

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

STATE COMMITTEE MINUTES

March 20, 2007

Hotel Utica, Seneca Room, 102 Lafayette Street, Utica, NY

Present: G. Proios, D. Hill, J. Dickinson, D. Stein, B. Aman, Voting Members; R. Kaplewicz, Director; J. Moody-Czub, D. Cordier, Ag. and Markets; B. Steinmuller, R. Rausch, N. Lawler, L. Travis, J. Schumacher, J. Ten Eyck, L. Prezorski (Dutchess SWCD), SWCC Staff; D. DeWeese, R. Young, NRCS; G. Chartier, Kevin Roberts, J. Lendrum, DEC; G. Bell, NYACD; P. Black, SUNYESF; J. Carmichael, NYS CDEA; Lance Lockwood, Chenango SWCD

Call to Order:

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

Review and Approval of Minutes

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

R. Kaplewicz announced Jackie Lendrum from DEC would be an addition to the agenda. She is going to give a brief overview of the engineering issues and how they relate to CAFO.

Introductions made.

Correspondence

Reports & Newsletters

Agricultural News, NASS Reports: Light Breed Horses Dominate New York's Equine Industry; NY Field Crop Value Increases; January Milk Production Down; NY Honey Production Decreases; February Milk Prices Increased from January; NY Egg Production Up 9% in January; NY Trout Sales Increase; Equine Survey Report; NY Red Meat Production Down 10%; County Estimate Reports.

National Urban and Community Forestry Advisory Council 2006 Annual Report

Waterworks – January 2007

Bay Journal – February 2007

"Nuggets & Nibbles" – Winter 2007 (From the Cornell Local Roads Program)

ERS Report Summary; (Resources and Environment) (Markets and Trade)
USDA – February 2007

Finger Lakes Institute - Spring 2007

FYI – NYACD Newsletter for February 2007

Estuary News – Winter 2007

"Taking Root" – Winter 2007

CFA News – Winter 2007

Agricultural NPS Abatement & Control Grant Program – B. Steinmuller

STATUS OF ROUNDS I-XII

Of 408 projects, 144 are active, 6 are pending and 258 are complete.

B. Steinmuller stated the six pending grants are Round 12 with the exception of the Cayuga County Round 7.

Round XIII

24 plans of work have been sent to the Albany office for review and approval. Currently, 8 have been forwarded to Counsel's office for contract development. The remaining 16 plans of work received are awaiting approval and processing. Of the 16, some have been reviewed and we are waiting on missing information such as landowner commitment letters.

In the near future, B. Steinmuller will be sending a memo to the field staff to remind Districts to submit their Round 13 Plans of Work.

Amendments for State Committee Consideration

1. Allegany SWCD – Rushford Lake Ag. NPS Project – Round 9 – C700701

Request: time extension from 12/31/06 to 10/24/07

Reason: additional time needed to complete project complete project due to relocation problems and management changes on two farms

Previous Amendments: 2 time extensions.

T. Brace, Region 1 Water Quality Specialist, recommends approval. The approval takes the contract term to 5 years.

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

2. Chenango SWCD – Chenango River Corridor Reach No. 1 Project – Round 9 – C700706

Request: change of landowner and change of BMPs

Reason: one landowner withdrew from project. The Ag Waste Storage BMP originally contracted on the farm that withdrew was identified as a priority practice on a new facility owned by one of the landowners already in the contract. The District identified this new facility for the use of the funds after canvassing the entire watershed.

Previous Amendments: 1 time extension

Note: J. Schumacher, Region 2 Associate Environmental Analyst, recommends approval. Close-Out pending amendment decision.

J. Schumacher and L. Lockwood discussed the justification for the change of landowner and BMPs. J. Schumacher stated that this amendment should have been brought to the committee prior to the closeout and he accepts full responsibility. During review of the closeout documents it was determined that changes that were made to the plan of work had to be approved by the State Committee.

