New York State Soil & Water Conservation Committee

10B Airline Drive, Albany, NY 12235 -- Telephone (518) 457-3738

STATE COMMITTEE MINUTES

February 14, 2012
Pride of New York Room
NYS Department of Agriculture & Markets

Present

G. Proios, D. Stein, D. Brass, C. Colby, Voting Members; M. Latham, Director, B. Steinmuller, B. Silvestri, Cliff Frasier, Div. Land and Water Resources; K. Smith, DOS; D. Tuxill, DEC; P. Kaczmarczyk, DOH; R. Rausch, J. Rusnica, NYS DA&M; D. DeWeese, Carrie Mosley, USDA NRCS; D. Grantham, CCE; Judy Littrell, NYACD; Jim Lieberum, NYS CDEA; Nic Tibbetts, Jefferson Co. SWCD.

Call to Order: G. Proios, Chairman, called the meeting to order at 10:15 am. Introductions were made around the room.

Review and Approval of Minutes:

A motion was made by D. Stein to approve the December 2011 Minutes; seconded by C. Colby.

Correspondence:

M. Latham highlighted the Soil and Water Conservation District (SWCD) Annual Reports received this month, which were placed on the table for review. No further correspondence was received.

G. Proios pointed out information in District Annual Reports including the porous pavement project along Beach Road in Lake George. J. Lieberum noted that this is the first project of its kind in New York. The project is led by the Warren County DPW and the District assisted in lining up a $416,000 grant to pay for the environmentally-friendly pavement, which is a part of the $6 million reconstruction project.

B. Silvestri pointed out the escalating amount of press generated weekly by Districts and passed around several examples of recent articles including Warren County's porous pavement project and the *Wall Street Journal* article quoting Ulster County SWCD on flooding.

Budget and Personnel Update

2012-2013 Executive Budget - M. Latham reviewed the proposed 2012-2013 Executive Budget, which is available on the Division of Budget website. Latham explained new EPF appropriations language and a breakdown of line items affecting Districts and agriculture. Funding for District agricultural projects went down about 2%. District Aid is at $3.5 million, with added appropriations language that allows exceeding the cap, which only lasts for the duration of this budget. This provides roughly an additional $8,000 per county in state reimbursement. Districts still have to qualify but there are no additional requirements. M. Latham expressed appreciation for the work Districts have been doing throughout the state.

J. Littrell clarified that Ag. Plastics Recycling implemented by several Districts around the state is funded out of the Ag. Waste Management budget though Cornell's program. The Governor has proposed funding Pro-Dairy under Aid to Localities for this year, and a marketing order to fund them in the future is being explored. G. Proios raised a question regarding the activity of the EBM Council. M. Latham reported that the group has not met since the State Committee has been added to the Council, which is jointly administered by DEC and DOS. K. Smith noted related staffing issues and offered to look into the status of the Council and future project requests. The Council typically solicits projects once a year from each Council member. M. Latham reported that Districts have successfully been awarded funds due

to their ability to implement water quality projects efficiently and effectively, and that District EBM projects in Jefferson County and the Susquehanna remain active.

A complete breakdown of the DA&M's budget was passed around by M. Latham who reported that fill levels at the Department are at a historically low level. Latham explained how the Division's cash plan is going well, with vouchers coming in daily with all expected by March 1st. Ag Nonpoint Source (NPS) and Farmland Protection project close-outs are underway, along with finalizing Agricultural Conservation Recovery Fund (ACRF) payments to farmers for emergency projects.

K. Smith noted the tough choices DOS faces regarding projects to pay out and those to back-log. He asked for suggestions as to how to prioritize the projects reporting that there is usually a back-log of millions of dollars. M. Latham explained that payments are prioritized based on when farms are building and projects are active. Districts implement an average of $7-8 million per year, which is factored in. Sometimes cash is reserved from prior months to cover expenditures like District Aid payments.

J. Littrell noted that the EPF Coalition is pushing to get payments for the back-log of projects from the past four years caught up. Real Estate Transfer Tax dollars are coming back up and excess funds from the tax is going into the general fund rather than into the EPF. However, legislators are discussing making the EPF whole again.

