

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

**STATE COMMITTEE MEETING**

**October 31, 2006**

**Otesaga Hotel, Cooperstown**

**Present:** G. Proios, D. Hill, B. Aman, D. Stein, Voting Members; R. Kaplewicz, Director; M. Latham, Assistant Director; R. Zimmerman, D. Cordier, Ag. and Markets; B. Steinmuller, R. Lewis, L. Travis, C. Frasier, B. Silvestri (Schenectady SWCD), L. Prezorski (Dutchess SWCD), SWCC Staff; D. DeWeese, NRCS; A. Barber, NYS CDEA; G. Chartier, DEC; J. Tauzel, NYFB; L. Coffin, NYACD; V. Green, FSA; K. Czymmek, CCE; L. Sager, Columbia SWCD; P. Kaczmarczyk, NYSDOH.

**Call to Order:**

D. Hill called the meeting to order at 10:20 a.m.

Introductions made.

**Review and Approval of Minutes**

**D. Stein moved to approve the September minutes as presented; seconded by B. Aman. Motion passed; carried.**

**Correspondence**

**Letters & Memos**

Letter to Ron Kaplewicz from Eugene Wright, Chairman, Cortland County SWCD regarding 2006 AEM Award for Twin Oaks Dairy and Cortland County SWCD.

Letter dated September 20, 2006; Letter to Commissioner Patrick Brennan from Twin Oaks Dairy, Inc. regarding the AEM Award for their farm. Letter dated September 4, 2006; Letter to Ron Kaplewicz from Robert K. Davies, State Forester, NYS DEC regarding several Cooperative Forestry programs in partnership with the US Forest Service.

**Reports & Newsletters**

USDA, NASS Agricultural News Reports: **September 2006:** New York Oats and Wheat Increase, Barley Decreases; September Price Changes Mixed on various commodities; NASS to Collect Data on Vegetable Farmers' Chemical Use; NASS to Assess Benefits of Conservation Programs; August Milk Production Down Slightly; 2006 New York Fruit Tree and Vineyard Survey to be Conducted; Vegetable Acreage and Production Survey to be Conducted; New York Egg Production Up 2% in August; **October 2006:** September Milk Production Down Slightly; New York Apple Production Up, Grape Production Down; Decrease in Corn Production, Increase in Soybean Production; NY Aquaculture Shows Significant Growth; Letter from NYS DEC including packet providing information about the Division of Water's programs related to dam safety, flood protection and coastal erosion; Legislative Commission on Water: Fall/Winter 2006 Report; Public Works magazine-September 2006 issue; Headwaters: NYS Tug Hill Commission 2006 Newsletter-2005 Annual Report; Cayuga County SWCD Fall 2006 District Portfolio; Wayne County SWCD Water Quality Bulletin Summer/Fall 2006 issue; "Nuggets & Nibbles" from the Cornell Local Roads Program-August 2006 issue; "Save the Bay", Chesapeake Bay Foundation-September 2006 issue; CDEA News-October 2006; "From Watershed to Well" – Fall 2006 issue (a publication of RCAP Solutions, Inc.); Bay Journal-September and October 2006; NACD News & Views-September/October 2006.

R. Kaplewicz read the letter from Eugene Wright, Chairman, Cortland County SWCD regarding 2006 AEM Award for Twin Oaks Dairy and Cortland County SWCD. D. Hill recognized the extraordinary work of Twin Oaks Dairy and Cortland County SWCD in receiving the 2006 AEM Award.

R. Kaplewicz read the letter from Robert K. Davies, State Forester, NYS DEC regarding several Cooperative Forestry programs in partnership with the US Forest Service. R. Kaplewicz advised the Committee that he has been asked to serve on the Cooperative Forest Stewardship Committee.

G. Proios asked if the Committee could check with Districts to determine interest in the USDA Healthy Forest Initiative.

R. Kaplewicz noted that he will represent the State Committee on the Cooperative Forest Stewardship Committee.

R. Kaplewicz read the letter from D. Lake, expressing appreciation for the opportunity to serve the SWCC. September 29<sup>th</sup> was D. Lake's last day.

