

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

STATE COMMITTEE MEETING

August 1, 2006
Delaware County SWCD

Present: G. Proios, D. Hill, D. Stein, B. Aman, Voting Members; R. Kaplewicz, Director; B. Steinmuller, L. Prezorski (Dutchess SWCD), L. Travis, J. Ten Eyck, R. Lewis, G. Albrecht (Wyoming SWCD), SWCC Staff; L. Chase, Cornell; G. Dutcher, Delaware SWCD; J. Rusnica, R. Christensen, Ag. and Markets; G. Chartier, J. Lendrum, DEC; R. Alvarado, R. Young, NRCS; A. Barber, J. Carmichael, NYSCDEA; P. Kaczmarczyk, DOH; J. Graff, T. Ege, DOS, J. Tausel, NYFB.

Call to Order

D. Hill called the meeting to order at 10:00 a.m. Introductions were made.

Review and Approval of Minutes

B. Aman moved to approve the minutes with the corrections submitted; seconded by D. Stein. Motion passed; carried.

Correspondence

Letters and Memos

Letter from Sandra Allen, Director, Division of Water, NYSDEC regarding dam safety regulations.

Reports & Newsletters

Agricultural Resources and Environmental Indicators 2006 Edition available at:

www.ers.usda.gov/publications/arej; NYACD Newsletter July 2006;

Agricultural News: June Milk Production; 2005 Apple Production; NY Potato Acreage; NY Peach Production; NY Winter Wheat, Oat Production; June Price Changes; NY Egg Production for May; NY Maple Production; NY Cherry Production; Wetness Hampers Spring Planting Progress; What's Cropping Up?; NACD June 2006 Northeast Region Report; USDA Economic Research Service Economic Brief Number 6 and Number 7; Wayne County SWCD Information Bulletin/Progress Reports-Summer 2006; The Upper Delaware-Summer 2006; Chesapeake Bay Foundation – Save The Bay – June 2006; CDEA News-July 2006; USDA Structure and Finances of US Farms-2005 Family Farm Report; Celebrate The Lake – a calendar of events for Oneida Lake and its Watershed – July and August 2006; USDA Agricultural Research-July 2006; Bay Journal: July-August 2006.

Conferences & Seminars

Hudson Mohawk RC&D Council, Inc. 10th Anniversary Celebration – Friday, August 4, 2006, 1:00 – 3:30; Agroforestry Resource Center, 6055 Route 23, Acre, NY. RSVP to the Hudson Mohawk RC&D: 518-828-4385, Ext. 105; e-mail: elizabeth.marks@ny.usda.gov; The Lake Plains RC&D Council Meeting and Annual Picnic, Aug. 10, 2006 from 10:00 – 1:00 at 8039 Lake Road in Sodus Point, NY; RSVP by 8/4/06: 585-589-5320, ext. 4; Fax: 585-589-7709; e-mail: robert.remillard@ny.usda.gov

R. Kaplewicz read the letter from S. Allen regarding dam safety regulations.

D. Hill welcomed everyone to Delaware County. Delaware County was hit very hard during the flood event in early July. G. Dutcher, Delaware County SWCD, presented a summary the damage and the District's response to the flooding. He told the Committee that District staff spent 60-65 hours a week assessing the damages on farms and critical infrastructures. In Walton alone there

was over 11,000 linear feet of damage along rivers and streams. A total of 22 bridges were closed in the County. The flood was described as a 146 year flood event. The District conducted 263 phone assessments to gather information and prioritize farms for damage assistance. The District used a High, Medium, and Low classification to streamline the assistance process. The District developed a DVD of the damage and response which will be shown during the lunch break.

A lengthy discussion ensued regarding the process to assess flood damage and the state and local government's ability to respond to such disasters.

R. Kaplewicz noted that flood disaster response is first a local level responsibility. He added that the DEC has the responsibility to assess environmental damage from the CAFO community and the SWCC has released a form to assess the damage to environmental management systems on all other farms.

Action Item - A. Barber noted that the TAC could discuss Ag NPS policy as it relates to funding for failed practices. J. Ten Eyck added that USDA-FSA should coordinate the assessment process to check BMPs as well as damaged crops.