M. Latham expressed concern about handling a $300 million EPF without employees to manage the work involved. The 2010 District Annual Report details the value of District programs and services at over $40 million. G. Proios emphasized that this is a key point when meeting with legislators. He explained how Suffolk County is estimating the cost benefit ratio per staff person. In this case, with approximately 300 District employees statewide the value per staff person would come out to roughly $133,000. Considering the range of employee salaries, there is a tremendous amount of program funds generated per employee, which illustrates how employee loss equals a loss in revenue for conservation.

Staffing - M. Latham discussed staffing issues and reported that the Department has received 11 waivers for priorities including food safety, revenue generating positions and the new State Environmental Engineer. B. Steinmuller reviewed the interview process for the Environmental Engineer Position. Six candidates from the Civil Service List were interviewed. Over 80% of their time will be focused on training and building District capacity, requiring a unique skill set combining engineering expertise with interpersonal skills and the ability to train others. M. Latham and B. Steinmuller agreed on the qualifications and fit of a few of the candidates. However, since time has lapsed, there is a new list that allows additional candidates to apply, and requires those already interviewed to re-apply. Funding for this position is supported through the USDA-NRCS and the State's General Fund.

Competitive bids from Districts in response to the RFP for contractual staff support to the Division of Land and Water Resources were received and scored. Cortland and Dutchess SWCDs were awarded contracts for a total of four program support positions. The two regional and two Albany-based statewide positions are funded though support from USDA-NRCS and the State's EPF. The Division is hoping to bring back program capacity though the support of these partnership dollars.

Open Meetings Law – M. Latham distributed the proposed procedures for "Disclosure of Records Scheduled for Discussion at Open Meetings Procedures" to comply with the Open Meeting Law in effect on February 3, 2012. J. Rusnica explained that this legislation passed last year as a new provision in public officer's law requiring that upcoming meeting correspondence be distributed prior to any open meeting. The Division worked with J. Rusnica to develop an effective and efficient method to accomplish disclosure of these documents. This will require posting of all documents up for discussion on the State Committee website by close of business on the third business day prior to the meeting, such as resolutions, policy procedures and Ag. NPS reports with amendments. If a document is added to the agenda, it may also be posted. Hard copies may be provided upon request as available at the meeting. **Soil and Water District Board meetings are also open meetings under the same requirement, and the procedure developed will also serve as a template for Districts to adopt.** This procedure is not active until approved by the State Committee. Discussion ensued to clarify specifics of documents required to be disclosed. Before this law, only the announcement of the meeting was required. B. Steinmuller stated the importance of being mindful of personal privacy protections and the review of certain documents to determine if information needs to be redacted

before posting. This will require a workload increase, but also has some utility for Advisors, Voting Members and Districts.

A motion was made by D. Stein to approve the proposed "Disclosure of Records Scheduled for Discussion at Open Meetings Procedures"; seconded by C. Colby. Motion passed; carried.

<u>Agricultural NPS Abatement & Control Grant Program</u>

STATUS OF ROUNDS 1-17

Of 619 contracts, 152 are active, and 416 are complete. 20 contracts have been cancelled during the life of the program. There are 31 Round 17 NPS projects pending. There were 33 contracts that closed-out in 2011.

Amendments for State Committee Consideration

Jefferson SWCD – Sandy Creek/Stony Creek Tier 4 – Round 12 – C700812

Request: time extension from 12/31/11 to 12/31/12

Reason: extension needed due to delay in NRCS review of design with silage leachate control project. This is the final project; five of six BMPs have been installed.

Note: Bob Brower, Region 4 AEA, supports the time extension

Previous amendments: 2 time extensions

D. Stein moved to approve the time extension; seconded by C. Colby. Motion passed; carried. D. Brass abstained

Schoharie SWCD – CDS Tillapaugh Best Management Practice – Round 14 – C700921

Request: time extension from 12/31/11 to 12/31/12

Reason: financial hardship initially, wet fall delayed installation of silage leachate project which delayed other projects.

