

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

**STATE COMMITTEE MEETING**  
**October 28, 2004—Lake Placid**

**Present**

D. Hill, G. Proios, R. Aman, J. Dickinson, Voting Members; R. Kaplewicz, M. Latham, J. TenEcyk, E. Svenson, B. Silvestri, L. Miller, R. Lewis, B. Brower, S. Lanthier, NYSSWCC; G. Chartier, NYSDEC; K. Czymmek, CCE; P. Kaczmarczyk, NYSDOH; R. Zimmerman, J. Rusnica, Ag & Markets; B. Schmelz, NYSDOS; K. Lewis, NYSCDEA; J. Tauzel, NY Farm Bureau; M. Goodridge, J. Sloat, Meadowview LLC; T. B. Whelan, J. Carmichael, Onondaga County SWCD; J. Parker, V. Risley, Steuben County SWCD; V. Hendrix, Tompkins County SWCD; K. Clifford, E. Hitt, Delaware County SWCD, Suzanne Maloney, NYS Nursery and Landscape Assoc.

**Call to Order and Introductions**

Introductions were made around the room.

**Review and Approve Minutes**

**G. Proios moved to approve the minutes from the September meeting; seconded by R. Aman. Motion passed; carried.**

**Correspondence**

R. Kaplewicz distributed a list of recent correspondence.

**Letters & Memos**

1. Memo from Paul Vickery, CNY RPDB Chairman, seeking nominations for the 20<sup>th</sup> annual **Rhea Eckel Clark Citizenship Award**. Nominations due by November 1, 2004. **Memo dated September 15, 2004**

**Reports & News Letters**

1. **Government Product News**, September 2004
2. **Wildland Waters – Summer 2004** – U.S. Dept. of Agriculture publication.
3. **Lake Ontario Lakewide Management Plan Update '04**
4. **Buffer Notes** – August 2004
5. September statistical reports on: **Muckland Vegetable; NY Egg Production for August; NY Corn and Soybean Production; Milk Production for August; New York Apples Up, Grape Production Down; Turfgrass Study Report**
6. **Keeping It On the Land, Vol. 6, Number 2, July 2004**. A quarterly publication through the Great Lakes Basin Program for Soil Erosion and Sediment Control
7. **Waterworks, September 2004** – publication by NYS Federation of Lake Associations, Inc.
8. **Headwaters – 2004 Newsletter; 2003 Annual Report, Issue 42** – publication from NYS Tug Hill Commission
9. **Partners** – July/August 2004, Vol. 22, No. 4
10. **What's Cropping Up?** - Vol. 14. No. 5; Sept-Oct 2004
11. **Bay Journal – The Chesapeake Bay Newspaper** – Sept. 2004 and Oct. 2004

**Conferences & Seminars.**

1. **Soil and Water Conservation Society 2005 Annual Conference** – July 30-August 4, Hyatt Regency and Riverside Convention Center, Rochester, NY ([www.swcs.org](http://www.swcs.org))
2. **Stormwater Program Institute & Stormwater Design Institute** – Workshop - December 7-9, 2004, Westchester County Center, White Plains, NY  
Registration Information: [www.cwp.org/SPISDI.htm](http://www.cwp.org/SPISDI.htm); Contact Jessica Brooks at: 410-461-8323 or e-mail address: [jeb@wcp.org](mailto:jeb@wcp.org).

3. **New Tools, Techniques and Approaches in Watershed Management** - Wednesday, November 3, 2004. Ramada Inn Lakefront, Routes 5 & 20, Geneva, NY. Sponsored by: The Finger Lakes-Lake Ontario Watershed Protection Alliance and United States Geological Survey. [blandre@eznet.net](mailto:blandre@eznet.net) or [www.fllowpa.org](http://www.fllowpa.org)

#### **District Tree & Shrub Programs**

R. Kaplewicz introduced S. Maloney of the NYS Nursery and Landscape Association. Kaplewicz explained that the NYSNLA is interested in working with the SWCC to enhance the relationship between the nursery industry and SWCDs in regard to District tree and shrub programs.

Maloney explained that the NYSNLA is developing a new strategy and reestablishing partnerships with Ag & Markets, Cornell, DEC and others. Recently, invasive species have become an important issue to the nursery and landscape industry with the appearance of sudden oak death on Long Island, and growers are becoming more interested in supplying native plants. Conservation organizations, including DEC Division of Lands & Forests, will be educating growers on species appropriate to conservation work.