B. Aman moved to approve the changes in landowner and BMP's; seconded by J. Dickinson; motion passed carried.

Staff Approved Amendments

1. Montgomery SWCD – Otsquago Creek BMP – Round 7 – C700640
Request: change of BMPs
Reason: original BMP was planned for an earthen waste storage, farmer wished to change the practice to a manure pile area/heavy use protection as a more practical approach for his farm while maintaining an equal water quality benefit.
Approved by C. Frasier 3/12/07
2. Tompkins SWCD – Cayuga and Owasco Lake Watersheds Management Intensive Grazing – Round 11 – C700799
Request: change of landowners
Reason: original landowner withdrew because of a failure to respond to paperwork, new landowner identified as a priority through the AEM process
Approved by J. Schumacher 2/26/07
3. Tompkins SWCD – Upper Susquehanna Rive Basin Management Intensive Grazing – Round 12 - C700830
Request: change of landowners
Reason: original two landowners voluntarily withdrew, new landowners identified as a priority due to increase of animal units and proximity to waterbody
Approved by J. Schumacher 2/26/07
4. Tompkins SWCD – Cayuga and Owasco Lake Watersheds Rotational Grazing – Round 12 – C700831
Request: change of landowner
Reason: original landowner voluntarily withdrew, new landowner identified as a priority through the AEM process
Approved by J. Schumacher 3/7/07
5. Chenango SWCD – Otselic River Corridor CNMP Planning Grant – Round 9 – C700705
Request: change of landowners
Reason: landowners voluntarily withdrew from grant, new landowners have higher acreage totals and animal units
Approved by J. Schumacher 2/26/07
6. Wyoming SWCD – Tonawanda Creek Ag BMP Implementation – Round 13 - 57-1
Request: change of landowner
Reason: original landowner does not wish to continue participation, new landowner identified as a high priority through the AEM program
Approved by T. Brace/B. Steinmuller 3/19/07
7. Steuben SWCD – Chemung River Basin Prescribed Grazing – Phase 6 – Round 13 – 47-1
Request: change of landowner
Reason: original landowners are completing practices themselves, new landowner identified as a high priority through the AEM program
Approved by T. Brace/B. Steinmuller 3/19/07

B. Steinmuller announced the next TAC meeting will be April 12, 2007. The draft RFP will be decided on at that meeting and presented to the State Committee at the May meeting. Also on the agenda, B. Steinmuller has been meeting with Counsel's office with regard to critical flaws and what the options are in keeping with the recommendations received before Round 13 and after a few proposals were rejected due to critical flaws. Counsel's office came up with a process

that the staff supports. Their recommendation would include two dates in the RFP and establishing a pre-screening process. If Districts were able to get their proposals submitted by the first date, maybe something like five to ten days earlier than the final, we would be able to prescreen and identify any missing items. We could then contact the District and they would have until that second date to get that information to us. This would allow us to not delay the entire review procedure and would also reward those districts that were able to get those proposals in to us earlier. Diane Smith has been in contact with Comptroller's office seeking their approval before we bring this to the TAC on April 12. This option was brought to us by a district who had a proposal which was rejected last round. Another option was a possible point reduction penalty for some items which were listed as items of completeness. Other items for discussion would include, follow up items on rating sheet, RFP language, our reporting system which we would like to pursue with DEC on how they report non-point grants to the EPA, and how Round 14 will have a part in that and also petroleum bulk storage practices.

