

**NYS Soil and Water Conservation Committee
DRAFT MINUTES
November 1, 2005
Alexandria Bay, NY**

Present: Voting Members: Dennis Hill, Bob Aman, George Proios, Dale Stein; SWCC Staff: R. Kaplewicz-Executive Director, R. Rausch, C. Frasier, L. Miller, R. Lewis, L. Travis, B. Silvestri, B. Steinmuller, S. Lanthier; NYSDAM – R. Zimmerman, J. Rusnica; NRCS – J. DelVecchio, R. Young, P. Ray; DEC – G. Chartier; NYSCDEA – A. Barber, J. Lieberum; Del. Co. SWCD – R. Weidenbach, P. Pilch; FSA – B. Humphreys, V. Green; Cornell College of Agriculture – L. Chase; Cornell CE- PRO Dairy – K. Czymmek; ESF – P. Black; NYS Nursery and Landscape Association – Suzanne Maloney

CALL TO ORDER/INTRODUCTIONS

The meeting was called to order by Chairman Dennis Hill at 11:10 and everyone introduced themselves.

REVIEW AND APPROVE MINUTES

G. Proios asked that page 3, paragraph 3 be changed to “Does a state or county inventory exist?” and that on page 5, paragraph 2 a final sentence be added stating “We should ask districts to advise us that the applications submitted represent the most serious problems in the county.”

B. Aman made a motion to approve the minutes as amended. D. Stein seconded. Motion to approve was carried.

CORRESPONDENCE:

R. Kaplewicz asked Gerry Chartier for copies of the Division of Water’s annual report for the next meeting. Tom McMahon’s letter regarding their Round XII application was briefly discussed. It will be covered later in the agenda.

AG NONPOINT SOURCE ABATEMENT and CONTROL PROGRAM

B. Steinmuller explained the amendment requesting a time extension from 12/31/05 to 06/22/06 for a Round VIII Chenango County Contract. **G. Proios made a motion to approve the amendment. D. Stein seconded the motion and it was carried.**

Round XII:

B. Steinmuller explained that 37 applications were deemed acceptable for Round XII and that two additional projects for Suffolk and Cayuga were determined to be not eligible.

Suffolk County Denial

G. Proios recused himself from the discussion on this application. B. Steinmuller explained the reasons for the determination of Suffolk County’s application as incomplete. Tom McMahon’s letter disputing the denial was read to the Committee. B. Steinmuller explained that there were required maps missing and that the only maps submitted were topographic maps. McMahon’s letter stated that groundwater is what they

are protecting and that watershed maps aren't needed for groundwater projects. Brian then read the requirements for a complete application and the denial process.

R. Kaplewicz stated that Counsel's Office has looked at this issue and agreed with the staff determination. He went on to state that this question was not raised earlier by the county in the question and answer period.

L. Miller suggested we look at the checklist as she could see T. McMahon's reasoning.

P. Black asked if the project is on the Commons River? There is much research on the river and it is hard to determine the watershed, it is mostly ground water influenced, which is hard to map.

B. Steinmuller explained that we have a procedure for question and answer sessions, in which applicants can ask a question and get information on what is required.

L. Miller stated that they didn't realize it was a question.

A. Barber stated that the checklist is still confusing, and suggested that the committee take a look at it and to make sure that it is the tool that we want it to be.

R. Kaplewicz explained that it is a helpful tool and we are always looking for ways to improve it. B. Steinmuller stated that the checklist was reviewed and that several changes were made to it this year in an effort to improve it.

G. Chartier commented that Long Island watersheds are unique and asked, what is the relation of maps to water quality? B. Steinmuller explained the reason for the watershed map requirements and the checklist. D. Stein pointed out that they should have asked the question related to the need for the maps.

Cayuga County Denial

B. Steinmuller explained the Cayuga County application and explained the reasons for not excepting the application. The determination was made that funds from the program, consistent with previous determinations, could not be used to build a digester on District (public) property. The program has been used exclusively on private lands. He went on to read the application letter and the explanation for the denial. The Dept. did rule the project ineligible and it would be difficult to explain a reversal of the determination to the Comptroller's Office. R. Kaplewicz gave credit to J. Hotaling for his creativity and perseverance with respect to this digester. The State Committee and DAM has sat in on many meetings for community or multi farm digesters with Cayuga County and discussed different ways to fund them.