Maloney wishes to encourage coordination and collaboration between SWCDs and the Association through such efforts as the supply of species that SWCDs use in their tree and shrub programs.

The NYSNLA is co-sponsoring an Empire State Green Industry Conference to be held January 9-11, 2005. R. Kaplewicz will be speaking. All are invited.

Maloney is seeking to develop an MOU between NYSNLA and the SWCC (on behalf of SWCDs). A verbal agreement existed in the past, but a formal MOU is desired. The MOU would focus on first year goals and would allow the relationship to grow in the future.

T. B. Whelan, a Director from the Onondaga County SWCD, explained that a representative of NYSNLA told his District board that many of the species they offer in their tree and shrub program should be discontinued. Maloney explained that some growers want SWCDs to cease sales of certain species, but she is encouraging growers to work cooperatively with SWCDs to provide the stock they need. J. Carmichael followed up by explaining that if the SWCD did stop selling certain species, Meadowview Nurseries, another NYSNLA member, would be negatively impacted. Whelan expressed concern about the timetable for coming to an agreement since the District will be preparing for next year's tree sale soon.

D. Hill thanked Maloney for her presentation and asked the voting members for a motion. **G. Proios moved that the SWCC work with NYSNLA and other partners to develop a draft MOU; seconded by R. Aman.**

R. Kaplewicz suggested that a draft should be assembled by January. He acknowledged that district tree programs would carry on in the mean time. Kaplewicz and Maloney recognize that this MOU will be a working document that will be revised over time.

**Motion passed; carried.**

#### **EFARM – Environmental Farm Assistance and Resource Management Program**

M. Latham distributed a public notice announcing this new program, which will provide reimbursement to CAFOs to offset the costs of developing and updating their CNMPs. Latham explained that this program is still evolving and public comment is likely to cause some changes to the final program. All are invited to submit comments.

Funding for EFARM comes from the clean air portion of the 1996 Clean Air Clean Water Bond Act. SWCC staff were involved in developing EFARM, which will be administered by the Environmental Facilities Corporation and will total some \$13 million. EFARM is air quality based,

which is reasonable since air quality protection on farms begins with comprehensive nutrient management planning. J. Ten Eyck explained that the NRCS standards include air quality and odor considerations.

The program is reimbursement based and will pay for up to 90% of the cost of CNMP development and annual updates, subject to limitations. The program has many benefits: it helps the Environmental Facilities Corporation meet their goal of helping small business comply with environmental regulations, it helps farmers afford CNMP costs, and it helps private sector planners receive timely payment for their services.

G. Chartier asked what happens if a farm has already received state funding for their CNMP through state programs like Ag NPS. Latham explained that state funds received would be subtracted from the eligible costs reimbursed through EFARM.

R. Aman asked whether a farm would have to apply for funding for both development of the CNMP and annual updates. Latham answered that he has asked EFC to accept a single application.

Other questions were raised: K. Czymmek asked if small farms that elect to enroll in the CAFO program are eligible for EFARM. J. Dickinson asked what happens if a producer has multiple CAFO permits. *M. Latham will take these questions into advisement.*

R. Zimmerman stated that as a result of this partnership effort, EFC is interested in working with Ag & Markets on other agricultural initiatives.

#### **NYS CREP – Conservation Reserve Enhancement Program**

E. Svenson distributed the minutes of the 9/29/04 NYS CREP Steering Committee meeting and the latest newsletter sent to SWCDs in October. September 30 was the end of the first federal fiscal year of the NYS CREP program, and the final tally shows that about 1500 acres were enrolled in the program in the first year. Svenson will now work with FSA and other partners to prepare the first annual report for NYS CREP. Svenson provided some program updates: The steering committee heard a presentation on the potential planting of willows to achieve CREP conservation goals while providing a source of renewable energy for farmers, and they will consider how this might fit into the program. A sample conservation plan is being developed to guide SWCD and NRCS staff in CREP conservation planning. Training sessions will be held in January to educate agency staff on CREP conservation planning to ensure consistent high quality plans.

#### **Agricultural Nonpoint Source Grant Program**

E. Svenson and R. Kaplewicz reported that the Round XI grant proposals were due on 10/25/04. 51 proposals were received with a total state funding request of about \$9 million. Three proposals were deemed incomplete and were disqualified. This year's competitive grants program will fund Tier 3B and 3C planning and Tier 4 implementation. Other planning tiers will be funded through a noncompetitive process.