R. Kaplewicz announced that John Rusnica had been offered and accepted the Head Counsel position with the Department of Agriculture and Markets replacing Joan Kehoe. The counsel assigned to the State Committee will be determined in the near future

D. Stein stated he will be applying for Round 14. This will require D. Stein to recuse himself from any discussions on Round 14. R. Kaplewicz stated at the April meeting, an hour would be set aside for discussion regarding creative legislative solutions or initiatives for the ag non-point program. G. Proios asked about Round 14 timetables. B. Steinmuller stated the RFP is scheduled to be released in late August, early September. Proposals would be due mid-November. B. Steinmuller stated due to AEM Tier 3A minimum for all farms planning to propose implementation through Round 14, he sent an e-mail to all districts reminding them of this policy change. He received some feedback from Districts and encouraged them to offer their comments and suggestions through the Employees' Association during RFP development. J. Carmichael stated this would most likely be discussed at the Manager's Forum meeting being held April 4-5, 2007. He stated some districts are concerned with this requirement because AEM is still fairly new and we are into just the second year of the base program. Their concern is that many will not have enough Tier 3 plans ready to go which can then move into implementation.

J. Dickinson asked what would happen if he, D. Stein and B. Aman applied for Round 14 or 15. It seems that each of the members operates a regulated operation (CAFO) and is required to implement now rather than later. They all have work that needs to be done. Will DEC be patient with members that have to recuse themselves in order to maintain the integrity of the process? R. Kaplewicz explained it would be a matter to be discussed with Counsel's office. D. Cordier was going to check into this matter as well as alternatives. The voting members should be able to receive funds from committee and be able to use resources. The question of establishing a quorum was discussed and if this could be accomplished through the use of alternatives.

R. Kaplewicz attended the EQIP sub-committee meeting NRCS conducted. They are looking at establishing a program payment schedule for the purpose of reducing the administrative costs by using an average cost per practice. They are going about this by watershed, regionally. NRCS would give you "x" amount of dollars per type of practice. If you completed the practice for a lesser amount of money, you could use the remainder towards another practice; if it costs you more to complete that practice that would be your problem. We need to come up with creative ideas to reduce administrative burden and paperwork for making this more manageable. NRCS is hoping to implement this program (Practice Payment Schedule) sometime in 2008.

R. Kaplewicz talked about responsibilities of field staff and office staff and being stretched thin and the need to look for better ways to do business. D. Stein stated there are paperwork, engineering and staffing problems and we are going to need to spend some time figuring how

this work will get done by setting priorities. R. Kaplewicz stated that in last year's budget, he had requested additional positions including the conversion of several "soft money" positions to the general fund.

Stormwater Survey Overview – L. Prezorski

Since 2003, a survey of districts has been conducted to determine how many are involved and what work is being done with regard to stormwater activities. Fifty-six districts responded to survey; the best response ever. An average of 2.1 district staff per county is involved in stormwater work. The districts averaged 17.5% total staff time per county during 2006 devoted to stormwater work. Information compiled regarding Certified Professionals in Erosion and Sediment Control staff, State Soil and Water Reimbursement Program, inspection work, site plan review services, training and compliance checks were discussed. Seventy percent of the districts reported stormwater work to be a high priority. Results of the Stormwater Survey were sent to all districts.

B. Steinmuller stated the TAC Committee was basically an Ag Non-Point Program Steering Committee working with AEM. R. Kaplewicz stated one of the other objectives is to reorganize some of the committee structures as they relate to TAC and AEM because there are definitely overlapping responsibilities as there seem to be a lot of the same people at several different meetings. J. Ten Eyck stated that the AEM Steering Committee meeting is next week. There are three committees with the same people that overlap considerably and should eventually be consolidated.

Update on Draft Rules and Regulations – D. Cordier and R. Kaplewicz

D. Cordier explained she has been working with R. Kaplewicz and M. Latham to develop the supplemental information which has to be submitted to GORR (Governor's Office of Regulatory Reform). The supplemental information includes job impact statements and rural area flexibility analyses. Four different analyses need to be completed along with a Notice of Proposed Rulemaking. Presently, J. Rusnica is reviewing the Draft and will try to approve and forward to the front office next week for their review and approval. When that is completed, the Draft will be forwarded to GORR. That process could take three to four months. After review and authorization by GORR, the proposed rule will be published in the State Register for a 45-day public comment period. During the comment period, State Committee staff will do additional outreach to the Districts. Next, we'll receive and address comments and then file for a Notice of Adoption in the rulemaking. R. Kaplewicz stated at this time next month, he is hoping the proposed rule will be forwarded to GORR.

