. She advised the Committee that the Districts are asking for these materials.

CEM – G. Chartier, B. Silvestri

G. Chartier discussed the status of CEM. Erie County is developing a CEM Program Guide, and a concept for the CEM website. A presentation on CEM will be made to the USEPA Region 2 on June 1, 2004. B. Silvestri advised the Committee that a proposal to fund CEM efforts was submitted to the DEC.

Conservation Security Program (CSP) in New York – S. Machovec

The Conservation Security Program (CSP), which will be implemented this fiscal year, rewards farmers/ranchers for good environmental stewardship practices. The United States Department of Agriculture (USDA) will use watersheds as a basis to determine CSP participation. A watershed rotation reduces the administrative burden on applicants and the technical assistance costs associated with NRCS and its technical service providers. Each year producers in approximately one eighth of the nation's 2119 watersheds will be eligible for the signup. Economically, the \$41 million budget for CSP in fiscal year 2004 will permit NRCS to write 3,000 to 5,000 contracts and the administration is committing \$13.4 billion in funding toward CSP over the next seven years. This will make it possible for every one of the 1.8 million potentially eligible applicants to have the opportunity to participate over the eight-year period. As of this date, the watersheds eligible for funding this year have not been identified. More information is available at the following website; <http://www.nrcs.usda.gov/programs/csp/>.

In response to a request from National NRCS regarding information on existing assessment tools NYNRCS presented the AEM framework.

Approval of Annual Plans of Work – M. Latham

B. Aman moved to approve the following Annual Plans of Work, seconded by G. Proios.

Motion passed; carried.

- Ontario
- Onondaga
- Delaware
- Broome

There are 40 annual plans of work completed to date.

Other Reports and Comments

B. Aman advised the Committee about the downfall of the rapid increase in milk price. He commented how the Producer Price Differential (PPD) has diminished any profits that would have been seen from the increase in milk price. The PPD represents the difference in the total dollars accumulated by the market-wide pool and the amount paid to producers for the specific components priced, i.e. butterfat, protein, other solids, somatic cell adjustment prices. The value of milk used in Class I is the largest contributor to the PPD.

S. Machovec advised the Committee about the reorganization of NRCS at the National Level. He referred the Committee to the NRCS website for more information.

<http://www.nrcs.usda.gov/about/organization/>

R. Kaplewicz advised the Committee that Bob Lucy, a former Technical Advisor to the Committee, passed away last week. He also advised the Committee that Pat Brennan's mother passed away.

R. Kaplewicz also reminded the Committee that two Associate Environmental Analysts positions are available, and that hopefully those positions will be filled by the July Committee Meeting.

Meeting adjourned at 3:45

The next meeting is scheduled for June 22nd, at the NYS Department of Agriculture & Markets, 10B Airline Drive, Albany, New York.