

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

STATE COMMITTEE MEETING

January 23, 2006
Hotel Utica

Present: G. Proios, D. Hill, D. Stein, B. Aman, Voting Members; R. Kaplewicz, Director; Acting Commissioner P. Brennan, R. Christenson, Ag. and Markets; B. Steinmuller, B. Silvestri, J. Ten Eyck, R. Lewis, L. Travis, L. Miller, G. Albrecht, B. Brower, SWCC; G. Lee, D. Pettit, R. Young, NRCS; A. Barber, NYSCDEA; P. Black, SUNY-ESF; L. King (for G. Chartier), DEC; G. McKurth, Wyoming SWCD; V. Green, FSA; P. Kaczmarczyk, DOH.

Call to Order:

P. Brennan addressed the SWCC as the new Acting Commissioner of The Department of Agriculture and Markets.

Review/Approval Minutes

D. Stein moved to approve the minutes of the December meeting as presented; seconded by G. Proios. Motion passed; carried.

Correspondence

Letters & Memos

1. Letter w/attachments from Denise M. Sheehan, DEC regarding availability of environmental funds for water quality improvement projects in Round VIII. Letter dated December 7, 2005.
2. Memo to Soil & Water Districts from W. Kimball, Ag. Protection regarding Land Classification System – 2006 Implementation Procedures. Memo dated January 9, 2006.
3. Memo to Soil & Water Districts from Mark Twentyman, IAO regarding 2006 Agricultural Assessment Values Per Acre. Memo dated January 2006.

Reports & Newsletters

1. NY Agricultural Statistics Service Releases: Agricultural News: 1) NASS New York Field Office Launches Redesigned Agricultural Statistics Web Site; 2) 2005 Equine Survey; 3) New York Potato Stocks Up; 4) November Milk Production Up 5%; 5) December Prices Received Mixed; 6) Follow-Up Contacts Begin for Floriculture Production Survey; 7) New York Hog Inventory Down Slightly; 8) 2005 New York Turkey Production Up 7%; 9) NASS to Assess Financial Situation of New York Farmers.
2. One day seminar: Phase II Stormwater Regulation And Compliance – LORMAN Education Services; held February 28, 2006 at the Holiday Inn Express, Albany Airport, Latham, NY. Register at www.lorman.com; Phone: 866-352-9539.
ALSO: One day seminar: Land Development – LORMAN – March 17, 2006.
(Both seminars held in same location with same contact info.)
3. Updated Agricultural Income and Finance Outlook is now available only online at www.ers.usda.gov/publications/so/view.asp?f=economics/ais-bb
4. Bay Journal, Vol. 15, No. 9; December 2005.
5. NYACD Newsletter – December 2005.
6. Susquehanna River Basin Commission Report Announcement: December 2005.
7. Wyoming County SWCD Newsletter: December 2005.
8. CDEA News: December 2005; January 2006.
9. Taking Root: newsletter for the NY State Urban and Community Forestry Council – Fall 2005, No. 17.
10. Cortland County SWCD Newsletter: Vol. 11, Issue 1; Winter 2006.

11. Eighteenmile Creek Area of Concern: Report Card 2005.
12. What's Cropping Up? Vol. 15, No. 6, Nov.-Dec. 2005.

R. Kaplewicz read the correspondence discussing a new category for Water Quality Improvement projects for the EPF in this year's budget. The Committee asked about the expectations for these funds? Does this mean there is a greater opportunity for agriculture under the EPF? L. King, filling in for G. Chartier, told the Committee that she will inquire about the use of the EPF under this new line item.

Discussion ensued regarding this year's EPF split. It was noted that the agricultural allocation will be approximately 60% of the total in the EPF allocated for nonpoint projects. This amounts to \$6.7 million for agriculture.

Agricultural NPS Abatement and Control Program – B. Steinmuller

Amendments for State Committee Consideration

1. Wyoming SWCD – Buffalo River Agricultural BMP Implementation Project – Phase III – Round VII
Request: time extension from 2/28/06 to 2/28/07
Reason: additional time needed to complete project due to difficulties with CNMP requirements for some of the smaller farms. Some farms have declined participation due to this requirement. Currently all designs have been completed and one additional year is needed to implement.