J. Hotaling commented that one must be in the field to hear about the animal waste problems that we are encountering. Cayuga County stepped forward to help with the issue. We have worked for four years on this problem and came up with the plan to build a community or regional digester to support all farms, not just big farms. A regional

digester is a logical solution. The only way to build a digester is to make money operating it. We are \$1.5 million short at this time of our goal of \$3 million. The property this is to be located on was a county farm that was closed. The jail is there and other county buildings. We need to move this project forward now. Digesters are a way to ensure water quality for tourism and other quality of life concerns. J. Hotaling spoke of all of the support he has received for the project.

G. Proios stated the he did not recall incorporating Q and A as an official part of the RFP. R. Kaplewicz stated that Q&A is an official part of the RFP and explained the reasons for it. R. Zimmerman explained that Q&A satisfies the needs of the Comptroller.

R. Kaplewicz stated that for Round XIII we should look at the private versus public funding issue but for Round XII we are bound by our decision to deny this application. J. Hotaling said that the project isn't for him it's for the farmers, and they have a lot of Congressmen who are looking at this and it is going to look bad for the agency in charge of agriculture in the state to deny this project. R. Kaplewicz stated that we are bound by our determination at this point. G. Proios stated that we are here for the farmers and not for our regulations.

G. Chartier asked, was it a question of the land or the ownership? J. Hotaling stated that the District would own the digester and the land.

L. Miller explained that she had a similar issue with a composting plant. The plant was deemed not to be a farm facility and thus not eligible for the program. G. Proios said that he can see a decision to deny because it did not directly benefit the farmers. We are in the business of helping farmers. K. Czymmek commented that a decision has been made should we be discussing the issue?

A. Barber asked if the questions that are asked are published for everyone to see. They are posted on our website. B. Steinmuller said that Cayuga County followed the procedures, they asked for a determination of eligibility and were informed that this project was not eligible for the program. J. Hotaling stated that he still feels the ruling is wrong.

G. Proios asked, do we have the ruling? J. Rusnica stated that it is in the official Q&A. R. Zimmerman said that it would be helpful to have the basis for Legal's decision. B. Steinmuller stated that this determination is consistent with previous rulings and is consistent with the overall program objectives. A. Barber asked if all of the previous year's determinations on Q&A have been published. B. Steinmuller stated that they are not posted but are available for review. K. Czymmek stated that he is having trouble understanding the public versus private issue.

R. Zimmerman stated that we are looking at public dollars and we have to be considerate to the rules of the program. He felt that this project has a lot of political support and that other funds can be found. Another critical issue here is the use of the after construction profits by a public entity which have been partially supported by state dollars.

A. Barber stated that there are other arguments for not funding the project but she would like to see the basis for the determination. J. Rusnica said that the answer is in Q&A. It is a program for the farmers to handle their own waste. G. Proios stated that the problem is the weight we put on Q&A. We should take a look at this and do what is best for farmers, not what is best for us. G. Proios stated that the entire State Committee should also take a look at the answers prior to the close of submittals.

A. Barber added that all responses should be made by committee staff. B. Steinmuller stated that the State Committee has already given staff the responsibility to do this. J. Rusnica said that the procedure can be changed to accommodate the review of answers before the close of submittal dates.

Lunch break 12:30.

B. Steinmuller handed out new brochures for CNMP's and the Ag Nonpoint Program.

NYS Nurserymen's MOU/Agreement

R. Kaplewicz introduced Suzanne Maloney and explained the background of the MOU. We received the draft MOU from the NYSNLA this summer and sent it to J. Rusnica for his review. Counsel's Office has concerns about using an MOU. J. Rusnica thought we should take a look at our existing policy and then restate this policy and incorporate other issues into a new policy for districts. We should define the program of tree and shrub sales. J. Rusnica added that the Committee has the power to enforce the policy already in place and adopt new policy incorporating issues such as invasive species. MOU's with private groups and organizations may not be the best way to address this matter.