R. Kaplewicz read the letter from Herkimer SWCD regarding the letter sent to the District from the Committee regarding the recent tree and shrub policy. The district has acknowledged that tulip bulbs will not be offered in future sales.

### **Agricultural Nonpoint Source Abatement and Control Program** – B. Steinmuller

#### STATUS OF ROUNDS I-XII

Of 407 projects, 131 are active, 26 are pending (including 1 Round 7), and 250 are complete.

#### TAC Recommendation

At the September 13<sup>th</sup> meeting, the TAC discussed opportunities to provide support for community digester projects through the Ag NPS Grant Program.

#### History

Since Round 12, the Ag NPS Grant Program has received criticism for not providing support for a community digester to be constructed on publicly owned property and owned and operated by a SWCD, which is considered a governmental entity.

The Department acted on past precedent and the intent of the program in ruling that this project is ineligible on the grounds that public lands are not considered agricultural land for purposes of the Ag NPS Grant Program. The ruling explained that the program's purpose is to assist farmers in controlling nonpoint source pollution generated by their operations through the implementation of Best Management Practices.

Consistent with this ruling, the Department deemed eligible a proposal to construct satellite waste storages and manure transfer systems on two farms contributing and receiving waste from the proposed digester. This project received a Round 12 award and is currently pending in the contract system. This project addressed the nutrient management needs of the farms with the goal of enhancing water quality in their respective watersheds.

#### Policy Recommendation

The State Committee has publicly supported the concept of a community digester recognizing the potential multiple benefits including water and air quality, and renewable energy. The Ag NPS Grant Program funds are directed by District Law §11B to nutrient management plans or water quality projects on privately owned farms. **As a result, the TAC discussed and subsequently recommended that the Ag NPS Grant Program should only be used to fund stand alone component practices of a community digester on privately owned farms that have a direct connection to water quality improvement. The TAC does not recommend expanding the Ag NPS Grant Program to include projects on publicly owned or municipal property.**

### Alternatives

Alternatives were discussed. It was concluded that the TAC should establish a subcommittee to explore the development of additional sections to District Law authorizing funding for innovative and alternative technology projects that expand AEM to meet emerging issues including but not limited to greenhouse gas reduction, air quality, renewable energy, and SPDES/CAFO compliance.

Discussion ensued. G. Proios took exception to the policy recommendation. G. Proios commented on the AEM legislation and noted that it does not prohibit the funding of projects on publicly owned land. He commented that the AEM legislation is broad and looks at the total picture not just individual components.

B. Steinmuller noted that District Law §11B authorizes funding for the Ag NPS Grant Program and it has been interpreted to limit funding for practices to be installed on private farm land. Currently, the AEM legislation does not include a section on funding outside of District Law §11B. The Subcommittee will be tasked with recommending language for the development of additional funding legislation to address other environmental concerns other than water quality. B. Steinmuller distributed a draft listing of eligible and not eligible practices associated with anaerobic digesters.

R. Kaplewicz explained that the philosophy has been to allocate funding on privately owned farms. He does not see the demand for projects on privately owned farms declining in the future.

G. Proios explained that there would not be any change if the Committee always acted on precedent. He noted that if a project is helping agriculture then it should be funded regardless of where it is sited and whether it is addressing a point or nonpoint source problem. He noted the classification of point source given to a CAFO. This, of course, was done with a legislated change.

G. Chartier noted that he does not support the funding of food processing facilities, considered a point source, under the agricultural nonpoint source program.

A. Barber noted that the Ag NPS Grant Program has a limited amount of funding resources to distribute to a growing number of farmers in need of assistance. Barber added that the Committee needs to rule on whether it wants to fund projects on public land. If the Committee decides that it should fund projects on public lands, then we need to look at how to accomplish this.

D. Stein noted that projects on publicly owned land are not currently funded through the Ag NPS Grant Program. If the Committee agrees on the merits of such a project, then it should be funded from a separate source. Stein supported the TAC's recommendation to establish a subcommittee to explore the development of additional language in the District Law authorizing funding for projects outside the scope of Ag NPS.