Previous amendments: 3 time extensions, 2 changes of landowners, 1 change of budget

Note: The start date of this contract was 2/28/00. A contract term longer than 5 years is only permitted by the Office of the State Comptroller under extenuating circumstances. Tom Brace, Region 1 Water Quality Specialist recommends approval.

G. McKurth was present to discuss the needs for the extension. **B. Aman moved to approve the time extension; seconded by D. Stein. Motion passed; carried.**

Staff Approved Amendments

1. Saratoga SWCD – Bacon Hill Agricultural Project – Phase 1 – Round VIII – C700692
Request: time extension from 12/31/05 to 12/31/06
Reason: additional time needed to complete construction due to design delays
Approved: S. Lanthier 12/27/05
2. Albany SWCD – Basic Creek Watershed Reservoir Watershed AEM Tier IIIB Planning – Round IX – C700700
Request: time extension from 8/31/05 to 8/31/07
Reason: additional time needed due to staff turnover inhibiting completion of project on schedule
Approved by R. Lewis 12/27/05
3. Yates SWCD – Seneca Lake Watershed (Yates County) AEM Tier IV Implementation Grant – Round VIII – C700063
Request: time extension from 12/31/05 to 6/30/06
Reason: additional time needed to complete one project due to engineering and weather delays
Approved by T. Brace/B. Steinmuller 1/4/06
4. Yates SWCD – Keuka Lake AEM Phase II Implementation Grant – Round IX – C700735

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Request: time extension from 12/31/05 to 12/31/06

Reason: additional time needed to complete projects due to engineering and weather delays

Approved by T. Brace/B. Steinmuller 1/4/06

5. Clinton SWCD – Ridgeview Farms Ag Waste Management Project – Round VIII – C700061

Request: time extension from 12/31/05 to 12/31/06

Reason: additional time needed due to Slurry Store dealer delays

Approved by S. Lanthier 1/2/06

6. Tompkins/Tioga SWCD – Rotational Grazing Implementation: Upper Susquehanna Watershed – Round IX – C700737

Request: time extension from 12/31/05 to 8/30/06

Reason: additional time needed due to contractor delays

Approved by J. Schumacher 12/27/05

7. Tompkins SWCD – Management Intensive Grazing Implementation: Cayuga and Owasco Lake Watersheds – Round IX – C700064

Request: time extension from 12/31/05 to 8/30/06

Reason: additional time needed due to contractor delays

Approved by J. Schumacher 12/27/05

8. Oneida SWCD – Oneida Lake Watershed Farm Planning – Round XI – C700785

Request: change of landowners

Reason: two farms are voluntarily withdrawing from grant, new farms identified as a priority through the Oneida Lake Prioritization System

Approved by L. Travis 10/5/05

Technical Advisory Committee

Eligibility of farms under DEC consent order (Discussed at the December 8, 2005 Meeting):

The eligibility of farms that are under DEC Consent order was discussed. Ron Kaplewicz received a letter from Joseph DiMura regarding the DEC staff's recommendations in response to questions from the Department of Agriculture and Markets regarding eligibility of CAFO facilities for grant monies when the facility is not or has previously not been in compliance with the CAFO permit. The DEC recommends that funding not be provided to a CAFO that is currently out of compliance with the terms of the CAFO General SPDES Permit (GP-04-02). If the non-complying CAFO agrees to a consent order with a compliance schedule, then it is acceptable to release funding upon the execution of the order.

The current Ag NPS Program policy regarding CAFO compliance was discussed. B. Steinmuller and D. Smith advised the TAC that funding is withheld only for a non-compliant CAFO in the event there are multiple farms on the contract. If the non-compliant CAFO is the only farm on the contract, then the contract is held at the Department of Agriculture and Markets until the farm complies with the CAFO General Permit.