S. Maloney said that a MOU is not the only way; it was just a way to eliminate stress from the membership of the NYSNLA. The Districts' program is not that clear as to what they are hoping to achieve with a tree and shrub program. What is the definition of conservation plants? J. Rusnica explained the Districts' program and what they can sell and stated that in the law there is a broad description of seedlings. R. Kaplewicz stated that we will develop a draft policy and share it with the NYSNLA and others. S. Maloney stated that it is a problem with some items such as bulbs. R. Kaplewicz said that if we make policy on this issue then the Districts will need to follow that policy. J. Rusnica stated that the Committee has a number of ways to enforce the issue.

S. Maloney said that she knows it will be a while before the issue is settled, but we can start it. R. Kaplewicz stated that he knows of Districts that have made changes to their programs because of the current discussions on this issue.

Conservation Security Program Report

J. DelVecchio reported that CSP was authorized in the 2002 farm bill and explained the program and tiers; \$34,000/year for top tier with a cap of \$450,000, offered on a watershed basis. New York State had 5 watersheds approved with a total of 79 contracts worth \$1,050,000 that were awarded. In 2006 the Oak Orchard Creek and East Branch of the Delaware were the watersheds selected. The projects are ranked like CRP.

G. Proios asked how you can fund a 10 year program? J. Del Vecchio said that every year money must be encumbered so it is limited on a year to year basis. R. Zimmerman asked if this is the only block of money? J. Del Vecchio answered not yet, but every year the money is always under scrutiny. The Ag funding bill is a stand alone bill this year.

Air Quality Report

R. Rausch stated that the sign up to get coverage under the consent order is over. K. Czymmek said that 2700 farms nationwide signed up. Most of the farms were dairies with California and New York leading the way with 130 each.

D. Hill said that he did not like the idea of taking everybody's money to do a study on just 3 farms. B. Aman stated that he didn't want to be held hostage and did not sign on to the consent agreement. R. Rausch explained that digesters currently are not eligible under the renewable energy portfolio as part of the regional greenhouse gas initiative (RGGI). Currently, digesters are being looked to for inclusion under the initial offsets category. There is a need to establish a baseline on how much methane would be released in the absence of a methane digester. RGGI was started by Gov. Pataki. The Power producing emitters are having trouble with it as they have lots of questions that need answers. G. Proios commented that he has lots of questions about the whole program. R. Rausch explained that farmers would not be regulated but they would be the benefactor. There are opportunities for the farmers in this program in the future. B. Aman stated that farms could be on either side, farmers that spread everyday have less methane to deal with than the farmer that stores and spreads. G. Proios added that different cows emit different amounts of gases. R. Rausch stated that we can store more carbon in the east than compared to the west. G. Proios commented that we have to study the issue.

CREP

R. Lewis gave a Power Point Presentation on the background of CREP enhancements by the State. G. Proios asked where did enhanced payments by states come from? R. Lewis explained enhanced CREP programs and discussed various options. He went on to explain that enhanced rental rates are not the answer due to competition with farmers for the same field. G. Proios asked what the incentive would be for a Long Island farmer to sign up when the farmer makes twice as much on the land outside of the program?

R. Weidenbach explained to have CREP you need technical money and enhanced payments; 53% of the farms in his county have signed up after six years and that is with unlimited staff at the SWCD. The small farms need all the money they can get. Installing barnyards and manure storages are no problem but all other BMPs can be a burden. He gave a tour for DOH and they think total livestock exclusion is where the program should be heading. Farmers were only signing up a part of the farm and providing only partial livestock exclusion. This District adopted a new policy stating the producer must agree to total limited livestock exclusion or they can't be part of the program. CREP is a great program and we have had good constructive discussions at the CREP Steering Committee meetings about enhancements but, he went on to state, I believe that society has to compensate farmers for the burden of more BMPs. G. Chartier commented that if the watersheds were prioritized the DEC might be interested in enhancing CREP.

R. Weidenbach stated that 38 water bodies are on the 303D list and asked if we could get the list for the Dec. 1st meeting?

V. Greene explained that FSA is looking into the barriers that are inhibiting CREP in New York.

G. Proios stated that we need a policy as to where the industry is going in the future and are we steering the farmers in the right direction?

R. Weidenbach explained the District's procedure and program.

V. Greene said that all CREP contracts are approved by county boards and asked how we can quantify our accomplishments or improvements. R. Weidenbach stated that numbers could be generated through existing data. R. Kaplewicz asked R. Lewis to prepare recommendations for the next meeting. R. Zimmerman stated that cropland is precious to farmers and that is why pastureland has been the main benefactor of the program.