**D. Stein made a motion to approve the TAC's recommendation that the Ag NPS Grant Program should only be used to fund stand alone component practices of a community digester on privately owned farms that have a direct connection to water quality improvement, and not expand the Ag NPS Grant Program to include projects on publicly owned or municipal property; seconded by B. Aman. Motion passed carried. G. Proios opposed.**

B. Steinmuller thanked the Committee for the discussion and consideration of this issue. He also advised the Committee that he is working with R. Rausch to put together a listing of people to participate in the subcommittee. He will have more information at the next State Committee meeting.

## **Amendments for State Committee Consideration**

1. Schoharie SWCD – Schoharie County CAFO Farm Implementation – Round 9 – C700725  
*Request:* time extension from 12/31/06 to 12/31/07  
*Reason:* additional time needed to complete practices due to engineering delays, financial constraints and farmer health problems.

*Previous Amendments: 1 change of scope and 2 time extensions.  
C. Frasier, Region 5 AEA, recommends approval.*

**B. Aman moved to approve the time extension; seconded by D. Stein. Motion passed; carried.**

2. Columbia SWCD – BMP Implementation on 4 Farms – Round 9 – C700708  
*Request 1:* change of landowners  
*Reason 1:* original farm was sold and downsized below CAFO, new owner is not interested in grant. The two farms being substituted are CAFOs.  
*Request 2:* change of BMPs  
*Reason 2:* The two CAFO farms were identified through the AEM process and need the funds to help offset the costs of certifying their undesignated storages according to the new standards. One of the farms may also need additional funds for manure storage improvements

*Previous Amendments: 1 time extension, 1 change of scope  
L. Prezorski, Region 6 WQS, recommends approval.*

**D. Stein moved to approve the change of landowners and BMPs; seconded by B. Aman. Motion passed; carried.**

## **Staff Approved Amendments**

1. Tompkins SWCD – Owasco Inlet Watershed Protection Project – Round 9 – C700730  
*Request:* change of BMPs  
*Reason:* original practice is no longer needed, new practice identified as a priority  
*Approved by J. Schumacher 10/17/06*
2. Ontario SWCD – Northern Watersheds Phase III Implementation Project – Round 10 - C700761  
*Request:* Change of BMPs  
*Reason:* amendment is needed due to change in farmer silage leachate management  
*Approved by T. Brace/B. Steinmuller 9/25/06*
3. Ontario SWCD – Central Lowlands Phase III Implementation Project – Round 10 – C700760  
*Request:* change of BMPs  
*Reason:* clean water exclusion through BY was identified as a much higher priority during design process  
*Approved by T. Brace/B. Steinmuller 9/20/06*

4. Yates SWCD – Vineyard Erosion Reduction in the Central Finger Lakes Watershed – Round 12 – 58-1 (plan of work)  
*Request:* change of landowners  
*Reason:* original farmer withdrew due to financial constraints, new farmer identified as a priority through the AEM process and the agricultural advisory committee  
*Approved by T. Brace/B. Steinmuller 9/21/06*
5. Yates SWCD – Central Lowlands Till Plain CNMP Grant – Round 10 – C700771  
*Request:* change of 2 landowners  
*Reason:* one farm went out of business, the other voluntarily withdrew, new farms identified as a priority through the AEM process.  
*Approved by T. Brace/B. Steinmuller 10/13/06*
6. Chautauqua SWCD – Conewango Creek Bunk Silo – Round 10 – C700745  
*Request 1:* time extension from 12/31/06 to 12/31/08  
*Reason 1:* additional time needed due to engineering delays  
*Request 2:* change of landowners  
*Reason 2:* original farmer sold cows, new farmer identified as a priority due distance to distance to a waterbody and confirmed by AEM Tier 2 Assessment  
*Approved by T. Brace/B. Steinmuller 10/13/06*
7. Chenango SWCD – Otselic River Corridor CNMP Planning Grant – Round 9 – C700705  
*Request 1:* time extension from 12/31/06 to 6/30/07  
*Reason 1:* additional time needed to complete planning activities  
*Request 2:* change of landowners  
*Reason 2:* original farmer sold the milking herd and is not interested on CNMP, new Farms identified as a priority through the AEM process  
*Approved by J. Schumacher 10/30/06*
8. Chenango SWCD – Otselic River Corridor Reach No. 1 Implementation Project – Round 10 – C700746  
*Request:* time extension from 12/31/06 to 12/31/08  
*Reason:* additional time needed to complete project deliverables on account of weather related delays and planning issues  
*Approved by J. Schumacher 10/20/06*
9. Tompkins SWCD – Management Intensive grazing Implementation: Cayuga and Owasco Lake Watersheds – Round 9 – C700064  
*Request:* time extension from 8/30/06 to 8/30/07  
*Reason:* additional time needed to complete project deliverables because of turnover in project personnel and limited availability of fencing contractors.  
*Approved by J. Schumacher 10/19/06*
10. Tompkins SWCD – Taughannock Creek and Willow Creek Watershed Protection Project Phase II – Round 11 – C700800  
*Request:* change of BMPs  
*Reason:* the original silage leachate control system is a lower priority than the barnyard. The silage leachate funds need to be transferred to a barnyard runoff management system to maximize the water quality benefit  
*Approved by J. Schumacher 10/17/06*