There was discussion on when the additional money would be available. R. Kaplewicz stated we have all understood that we need to have the rule in place as a means to spend the money. A subcommittee of the State Committee (same members as Rulemaking Committee) would be meeting next month to discuss details regarding reimbursements, form development and performance standards. Money will be distributed to districts after the rule is in place.

Disaster Subcommittee Update – J. Schumacher

He has been working with A. Barber on a working plan/policy draft. They will be presenting a draft outlining disasters and possible plans of actions related to where to go, how to handle, etc. at a future State Committee Meeting for review. Meetings have been held with SEMO, FEMA, and DEC. D. Hill explained this project has involved a variety of topics on all types of disasters and the best possible ways to deal with each.

AEM Year 3 Base Program – J. Ten Eyck

J. Ten Eyck reviewed the Proposal for AEM Base Program – Year 3. Year 3 begins May 7, 2007. Tier 1-4 will remain basically the same. Tier 3A (NRCS planning process), plan is essentially kicking off the progressive planning process which means they have to plan at least one high priority issue on the farm as identified through Tier 2 and also at least identify all other high priority issues on the farm. As in year 2, the plan will meet the criteria laid out in the Tier 3A Checklist - \$1,000/farm. This is a one time only payment per farm. Tier 5B Evaluation payment of \$400 can be used to plan additional priority issues annually. In the past two years, we had a rule that you could only do that once every three years on the farm. The Proposal is recommending that be lifted, and that there could be annual evaluations on the farm if the District so chooses to do that which means if the farmer is ready, willing and able to make additional decisions on issues the District could get \$400 for planning that particular issue.

Tier 4 proposal included to provide an additional payment of \$1,000 per planned BMP, which has an engineering practice designation, for a Preliminary Investigation to be conducted by a Professional Engineer licensed in New York State prior to BMP design. Payment would be for the cost of the service by the PE up to \$1,000. Much discussion ensued. This provides no financial incentive for Districts but engineers would benefit. R. Young stated that the Job Approval Authority List from NRCS approved by the State Education Department would be available shortly. It was decided to withdraw this part of the proposal at this time. Tier 5A and 5Ac would remain the same. Tier 5B would remain the same with a few exceptions. This would involve the continuation of a progressive planning process through evaluation, expansion, revision, and/or update of Tier 3 Plans according to an established checklist of minimum requirements. This work may occur *annually* on that farm for a \$400/farm payment. This was previously three years.

With regard to the evaluation of the effectiveness and Operations and Maintenance activities of funded BMPs, which will include a report to the farmer on the effectiveness and suggestions for improvements, Tier 5B would pay- \$250/farm. This amount is reduced from \$400. Tier 5Bc would remain same as last year.

Associated outreach and educational activities would include payment for activities that help support the effective implementation of AEM - \$500/event, presentation, or program evaluation not to exceed \$3,000. Discussion ensued as to how many "events" would be categorized as education, outreach or program evaluation. Should a District conduct an equal amount of event types, one of each as an example, or should there be more structure. L. Travis suggested we should see how the first year is reported and make changes in activity types or numbers if needed.

Interim payments would be established and would pay districts based on what they have completed by October 31, 2007. This is the halfway point in the program. Mostly planning would be done during this period. This would probably be a small amount of work and money.

AEM Strategic Plan Implementation Pilots is being proposed. The objective is to select between 2 and 4 Districts to pilot an approach to implement a complete and comprehensive AEM Program. J. Ten Eyck stated that the AEM program is clearly a quantity over quality process at this time. Districts would be allowed to request up to \$75,000 for a twelve month time period. Districts with a strong AEM program, all across-the-board, would be given first consideration. Districts would develop a proposal on what they would do and accomplish with the funding.