Report on Manure Storage Integrity

R. Zimmerman stated that the AEM Steering Committee was charged with looking at the implementation of the overall AEM program in New York. R. Zimmerman went on to say that he was encouraged when Joe DiMura from DEC said it wasn't the AEM program that failed only the maintenance at the facility that did and that DEC is still firmly behind AEM. We have manure storage integrity issues that need to be answered and we need a procedural approach to inventory storages on CAFOs that are not certified. The plan is currently being developed. DEC is modifying their protocol for compliance inspections on CAFO's in NY and is looking more closely at non-certified manure storages.

B. Aman commented that there are two possible scenarios from the Marks Farm Spill; the planner knew about the problem pit and told the farmer to close it or the farmer and the planner knew and did nothing? R. Kaplewicz stated that we need to be understanding of the role that planner's play and the relationship that they have with their clients, the producers, as they are crucial to the delivery of our program in NY. R. Zimmerman said that it's a delicate situation when planners carry both the hammer and a pen; they must inform the farmer of their obligations and the solutions. K. Czymmek stated that the planner has to draw up a plan that meets the standards and may not be exactly what the farmer likes or wants.

R. Zimmerman commented that it will be a challenge to obtain engineers certification on all storages that are under scrutiny because of the lack of an adequate design. DEC's inspections will be tougher now, especially as it relates to non-compliance issues and uncertified storages.

D. Stein stated that it is not just the CAFOs that have a problem but it is also the 100-200 cow dairies and we need to get the message out.

R. Kaplewicz said that the Districts need to be involved and we need to be considerate of the costs for moving this initiative forward.

R. Zimmerman stated that outreach and education are also very important. Outreach to CAFO owners must be positive but firm, they must be told about their responsibility to maintain storages and we must inform them of DEC's new inspection procedures. He stated that the State Committee is the best way to do the outreach. We should bring in experts in the communications field to help with the training of the people who are going to do the outreach and education. G. Proios asked if this will help to counteract the articles such as the Wasting of Rural New York. R. Zimmerman stated that we need to explain the program and its strengths to the community at large. The Committee will be getting recommendations on outreach and education. G. Proios said he agrees with the approach and would like to see it made into a CD or DVD to get out to the public.

G. Chartier asked if we could adapt the AEM base program to include the inspections of manure storage facilities. R. Kaplewicz stated that he is concerned that we not take away from the AEM base initiative currently underway. R. Zimmerman said he would like to find funding for engineers for the certification of undesigned storage facilities.

Stormwater Report

L. Miller reported that in October she was working with the Employees' Association on a review of the Stormwater Reimbursement program. The Employees' Association is currently working on a Vision Statement related to District's and their future role in the stormwater program. She went on to say that the Stormwater subcommittee held a meeting with the Stormwater Specialists at the Conservation Skills Workshop to determine/identify deficiencies in the current program. G. Proios said that he felt there was a need for a NYS Stormwater Program manager.

E-Farm:

R. Kaplewicz reported that staff is continuing to process applications for E-Farm reimbursements. In addition, we are currently conducting interviews for the two CNMP specialist positions.

L. Travis commented that there has been a letter sent to certain farms from EFC/DEC regarding close-out of existing planning grants. No E-FARM funds will be sent to farmers who have received funds from a state grant until the grant has been closed out.

W.O. Symposium

A. Barber announced that the Symposium will be held at the Holiday Inn @ Auburn March 7th – 10th.

R. Kaplewicz asked the Committee for research suggestions which will be presented at the next State Committee meeting which will then be forwarded to Cornell. He stated that Deb Graham will give a presentation on December 20th outlining CALS Strategic Vision.

R. Kaplewicz announced that the AEM training will be held, November 15 – 16, at the Waterloo, Holiday Inn. He extended an invitation to all partners.

Peter Black stated that there will be a new radio show, Water Drops. It will be 2 minute presentations on water quality issues which he is writing. It is scheduled to begin January 22nd, 2006.

Next State Committee meeting, December 19 & 20, 2005, Hotel Utica.

Meeting adjourned at 4:15 pm.