The TAC discussed program policy regarding CAFO compliance after a contract has been approved and work may have begun. **The TAC recommends that funding should not be withheld in all cases of documented noncompliance with the CAFO permit (for example if a CAFO failed to file an annual report by the deadline). However, if the CAFO's action results in a Notice of Violation then dedicated funds should be withheld until the farm is in compliance. If the farm signs a consent order agreeing to a compliance schedule, then it may be acceptable to release funding.**

G. Proios asked if under the SPDES Law if the funds are required to be used to address the problems identified by the consent order. Proios believes that an amendment to the SPDES Law requires that the use of state funds must be directed to the activities associated with the consent order. B. Steinmuller told the Committee that he will ask Counsel to look into the law and bring this recommendation back to the Committee.

Round 13 RFP

The TAC convened on January 10th to discuss policy and procedural changes to the Round 13 RFP. A number of issues were discussed. One issue dealt with clarifying the checklist for completeness. It was noted that the checklist can be confusing to Districts and it may need to be revised. It was agreed to revise the format and language of the checklist to provide a concise tool for the Districts to judge the completeness of their proposals.

Another issue dealt with the RFP Question and Answer process. Discussion ensued at the November State Committee meeting regarding the Q&A process. It was noted at that meeting that the Q&A becomes an official addendum to the current RFP and all applicants should access the document while preparing proposals. Members of the State Committee raised the question that they may need to review documented responses before the Q&A is published on the Department's website. It was noted at the TAC meeting that this level of review could require that the RFP deadline be delayed or hinder the SWCC staff's ability to provide answers to Districts' questions in a timely manner. It has been explained to the State Committee that the RFP is a State Committee approved document that clearly states what the required elements and deadlines are for proposals. The Committee must follow the rules it has established for itself once the process/RFP has been initiated. The Q&A is the process that allows for the interpretation of the RFP. If the Committee wishes to review and approve the Q&A before it is posted then B. Steinmuller will allow for that review under the deadline of the RFP.

The need for an appeals process was also discussed. The current RFP does not clearly give the State Committee the right to consider an appeal if a proposal was deemed ineligible for review.

It was suggested to insert an additional bullet under "Other Considerations" on page 8 that clearly explains an appeals process that would give the State Committee the right to waive certain required elements in order to determine a proposal eligible for review.

B. Steinmuller explained that since this recommendation had been made he spoke with the Department's Counsel who explained that the Committee cannot waive requirements if they are specifically stated in the RFP. For example, if the RFP states that a map "must" be attached or a proposal must be received by a certain time than there is no authority to waive these requirements under any circumstance. The Committee has the right to interpret the RFP through the Q&A process because documented responses become an official addendum to the RFP that every applicant can access. It was suggested that the TAC take a good look at the requirements and what constitutes a critical flaw. It was noted that the RFP was not as rigid in past rounds. However, a number of proposals would come in every year with missing attachments. The State Committee staff would spend a week trying to piece these proposals together by contacting the applicants and requesting the missing components. By placing this responsibility on the applicant, the review for eligibility takes far less time and staff resources. The question was raised if the SWCC staff should be responsible to ensure the quality of proposals or should the Districts be given that responsibility?

The TAC discussed ways to more effectively utilize the Ag NPS Grant Program to promote CREP. It was decided to incorporate bonus points for projects that include conservation buffers on participating farms. The TAC agreed that the implementation of buffers does not have to be funded by CREP alone because CREP is not available statewide. However, the use of conservation buffers should be encouraged and CREP could be a program to address that need. It was suggested to provide .5 points per reviewer for a

project that includes conservation buffers on all participating farms in the proposal. A list of conservation buffer practices that will affirm the bonus points will be included in the RFP.

B. Aman moved to approve the recommendation to provide .5 points per reviewer for a project that includes conservation buffers on all participating farms in the proposal; seconded by D. Stein. Motion passed; carried.