D. Stein motioned to move forward with the Proposal for AEM Base Program: Year 3; seconded by B. Aman. Motion passed; carried.

CAFO Engineering Requirements – J. Lendrum

J. Lendrum from DEC spoke on engineering requirements with regard to inspection of CAFOs. DEC will be inspecting CAFOs to determine if they have an engineered design and as-built documentation of the installation of manure storage structures or an evaluation stating the structure substantially meets all applicable NRCS standards. This needs to be done by a professional engineer licensed to practice in New York State for all waste storage structures on farms. 12/31/06 was the large CAFO full implementation deadline; 10/1/07 is the medium CAFO non-structural practice deadline. She also discussed the proposed permit modification/renewal requirements starting in 2009. D. Stein discussed how there are more and more requirements for CAFOs which are both time consuming and financially exhausting. Deadlines will be near impossible to make, and stated that DEC will need to be flexible. J. Dickinson stated the requirements place a heavy burden on the dairy industry.

Other Reports – All

- R. Kaplewicz announced the following Districts annual plans of work need to be approved:

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|-------------------|-------------------------------------|
| <i>Broome</i> | <i>Cayuga</i> |
| <i>Chautauqua</i> | <i>Chemung</i> |
| <i>Cortland</i> | <i>Erie</i> |
| <i>Hamilton</i> | <i>Onondaga</i> |
| <i>Rensselaer</i> | <i>Schuyler, both 2006 and 2007</i> |
| <i>Ulster</i> | <i>Yates</i> |

D. Stein moved to approve the work plans; seconded by D. Hill, motion passed and carried.

R. Kaplewicz welcomes all ideas for the Principal's Meeting agenda. They can be sent to him by mail or e-mail for discussion at next month's meeting.

- G. Proios reported the Hudson Valley RC & D meeting was successful with approximately 200 people attending.
- G. Chartier announced he is retiring from DEC next month and will be leaving the Committee. K. Roberts will be his replacement at this time.
- D. DeWeese reported NRCS has been involved in a business model team developing new ways of doing business, trying to deliver more technical assistance efficiently and effectively. They have established three administrative areas compared to the current four. NRCS is organizing multi-county teams with various professional disciplines and is consolidating field offices. Subgroups are looking at data sets and information to determine boundaries of administrative areas and teams and criteria for field office consolidations. NRCS is mandated to produce a State Efficiency Plan draft by the end of April. Budget formulations will be tied to performance based activity. NRCS continues to take on many more administrative duties with no additional employees.
- J. Carmichael stated the Water Quality Symposium was very successful and thanked the State Committee staff for all their assistance with planning and helping.
- R. Kaplewicz announced that Peter Manning from DOS will be joining the Committee.

- P. Black and J. Dickinson stated they would be unavailable for the next meeting.
- R. Kaplewicz acknowledged awards presented at the Water Quality Symposium. Greg McKurth received the Willard F. Croney Award for Distinguished Service as Soil and Water Conservation District Employee of the Year. Chairman D. Hill presented A. Barber with an award for her work with the State Committee.
- D. Hill announced that Jeff Carmichael is the new President for the CDEA.
- J. Moody-Czub announced Patrick Hooker has been officially confirmed as the new Commissioner for the Department of Agriculture and Markets, and she is looking forward to working with the Committee.
- R. Kaplewicz stated he has received a summons for jury duty and is waiting to see how it impacts his schedule.
- B. Aman stated that the carbon committee has received \$113,000 and will conduct a 2-day conference teaching cooperative extension people, farmers, farm groups and others on carbon practices.
- J. Ten Eyck stated a CNMP training session was held at the Water Quality Symposium with 26 students, 6 from the private sector.
- R. Kaplewicz stated the Manager's Forum to be held April 4-5, 2007 at the Holiday Inn in Cortland. Discussion on office consolidation issues, grant program and the AEM program will take place.

Next Meeting – Tuesday, April 17, 2007 at a location TBD.

Meeting Adjourned at 3:15 p.m.