E. Svenson distributed a grant program report and a copy of the SWCC Amendment Request Procedure. She asked the committee to consider two amendment procedure issues:

The first question was how the SWCC wished to use the advice of the Technical Advisory Committee in considering amendments. Many amendments can be approved by the staff subject to the SWCC Amendment Request Procedure. Those that cannot are referred to the SWCC. In the past, the TAC reviewed all amendments prior to SWCC consideration. Now, the SWCC hears each amendment request and may refer it to the TAC if needed. There was discussion on whether this procedure should be adjusted to ensure thorough review while also providing a timely response to requests. The general opinion seemed to be that the process was working as it is. R. Aman stated that he did not feel that an excessive number of amendment requests were

being brought to the committee. B. Silvestri suggested that amendment requests could be e-mailed to the advisory members before the meeting for their review. *The Committee referred this question to the Technical Advisory Committee for consideration at their next meeting. A recommended procedure should be brought back to the State Committee.*

Svenson further advised the Committee that the staff suggests a refinement to the Amendment Request Procedure. Currently, the staff can approve a change in landowners when the BMPs remain the same or a change in BMPs when the landowners remain the same. However, often a change in landowners necessitates a change in BMPs since the needs of the new farm are different. Svenson suggested that the intention of the Amendment Request Procedure was to allow the staff to approve minor changes since they would have specific knowledge of the situation, and that a change in both landowners and BMPs probably fits within the intent of the procedure. A question was raised about whether a change of this nature would affect the scoring of the project, and K. Czymmek stated that a project's score is based on more general factors and would not be impacted by a minor rearranging of landowners and BMPs. **J. Dickinson moved that the staff be allowed to approve an amendment that involves both a change in landowners and a change in BMPs; seconded by R. Aman.** Staff approval will still be subject to the other criteria in the Amendment Request Procedure, e.g., water quality benefits must be equal or greater, no reduction in the number of landowners or BMPs may occur, etc. **Motion passed; carried.**

#### **AEM Base Funding Update**

J. Ten Eyck reported that planning for the AEM Training in November is going very well. Registrations have been received from many Districts. He and other staff members are finalizing AEM program guidance and sample documents for the training session. Ten Eyck distributed a draft agenda for the conference. M. Latham spoke about the timeline for deliverables after the training. County AEM strategies will be developed by January 17, there will be a revision process, and funding announcements will hopefully be made in the March timeframe. Each county that develops an acceptable AEM strategy will be eligible for up to \$20,000 to carry out AEM planning this year. It is hoped that the \$20,000 will be renewed in subsequent years to fund the full five-year strategy that counties are developing.

R. Zimmerman asked what Districts' feedback has been. Ten Eyck said it has all been positive because this funding will allow Districts to do baseline assessment work without taking the time to apply for competitive grants. K. Lewis agreed that SWCDs support AEM Base Funding wholeheartedly. The CDEA has seen the need and supports base funding.

R. Zimmerman asked about feedback from Districts that have not embraced AEM in the past. L. Miller and K. Lewis stated that some Districts are taking a more proactive look at AEM, particularly now that more types of farm operations are targeted. Ten Eyck mentioned that Districts with few farms that might not have been in a position to compete for competitive funding might be better able to implement AEM through this funding source.

J. Dickinson mentioned that in Washington County, the AEM program has been focusing on dairy and they recognize that outreach is needed to get other farm types to utilize the opportunity of participating in AEM. Ten Eyck replied that outreach will be an important component of the County AEM Strategy.

#### **Farm Bill Program Funds – FFY 04-05**

J. DelVecchio announced that funds have been released for mandatory programs. This is an initial allocation; additional funds may be allocated later in the year. NRCS is pleased to receive an allocation this early in the year. A total of \$19.7 million in financial assistance has been allocated for New York. This does not include technical assistance funding.

The watersheds targeted for CSP have not been announced yet, so there is no allocation for that program at this time. G. Proios asked whether NYS had any input into the selection of CSP

watersheds. DelVecchio assured him that state input was considered. The intention for CSP is to address all watersheds on an eight-year rotating cycle. R. Lewis mentioned that it would be helpful for counties to know the eight-year plan so that they can incorporate this into their AEM strategies.