The TAC also discussed the need to focus on implementing CNMPs for SPDES CAFO compliance. The TAC agreed that the Round XIII RFP should focus on addressing the CAFO implementation deadlines. The TAC could not reach a consensus on including bonus points for proposals that fully implement BMPs for compliance with the SPDES CAFO permit. The TAC agreed that a bullet should be included under the "Identified Need or Opportunity" section of the Proposal Rating Sheet that states that selected BMPs are needed for compliance with SPDES CAFO general permit. The TAC referred the decision to include bonus point(s) for projects that address CAFO compliance to the State Committee.

The State Committee felt that bonus points should not be given for CAFO compliance. However, it was agreed that the Round XIII RFP should focus on CAFO compliance as an identified need. It was noted that in past rounds a proposal that indicated the need for the participating farms to comply with CAFO requirements did not score very well if the farm was not located in a priority watershed. This bullet under the Identified Need or Opportunity section of the Proposal Rating Sheet will level the playing field for farms with a need to comply with the CAFO Permit that may not be in a priority watershed.

B. Aman moved to focus the Round XIII RFP on the need to achieve CAFO compliance for farms that are not in priority watersheds by adding the consideration on the Proposal Rating Sheet stating that selected BMPs are needed for compliance with the SPDES CAFO general permit; seconded by D. Stein. Motion passed; carried.

P. Brennan concluded this discussion by explaining the need to administer both Round XII and Round XIII during the same year. The Governor's office has requested that all RFPs be released in time to have decisions on funding made by early fall. P. Brennan explained that expediting the Round XIII RFP will take cooperation by the full Committee and the supporting Divisions of the Department. As the Acting Commissioner, he commits full support from the Department to meet this timeframe.

D. Stein moved to support the timeframe for the development of the Round XIII RFP and providing a full commitment from the Committee to release the RFP by April; seconded by B. Aman. Motion passed; carried.

Action Plan for Engineering – R. Young

R. Young distributed the State Office Engineering Team Plan of Operation. R. Young summarized the document which provides a description of the mission, vision, and objectives of the NRCS engineering team. This document is meant to provide information regarding the State Office roles, areas of responsibility, specialization and prioritization. Young also distributed a description of duties for his role as the state's engineering specialist in support of AEM.

R. Young advised the Committee that there are 224 individual practices that are outstanding in the New York State Agricultural NPS Program that require engineering. Round XII will present an additional 145 projects that require engineering. Young told the Committee that he and P. Wright developed an Architectural and Engineering (A&E) contract to solicit Technical Service Providers (TSP) for engineering assistance. Five firms responded to an initial solicitation. Each year the NRCS headquarters targets resources for TSPs. New York responded favorably to receive an additional allocation for TSPs.

G. Proios asked if the NRCS State Office is integrated with the State Office of Technology (OFT). Proios explained that OFT is a good source for many GIS related resources that the NRCS and District offices should take full advantage of. D. Pettit will check with the GIS Specialist.

R. Young discussed the need for training. Many Districts do not have technical capabilities. Discussion ensued regarding the need for trained District personnel to carry out technical work and pass that knowledge to other staff.

R. Young noted that he has identified the need to conduct training and develop references and welcoming tools for new employees. Young explained that this is a long-term project that may take two more years to fully develop.

R. Kaplewicz spoke about the need to look at district staff who can implement this program as a vital resource. Without the people, we will continue to be challenged when it comes to assisting New York State farmers.

Manure Storage Integrity/Status Report - R. Kaplewicz

R. Kaplewicz explained that the State Committee staff and the Districts identified the type and status of all manure storage systems that were cost-shared through the Ag NPS Grant and Farmland Viability Programs. Kaplewicz noted that 124 storages have been completed, and 98 are in the construction or design stage. A draft operation and maintenance document is being reviewed and once completed, will be used to ensure that farmers are operating and maintaining these systems as they were required through their BMP Funding Agreements with the Districts. This effort will be coordinated through the Division, Regional Staff and the Districts.

Kaplewicz briefed the Committee regarding a joint letter from the Commissioners of Department of Agriculture and Markets and the Department of Environmental Conservation to all CAFO owners/operators reminding them of the implementation deadline and available assistance to help them comply with the deadline.