Action Item - Discussion continued regarding the creation of a Disaster Assistance Plan and Response Committee to formulate policy recommendations for the State Committee to adopt.

Stormwater MOU:

The Stormwater MOU was reviewed. It was noted that the MOU does not specifically give Districts an exemption when working on farms. The exemption lies with New York State farmers regardless of who is installing BMPs. A. Barber questioned why the State Committee would be involved in the MOU if it does not directly relate to Districts.

It was explained that the MOU does not exempt agriculture from dealing with erosion and sediment control for expansion and BMP related construction. It simply relieves farmers from having to apply and pay for permit protection.

R. Kaplewicz and L. Prezorski noted that the Stormwater MOU Tip Strip and a memo will be sent out to Districts to better communicate the points of the exemption.

D. Hill thanked the Committee for the thoughtful discussion.

Agricultural NPS Abatement and Control Program: B. Steinmuller

Round XIII Ranked List Approval

B. Steinmuller asked that any District personnel or farmers that have submitted a proposal under Round XIII recuse themselves from the following discussion. A. Barber and J. Carmichael recused themselves. A. Barber asked to have the Ethics decision clarified so that the NYSCDEA can have representation in these discussions.

B. Steinmuller distributed the Round XIII Ranked List and read the resolution 06-1.

Discussion ensued regarding the upcoming decision on the split for AEM Base and Ag. NPS projects.

Action Item – R. Kaplewicz advised the Committee that it does not have to approve a split for the funds at this meeting. Today's priority is to approve the ranked list and

discussions on generating a split for the AEM Base and Ag. NPS programs will occur in September.

G. Proios commented that the AEM Assessments should have already been completed. He asked how long the Committee will need to dedicate noncompetitive funds for AEM. D. Stein disagreed and stated that we are just beginning to assess farms on a statewide scale. He added that the Base Program needs to continue on for several more years.

Discussion continued on the differences in scoring various types of proposals – especially petroleum bulk storage (PBS) and the evaluation of undesigned storages on CAFOs. J. Tauzel asked why some CAFO proposals were ranked below any hope for funding. P. Kaczmarczyk noted that many proposals toward the top of the list included numerous CAFO farms. B. Steinmuller added that CAFOs represent approximately 30% of the farms that could conceivably receive funds.

The watershed goals of the AEM and Ag. NPS program was discussed. D. Stein asked if the Committee can dictate how the funds should be allocated from one round to the next. It was noted that the general funding criteria originates from District Law 11B. However, considerations for ranking can be added under the general criteria.

R. Kaplewicz stated that the Ag. NPS Grant Program is not a CAFO compliance program. It has provided a relatively large amount of state funds to CAFOs over the life of the program. However, first and foremost, it is a program focused on agricultural nonpoint pollution prevention and mitigation from all sizes and types of farming operations.

B. Steinmuller felt that the representatives from the NYSCDEA would add to this discussion and he asked the Committee if it could vote to approve the list and continue the discussion with the Employees present.

Resolution 06-1

MOTION:

That subject to the availability of funds, the Committee shall award funding for projects 1-65 in order ranked and in the amounts recommended by the advisory members of the Committee, consistent with the Soil and Water Conservation Districts Law, the RFP, and any other law applicable to funding of such projects. Consistent with the RFP, the Committee authorizes the Department of Agriculture and Markets to negotiate the terms of the contract with the project sponsors and to make minor adjustments to the project description and budget as necessary to achieve project goals, conform to applicable laws and regulations, and to serve the best interests of the State.

D. Stein moved to approve Resolution 06-1; seconded by B. Aman. Motion passed; carried. G. Proios opposed.

A. Barber and J. Carmichael were asked to return to the meeting at this time. Engineering issues were discussed. R. Kaplewicz noted that NRCS and the State Committee are looking into ways to increasing the short and long term engineering capacity of the Districts.

G. Chartier and J. Lendrum discussed issues related to the variances between needed practices and costs that were identified on some Round XIII proposals and CAFO Annual Compliance Reports.