**Update on the Development of Rules and Regulations Related to the Development of Performance Standards for Reimbursement to Districts** – R. Kaplewicz, D. Cordier

D. Cordier advised the Committee on the progress made on the draft rule since the last meeting. Cordier explained that the draft rule is an attempt to capture the spirit of the legislation.

R. Kaplewicz thanked all those involved to date and distributed a copy of the draft rule. M. Latham briefly discussed the changes to Section 363.1 – 363.3.

M. Latham noted that the draft was emailed to Districts on Friday, October 27<sup>th</sup> and comments are welcome. R. Kaplewicz discussed the process for formal public comment. He noted that public feedback sessions are planned for the near future.

G. Chartier asked if the comments submitted to date have been incorporated. It was noted that the comments and points of clarification have been incorporated.

The Committee reviewed Section 363.5, which appropriates up to \$6,000 to Districts for future projects and Section 363.8-10, which will reimburse the Districts for adhering to a set of five performance standards.

It was noted that the rule cannot be submitted until after 12/20/06, when the legislation takes affect.

The Committee discussed their annual role with establishing appropriate percentages to each performance measure. An example of how the distribution could be set, was distributed.

Discussion ensued regarding the make up of the performance measures. It was noted that many Districts are overwhelmed with projects and providing program services. A. Barber noted that the performance measures need to be in concert with District needs.

On the topic of overwhelming the Districts, G. Proios noted that we should not be authorizing the next round of Ag NPS funding before we close-out more previous round contracts.

*M. Latham noted that the topic of perpetual time extensions will be brought to the next meeting.*

**Special Service Award** – L. Coffin

Linda Coffin, President of the New York Association of Conservation Districts (NYACD), presented the NYACD Special Service Award to Amanda Barber, President of the New York State Conservation District Employees' Association. A. Barber thanked L. Coffin and expressed her appreciation for the partnership with NYACD. Applause ensued.

**CREP Report** – V. Green, R. Lewis

V. Green commented on the National CREP Forum that was held in Nebraska. C. Frasier also attended the national forum.

V. Green discussed the proposed amendment to the CREP agreement pertaining to the growing and harvesting of perennial biomass. FSA is in the process of drafting the language for the amendment. V. Green will be soliciting the help of R. Lewis in assembling the necessary information for the proposed change. Green noted that the amended language will change the erodibility index and the minimum distance to a watercourse for the planting and harvesting of perennial biomass.

G. Proios commented on the different criteria that would be needed for CREP to protect groundwater resources. He advised the Committee that CREP cannot be implemented on Long Island the way the agreement was written.

V. Green advised the Committee that the draft documentation for the proposed change will be available at the State Committee meeting in December.

G. Chartier noted that a future amendment to the agreement should be submitted to include the most current PWL information.

V. Green also distributed a current status of CREP contracts and acreage per county. Discussion ensued regarding the tracking of completed projects.