Kaplewicz also explained that the Division is drafting a letter to be signed by the Commissioner and the Chair and it is proposed that it be sent to all dairies that ship milk in NYS. The letter will provide information about the AEM Program and the partnerships available to provide technical and financial assistance. The letter will include informational brochures for the AEM, Ag NPS, and CREP programs.

AEM Subcommittee Reports – J. Ten Eyck, B. Silvestri, R. Lewis

AEM Steering – J. Ten Eyck

J. Ten Eyck told the Committee that the next AEM Steering Committee will be held on February 15th, 2006 in Utica. The focus of the discussion will be on year two of AEM Base Program. The 360 undesigned manure storages on CAFOs will also be discussed. The undesigned earthen storages are the biggest concern.

Ten Eyck explained that 20% of the work has been completed under year 1 of the AEM Base Program. Work on the AEM Base Program is accelerating during the winter months. J. Ten Eyck distributed a list of Top Ten Reasons for Updating Your County AEM Strategy. The AEM Strategies serve as the foundation for counties long-term AEM Programs.

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AEM Certification – J. Ten Eyck

The next meeting of the AEM Certification Committee will be on January 25th, 2006 in Auburn. The meeting will focus on finalizing the CNMP Certification course at the March Water Quality Symposium and BMP engineering outreach opportunities.

AEM Technical – J. Ten Eyck

The next meeting of the AEM Technical Committee will be held on February 17th in Marcy. The Committee will be working on the Farmland Continuity, Fruits and Vegetables, Greenhouse, and Pasture Management worksheets. Discussions regarding fuel storage issues ensued. It was noted that the DEC may be focusing a greater amount of inspections on fuel storages on farms. The Technical Committee will be discussing the need to better inform and educate farmers on the potential environmental concerns over farm fuel storages.

CREP – R. Lewis

R. Lewis advised the Committee about the CREP Technical Training to be held February 7-9. The next CREP Steering Committee meeting will be held on January 31st.

AEM Outreach – B. Silvestri

B. Silvestri distributed AEM Outreach Committee minutes from the December 15, 2005 meeting. B. Silvestri highlighted media messaging, AEM Coordinator Outreach, Education/Public Participation, AEM Recognition, AEM Guide/Web – based Curriculum, and Outreach Action Items. B. Silvestri told the Committee that the Capital Region's Daily Gazette, a Finger Lakes newspaper, and the Farm Bureau's Grass Roots have recently published articles on AEM.

CAFO Report – J. Ten Eyck

J. Ten Eyck introduced B. Brower and G. Albrecht as the new CNMP Specialists that will be dealing with CNMP issues as they relate to the CNMP Certification and CAFO programs. The CNMP Specialists will be responsible for implementing the Quality Assurance Program, expediting the 3-plan review process, improving and increasing information exchange, keeping up on changes, carrying out the Planner/Inspector training, conducting E-Farm-spot checks, maintaining the planner list, and coordinating the AEM Certification Committee.

J. Ten Eyck advised the Committee that there are 38 certified planners. Out of those certified, 32 are still providing services to farmers. Ten Eyck also advised the Committee that the DEC will now be fining Large CAFOs who have not filed an NOI if they are found to be in need of a permit.

Training for farmers and planners will be held in late March. NRCS & Cornell will be holding an informational program on the implementation deadline and undesigned storages during the week of April 3rd in Batavia and Utica.

Stormwater – L. Miller

L. Miller distributed a Stormwater Subcommittee Report from the January 18th Subcommittee meeting and Proposed Amendment to SWCD Reimbursement for Non-Agricultural Assistance to NYSDEC: Phase II Stormwater Activities.

The Stormwater Subcommittee Report highlighted the Reimbursement Program, the Stormwater discussion at Statewide Manager's Forum, the Participation Survey, Update on Stormwater Training Position, and the Liability Reminder Memo.

The proposed amendment was presented. The proposed change includes the addition of stormwater education assistance and the addition of general technical and information assistance for stormwater construction activities.