J. Tauzel publicly thanked the Committee and Districts for all of their efforts related to Round XIII.

Action Item - R. Kaplewicz asked B. Steinmuller to develop a list of all policy issues to discuss at the September 13th TAC meeting. B. Steinmuller advised the Committee that an agenda for the September 13th meeting will be developed and emailed to the TAC members and State Committee Staff.

Status of Round I-XI

Of 377 projects, 132 are active, 3 are pending, and 242 are complete.

Round XII

Round XII awards were announced on March 29, 2006. Plans of work are being received and contracts will be executed as soon as possible.

Amendments for State Committee Consideration

1. Suffolk SWCD – Irrigation Wellhead Protection – Round IX – C700739

Request: change of landowners

Reason: original landowners are no longer interested in implementing the projects. The new landowners are located in different watersheds than the original landowners.

Past Amendments: 1 change in scope, 1 time extension.

L. Prezorski, Region 6 WQS, recommends approval.

B. Aman moved to approve the change of landowners, seconded by D. Stein. Motion passed; carried. G. Proios abstained.

2. Orange SWCD – Agricultural Waste and Nutrient Management in the Walkill – Round IX – C700718

Request: time extension from 12/31/06 to 12/31/07

Reason: additional time needed to complete BMP projects

Past Amendments: 2 time extensions, 4 changes to scope

L. Prezorski, Region 6 WQS, recommends approval.

D. Stein moved to approve the time extension; seconded by G. Proios. Motion passed; carried.

Staff Approved Amendments

1. Orange SWCD – Agricultural Waste and Nutrient Management in the Walkill – Round X – C700762

Request: time extension from 12/31/06 to 12/31/07

Reason: additional time needed to complete BMP projects

Approved by L. Prezorski/B. Steinmuller 7/20/06

2. Madison SWCD – Susquehanna River Headwaters Farm Planning and Prioritization Project – Round X – C700756

Request: change of landowner

Reason: original landowner received cost-share assistance for plan through EQIP. New Farm identified as a priority through the AEM Program.

Approved by L. Travis 7/5/06

3. Cayuga SWCD – Cayuga/Seneca Counties BMP Implementation Cayuga Lake Watershed – Round VIII – C700058
Request: change of landowner
Reason: The original landowner voluntarily withdrew due to financial reasons. New farm identified as a priority due to proximity to a tributary of Cayuga Lake.
Approved by L. Travis 6/29/06
4. Albany SWCD – Basic Creek Watershed Reservoir Watershed AEM Tier IIB Planning – Round IX - C700700
Request: time extension from 8/31/06 to 2/28/07
Reason: staff turnover inhibited completion of project as scheduled
Approved by C. Frasier 7/14/06
5. Clinton SWCD – Chazy River Nonpoint Assessment Project – Round IX – C700704
Request: time extension from 5/31/06 to 5/31/07
Reason: Additional time needed to complete planning activities because of difficulties dovetailing the grant with the AEM Base Program.
Approved by S. Lanthier 6/27/06
6. St. Lawrence SWCD – The Raquette River Review – Round X – C700765
Request: time extension from 6/30/06 to 6/30/07
Reason: additional time needed to complete planning deliverables
Approved by S. Lanthier 6/27/06
7. Essex SWCD – Essex County/Lake Champlain Tier V – Round X – C700751
Request: time extension from 6/30/06 to 6/30/07
Reason: additional time needed due to AEM Base priorities
Approved by S. Lanthier 7/27/06
8. Tompkins SWCD – Salmon Creek Watershed Protection Project – Round VII – C700731
Request: change of landowners
Reason: original landowner withdrew due to financial reasons, new landowner identified as a priority of animal density and proximity to unnamed tributary of Salmon Creek
Approved by J. Schumacher 7/10/06
9. Erie SWCD – Eighteenmile Creek Ag Planning Project – Round IX – C700709
Request: time extension from 8/31/06 to 8/31/07
Reason: additional time needed for landowners to complete CNMPs
Approved by T. Brace/B. Steinmuller 6/28/0

AEM Committee Reports: J. Ten Eyck

Outreach

J. Ten Eyck reported that new materials have been developed for Empire Farm Days including a banner advertising free environmental assessments, and a conservation program funding matrix.