#### **Other Reports** – All

- ◆ M. Latham advised the Committee that the DEC – Division of Water Annual Report and the Stormwater – Critical Path to Compliance report is available on the correspondence table.
- ◆ B. Steinmuller advised the Committee that Round 13 should be announced in the next two weeks.
- ◆ B. Silvestri reported that she has developed a series of AEM articles that will be published in upcoming publications, including the DEC *Conservationist*.
- ◆ K. Czymmek reported that the CAFO Road Show will resume this winter due to last year's popular demand for the sessions.
- ◆ P. Kaczmarczyk complimented all who were involved with the Cornell Spear Program's document on phosphorus balance. He noted that it was an excellent informational document. K. Czymmek gave Quirine Ketterings the credit for the document and will pass the praise along to her.
- ◆ D. Deweese, NRCS Assistant State Conservationist, provided information on the Farm Bill programs and distributed a map showing where conservation funds have been expended and CNMPs have been completed by NRCS around the state.
- ◆ L. Travis reported on the NYSCDEA Administrative Conference that was held earlier in October. Travis reported that the Administrative Manual was updated and distributed at the conference. He noted that this was the first update since 1986.
- ◆ Travis also reported on the efforts of the 2007 Water Quality Symposium Committee.
- ◆ G. Chartier advised the Committee that the deadline for the WQIP proposals was extended to October 31<sup>st</sup> due to the extreme weather conditions experienced in the western part of the state.
- ◆ Chartier advised the Committee that L. King of the DEC-DOW was designated as the new Stormwater Training and Education Coordinator. Her contact information is: Louise King, DEC-Division of Water, 625 Broadway, 12233, 518-402-8233, [liking@gw.dec.state.ny.us](mailto:liking@gw.dec.state.ny.us).
- ◆ Chartier reported on the DOW's reorganization that takes effect later this week. Chartier distributed an organizational chart and explained the reorganization.
- ◆ L. Prezorski reported that planning of the Annual AEM Training to be held on November 14<sup>th</sup> and 15<sup>th</sup> in Waterloo is progressing. She reported that most of the session will be focusing on Tier 3A planning.

- ◆ Prezorski also reported on the Annual Stormwater Conference Trade Shows that took place earlier in the month both in the Southeast and in the North Country. She noted that both were very well attended. *A. Barber asked for time on the December agenda for D. Wick and her to provide a report on the stormwater vision for SWCDs.*
- ◆ Frasier advised the Committee that the AEM Technical Committee will be held tomorrow in Marcy.
- ◆ A. Barber reported that the NYSCDEA Executive Board will be meeting prior to the AEM training to discuss the draft rule for District reimbursement.
- ◆ Barber reported that the 2007 Water Quality Symposium will be held on March 13-16 at the Auburn Holiday Inn. Barber extended an invitation to the State Committee voting members to the Annual Awards Banquet on March 15<sup>th</sup>.
- ◆ R. Zimmerman advised the Committee to carefully consider its role in the development of the draft rule including the prioritization for projects. Zimmerman also advised the Committee to provide careful guidance on provision number 5 of part C of the rule, which requires compliance with State Committee policies.
- ◆ R. Zimmerman reported that Commissioner Brennan participated in a meeting with his counterparts in Pennsylvania and Vermont to discuss goals and a future direction for the northeast milkshed. The three states looked at programs dealing with profitably.
- ◆ R. Kaplewicz reported that NYACD's Distinguished Service Award was presented to D. Hill, Chair of the SWCC, for his outstanding and tireless service to conservation. The Committee congratulated D. Hill. Applause ensued.
- ◆ Kaplewicz extended an invitation to the Annual AEM Training in November. Kaplewicz reported that the 319 MOU negotiations with DEC are ongoing.
- ◆ Kaplewicz also reported that he and M. Latham went to Cornell in September to discuss continuing ways to foster a strong relationship between the State Committee and the University. *Kaplewicz advised the Committee that D. Grantham will be attending the next State Committee meeting to discuss opportunities to engage Cornell with projects and program development.*
- ◆ Finally, R. Kaplewicz advised the Committee that the NACD National meeting will be held in Los Angeles on February 4-8, 2007. The theme will be "Proving the Power of Conservation". R. Kaplewicz noted that usually one member of the State Committee and one staff member will have the approval to attend. Interested Committee members should let us know their interest in attending soon so that travel requests can be submitted.

Next Meeting – December 19<sup>th</sup>. Location TBD.

Meeting Adjourned at 2:15.