◆ **Addition of Stormwater Education Assistance**

- Reimbursement: Districts will be reimbursed for their time providing stormwater education. This includes time necessary to develop or revise presentation materials if a pre-established presentation is not available. Creation and publication of general outreach materials such as brochures and fact sheets are not eligible for reimbursement. Costs associated with advertising and hosting training (e.g. postage, room rental, lunch) are also ineligible expenses. All training sessions must be pre-approved by the regional DEC office to qualify for reimbursement through this program.

◆ **Addition of General Technical and Information Assistance for Stormwater Construction Activities**

- Reimbursement: Consultations and field visits for information and technical assistance performed by SWCDs with DEC approval will be eligible for reimbursement through the NYS SWCC

D. Stein moved to approve both amendments; seconded by G. Proios. Motion passed; carried.

L. Miller advised the Committee that these amendments still have to be approved by the DEC Stormwater Implementation Team.

R. Kaplewicz told the Committee that he understands that Deb Caraco and Don Lake's positions will not be backfilled. R. Lewis asked what the future security of the MOU with DEC is. R. Kaplewicz responded that the Division is working with DEC to reconcile all outstanding MOU's and has submitted a proposal to the DEC that requests the backfilling of the Stormwater and Program Assistant positions.

Other Reports – ALL

Water Quality Mini-Grants

B. Steinmuller advised the Committee that level 1 mini-grants are continuing to be reviewed and processed. Those counties that have fulfilled the level 1 requirement can voucher for the 50% advance for the subsequent levels. Many have already done so.

E-FARM

C. Frasier advised the Committee that 340 applications have been received for which 280 have been paid. Currently, \$1.7 million has been sent out averaging \$6,000 per facility.

Annual Plans of Work

The following plans of work were submitted for approval: Ontario, Oswego, Broome and Orleans.

D. Stein moved to approve those plans of work; seconded by B. Aman. Motion passed; carried

Water Quality Symposium

A. Barber noted that the Symposium will be held on March 7-10 at the Holiday Inn at Auburn. A. Barber extended an invitation for the Committee Members to attend the Banquet on Thursday evening, March 9th.

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Calendar

R. Kaplewicz encouraged the Committee to send important meeting and event dates to Claire Johnson to be incorporated into the SWCC Meeting and Event Calendar.

P. Black told the Committee that he is having fun producing the "Water Drops" segments on National Public Radio (NPR) aired in the Syracuse Area.

D. Pettit advised the Committee that the vacancy for the State Conservationist position has been announced.

Pettit also discussed a number of Farm Bill Programs. He advised the Committee that New York State will receive \$40,000 for the AMA program. This year's funds may need to be used in the Chesapeake Bay and Lake Champlain Basins. There will be no Grassland Reserve Program this year. NRCS in NYS is still waiting for the Conservation Security Program (CSP) sign up for 2006. The Oak Orchard, East Branch of the Delaware and the French Creek watersheds may be targeted for the 2006 CSP sign up.

Pettit also advised the Committee that the Conservation Innovation Grant (CIG) RFP has been released. Pettit also noted that NRCS is still discussing ways to integrate AEM into federal programs.

P. Brennan thanked the Committee for all of the hard work it does and for welcoming him back to the Department. P. Brennan also told the Committee that the Department will be administering a \$20 million project for a Cellulosic Ethanol Power Plant in New York State.

V. Green advised the Committee that the Administrator of the Farm Service Agency (FSA), Theresa Lassiter, will be in attendance at the farm show in Syracuse at the end of the month.

R. Kaplewicz updated the Committee on Mike Latham's condition. He is doing well. Mike has been very busy with the MOU with DEC. R. Kaplewicz also welcomed Gary Lee, Acting State Conservationist, Greg Albrecht, and Bob Brower, CNMP Specialists to the State Committee.

D. Hill advised the Committee that the NYACD Annual Meeting will be held on October 29 – 31, 2006.

Next State Committee Meeting will be held on February 21st, 2006 in Albany.

Meeting adjourned at 3:30 pm.