### **Stormwater Site Inspection**

J. Rusnica informed the Committee that he was asked to research legal issues regarding SWCDs performing stormwater construction site self-inspections for private developers and contractors. He prepared an internal opinion, which he gave a summary of. Rusnica said that SWCDs do have authority under SWCD Law to do stormwater work, including the site self-inspections, on private lands with the consent of the landowners. Whether an SWCD would be covered by state indemnification when working with a private developer is a matter that the Attorney General would have to address. Either a SWCD or the SWCC could seek an opinion from the AG. As far as reimbursement for stormwater activities performed for NYS DEC, stormwater work for private developers could affect a District's ability to be reimbursed by the state for compliance checks since it could present a conflict of interest.

L. Miller asked whether a District would be prohibited from performing compliance checks on only the sites where they had prior involvement or whether they would be prohibited from any compliance checks in the county. Rusnica said that DEC would need to make a policy decision on this issue.

Miller asked whether the District's general \$30,000 state reimbursement would be impacted, and Rusnica said that it would not.

G. Proios mentioned that Districts should consult their county attorneys since some may be required to comply with their county ethics policy in regard to conflict of interest.

### **G. Proios moved that the staff should work with J. Rusnica to develop written guidelines to be distributed to Districts.**

Discussion ensued on the relationship between Districts' annual plans and state indemnification. Rusnica explained that not everything in the District's annual plan is indemnified; only their work with an agency of the state is covered.

R. Kaplewicz asked L. Miller to draft a letter to Districts communicating the essence of the legal review and to articulate a proposed State Committee policy on this matter. Miller wanted to get an idea of how the Committee feels so that she can draft a policy. The Committee can decide whether Districts should do this work or not. Proios agreed that the Committee should revisit the issue of Districts taking the role of stormwater program implementors.

B. Schmelz added that the Attorney General's opinion should be sought to settle the issue of indemnification so that Districts would know whether they are protected from citizen lawsuits under the Clean Water Act.

**J. Dickinson seconded Proios' motion. Motion passed; carried.** *Miller, Kaplewicz and Rusnica will provide a draft for the November State Committee meeting.*

### **Agenda for November Meeting**

R. Kaplewicz distributed a draft agenda and informed the Committee that Dean Susan Henry and CCE Director Helene Dillard will be present at the November State Committee meeting in Ithaca between 5 and 7pm. The focus of the meeting will be on the AEM program and fostering collaboration with Cornell on AEM. K. Czymmek asked that if additional agenda items are desired, they should be forwarded to Kaplewicz, Deb Grantham, or himself.

G. Proios reiterated his interest in receiving a list of all Cornell committees that have an agriculture focus.

G. Chartier questioned the focus on AEM and asked why the full range of nonpoint source activities will not be covered. Kaplewicz explained that this meeting is meant as a beginning of a process.

R. Zimmerman suggested deciding upon some suggested outcomes ahead of time so that the meeting can be focused for maximum effectiveness.

K. Czymmek expressed his sense that the intent of this meeting is not to get into details but rather to inform the Dean and Director about AEM and the opportunities for collaboration so that they can make a commitment to commit staff resources to this effort.

The November State Committee meeting will convene on Monday, November 15 at 2:00 p.m.

#### **Other Reports**

R. Kaplewicz – Next year's NYACD meeting will be held October 30-November 1, 2005, probably at the Hudson Valley Resort in Kerhonkson.

G. Chartier

- The 2004 303(d) list of impaired waterbodies was published and is available on the DEC website at <http://www.dec.state.ny.us/website/dow/303dcalm.html> .
- DOW recently published a report titled "Thirty Year Trends in Water Quality of Rivers and Streams in New York State, Based on Macroinvertebrate Data". The document reports on water quality trends from 1972 to 2002, and is based on work of the Stream Biomonitoring Unit. Both hard copies and CDs are being printed and distributed.
- The DEC Division of Water and the Water Resources Institute have put out a solicitation for proposals for the DEC/WRI Research Grant Program that connects academic institutions with the state's nonpoint source program to promote on-the-ground projects. Grants are typically around \$20,000.
- A total of \$2 million in funding will be available through NRCS for the Great Lakes Basin Program for soil erosion and sediment control projects. Grants will be up to \$50,000 each (small category) or \$125,000 (large category). The eight U.S. states share the total funds available, the call for projects will we sent to NYS SWCDs.

B. Silvestri – The March 2005 Water Quality Symposium is being organized. It will be held in Rochester.

L. Miller – The new Mini Grant RFP was distributed to WQCCs. Proposals are due by 12/31/04.

#### **Next Meeting**

Next meeting on November 15 at 2:00pm in Ithaca, New York.

#### **Adjournment**

Meeting adjourned at 2:30pm.