Technical Committee

J. Ten Eyck reported that the Technical Committee is updating the Greenhouse Worksheets and developing a comprehensive set of Vineyard Worksheets. He noted that the Vineyard operations around the state are very interested in AEM. Ten Eyck also advised the Committee that the PBS worksheets are generally in good shape and need just minor edits. He added that the committee is working on developing a standard for PBS practices that will be based on the past NRCS interim standard.

Certification

G. Albrecht reported on the Certification efforts being implemented by himself and B. Brower. He spoke about the Planner Certification Program and the Quality Assurance Program for the 41 certified planners. He added that he and B. Brower are improving communication with planners.

G. Albrecht gave the following EFARM update:

Requests for Plan Development

Requests for Annual Updates

Number	Type	Total \$	Approved \$	Paid \$
500	Total Disbursement Requests	5,077,199	3,629,070	
371	Disbursements Paid	4,198,268	3,471,701	2,184,787
18	Pending Payments	171,594	142,392	85,541
29	Department of Ag and Markets Review	326,341		
2	Ready to be sent to Ag and Markets	40,299		
66	In review at Environmental Facilities Corp	317,059		
14	Ineligible for Funding	23,636	14,975	
228	Total Disbursement Requests	1,275,837	909,454	321,279
116	Disbursements Paid	585,639	584,682	215,957
57	Pending Payments	322,559	321,671	102,532
25	Department of Ag and Markets Review	139,464		
6	Ready to be sent to Ag and Markets	55,603		
23	In review at Environmental Facilities Corp	172,572		
1	Ineligible for Funding	0		

Discussion ensued regarding the EPA tour given in late June. It was noted that New York State received very positive feed back from the EPA. D. Stein believes that New York will not be targeted for federal inspections because of its proactive approach to agricultural environmental management.

Approval of BMP Technical Assistance Rates

J. Ten Eyck distributed a BMP Technical Assistance Rate matrix for the AEM Base Program. He explained the different column headings. Ten Eyck explained that Districts can now be reimbursed for technical assistance for Tier 4 implementation under the AEM Base Program. They originate from the NRCS technical assistance rates with a 75%/25% cost-share built in. Districts can be reimbursed different rates for design, installation, and checkout of BMPs that are not being cost-shared from any other state source. It was noted that there was a calculation error in the spreadsheet.

D. Stein moved to approve the New York State AEM Technical Assistance (TA) Rates (2006) with the appropriate corrections; seconded by B. Aman. Motion passed; carried.

CAFO Rule Briefing: G. Albrecht

G. Albrecht distributed a Fact Sheet: Concentrated Animal Feeding Operations Proposed Rulemaking – June 2006. G. Albrecht advised the Committee that the EPA is seeking comments on a proposed rule that would revise several parts of EPA's National Pollutant Discharge Elimination System (NPDES) and Effluent Limitation Guidelines for CAFOs.

The proposed regulations responds to the order issued by the Second Circuit Court of Appeals in *Waterkeeper Alliance et al. v. EPA*, 399 F. 3d 486 (2nd Cir. 2005). This proposal would revise several aspects of EPA's current regulations governing discharges from CAFOs.

First, EPA proposes to require only CAFOs that discharge or propose to discharge to apply for a permit. However, CAFOs that land apply manure, litter or processed wastewater would not need NPDES permits if the only discharge from those facilities is agricultural stormwater.

Second, EPA proposes to require greater public participation in the issuance of a NPDES permit by requiring CAFOs seeking coverage under a permit to submit a facility specific nutrient management plan (NMP) with their permit application or notice of intent. Permitting authorities would be required to review the plan and allow the public meaningful review and comment on it. Permitting authorities would also be required to incorporate terms of the NMP into the permits an enforceable element.

Finally, EPA is proposing to remove the 100-year, 24-hour storm containment structure standard for new large swine, poultry, and veal facilities, due to the lack of record supporting this technology, and replacing it with a zero discharge requirement.

For additional information visit EPA's Office of Wastewater Management web site at <http://www.epa.gov/npdes/afo/revisedrule>.

Comments must be received on or before August 29, 2006.

Discussion ensued regarding the proposed rules. B. Aman asked who has the power to set CAFO requirements, the state or the federal governments. J. Lendrum said that the NYS DEC can exceed federal standards but cannot minimize federal requirements.

D. Stein noted that permit protection is a kind of catastrophic insurance policy.

J. Lendrum noted that NYS does not need to amend its CAFO law until 2009.

R. Christiansen added that the new proposed CAFO rules could undermine the NYS Right to Farm Law and he noted that the EPA should keep in mind the environmental successes through the voluntary approach.

State Committee Annual Work Plan

R. Kaplewicz handed out a copy of the State Committee Annual Work Plan after the Committee was given the opportunity to provide additional input from the last meeting.

NYS Education Department Engineering Practices Update

R. Kaplewicz advised the Committee that the State Ed. Department has continued to deliberate on the determination of BMPs as engineering or conservation related practices. He told the Committee that the Ed. Department in conjunction with NRCS has revised many of their former rulings to be more favorable to Districts.

CREP

R. Lewis told the Committee that the state has enrolled almost 5,000 acres to date and the next CREP Steering Committee meeting will be held on September 14th in Marcy.

Approval of Annual Plans of Work

B. Aman moved to approve the following SWCD Annual Plans of Work; seconded by D. Stein. Motion passed; carried.

- ◆ Albany
- ◆ Jefferson
- ◆ Rensselaer
- ◆ Saratoga

Calendar

R. Kaplewicz reminded the State Committee to send meeting, event, and deadline dates to Claire Johnson at the Albany Office.

All dates for the website should be sent to Barb Silvestri.

Other Reports: All

A document from the DEC was distributed regarding the Farm Bill Forestry Forum. The purpose of the document is to elevate the position of forestry into the 2007 Farm Bill. **Action Item - It was suggested that these comments be discussed at the September meeting.**

Action Item - R. Kaplewicz recommended that the State Committee meet for two days next month on September 18th and 19th.

R. Kaplewicz recommended dovetailing the October State Committee meeting with the Annual NYACD meeting to be held on October 31st at the Otesaga Hotel in Cooperstown.

G. Chartier told the Committee that Louise King of the DOW is taking on the responsibility as the new Stormwater Training Manager along with her many other responsibilities.

T. Ega advised the Committee that he will brief the DOS Community Service Liaison for Emergency Response to get his feedback on disaster assistance and response.

A. Barber, G. Proios, J. Carmichael, B. Steinmuller, R. Rausch, and L. Travis attended the NE National Association of Conservation Districts Annual Conference in State College, Pennsylvania in July. A. Barber and others gave the Committee highlights from the conference. A. Barber passed around a CD on a Leadership Development Program developed by the Pennsylvania Soil and Water Conservation Commission.

Action Item - A. Barber also suggested that the Committee follow-up at the September meeting on an Engineering Needs meeting held by R. Young in July.

R. Alvarado thanked the Committee for welcoming him. Alvarado looks forward to working with the State Committee and Districts on both state and federal conservation programs. He reported that the NRCS nation-wide budget continues to get leaner. He added that NRCS has to continue to look at ways to more efficiently deliver conservation programs in NYS.

J. Tauzel told the Committee about the NYFB Education Foundation – Food and Forage Fund to transfer feed and forage to farms that have been hit hard by flooding.

G. Proios advised the Committee that the nacdnnet.org email addresses will be switched over to nacdnnet.net in the near future. He noted that the State Committee will have to issue an addendum to the Directory.

R. Kaplewicz told the Committee that he and M. Latham will be developing a proposal for the state fiscal year 2007-2008 budget. He told the Committee he has requested that all of the current contract employees be added to the Division's base line operating budget.

Next Meeting: September 18th – 19th at the Hotel Utica.

Meeting adjourned: 3:15 p.m.