Note: Cliff Frasier, Region 5 AEA, supports the time extension

Previous amendments: none

C. Colby moved to approve the time extension; seconded by D. Stein. Motion passed; carried.

Tioga SWCD – Owego Creek Implementation – Round 14 C700901

Request: time extension from 12/31/11 to 6/30/12

Reason: groundwater problem with manure transfer

Note: Cliff Frasier, Region 5 AEA, supports the time extension

Previous amendments: none

D. Stein moved to approve the time extension; seconded by C. Colby. Motion passed; carried.

Staff Approved Amendments

Wyoming SWCD – Lake Erie Drainage Basin BMP – Round 14 – C700880

Request: change in BMP's

Reason: change from barnyard runoff control to agricultural waste storage to handle expanding herd size

Note: Jeff Ten Eyck, Region 3 AEA, supports the change in BMP's

Previous amendments: 1 time extension, 3 changes in BMP's

Round 17 Update

Currently, the Division has reviewed and forwarded 48 plans of work out of the 52 approved projects. The remaining four plans of work have not yet been submitted. There are currently 17 active Round 17 contracts. The Division is actively approving 25% advance payments for executed contracts so Districts can commence spring construction activities.

In response to a question raised by J. Lieberum regarding the batching of Plans of Work for approval, rather than as they come in, weekly, or every few weeks. B. Steinmuller explained that the batching method was necessary due to the recent emergency flood response situation, which postponed timely review. Ideally, it is more advantageous to approve these plans as they come in, which allows for more of an exchange of information with the District at this stage.

Round 18 Update

Pursuant to the Round 18 RFP, 78 proposals were received. State funds requested totaled $20,058,452. 248 farms were included; out of that 23 were CAFOs. Scores were due on February 13th. The post review meeting is scheduled for February 15th. The draft ranked list will be available for State Committee approval at the March 2012 meeting. $10.5 million is currently available for funding Round 18 proposals.

D. Stein stated that AEM Base funding and the resulting effect on the grant program shows that AEM is working and that it is not regulations driving the grant program. AEM Base is the driving force for the grant proposals and 90% of the projects are not regulatory.

Proposed State Fiscal Year 2012-2013 Appropriations Language (Up to 25% set-aside)

The appropriations language that authorizes state funding for the AgNPS Program was proposed to be modified to include a 25% set-aside for projects that exhibit special regional or statewide significance. Under this proposed language, the State Committee and the Commissioner of Agriculture and Markets would be given joint authority to deliberate and agree to target funds for this purpose. This is proposed under the SFY 2012-2013 Appropriations language not under SWCDL Section 11-b, therefore it is for one year only. If approved, the 25% set-aside would be considered pursuant to the Round 19 RFP. At the next State Committee Meeting, a timeline for the development and release of the Round 19 RFP will be made available. Please see the entire section below:

"Agricultural Non-point Source Abatement and Control Projects, notwithstanding any law to the contrary, the commissioner of agriculture and markets and the New York State Soil and Water Conservation Committee may jointly agree to set aside up to 25% of this appropriation for agricultural non-point source abatement and control projects that exhibit special regional or statewide significance and meet the project eligibility requirements established in subdivision one of section 11-b of the soil and water conservation districts law. Such projects shall not be subject to the priority water body preference set forth in subdivision three of such section (09AN12ER)……$13,000,000"

This change empowers the State Committee and the DA&M to determine priorities for up to 25% of the $10.5 million Ag. NPS appropriation, which is calculated after the $2.5 million split for AEM Base. Discussion ensued regarding the AEM Base Program. B. Steinmuller explained that the program has more than paid for its annual allocation and how the benefits far outweigh the cost. Mike further noted that statutorily, planning needs to be funded and the ABF Program is the appropriate mechanism to accomplish it.

M. Latham requested that the State Committee consider objectives for targeting funds and what additional information might be needed in order to make decisions as to how it should be set aside and approved for Round 19. The objectives will be brought Technical Advisory Committee (TAC) for further discussion and additional information. B. Steinmuller pointed out that this will require additional TAC deliberation on the Round 19 timeline, and that every nuance added into the RFP potentially effects eligibility requirements and substantially increases staff workload.

D. Stein pointed out that targeting these dollars will help to fine-tune the grant program. M. Latham suggested considering preventative efforts to keep clean water clean in watersheds that do not have access to funding because they are not on the Priority Waterbodies List (PWL). Stein stated that objectives should include more than one target and requested more information on the following for consideration: implementation of Best Management Practices

(BMPs) by Medium CAFOs, emergency situations, priority issues that arise, new technology and preventative efforts including enhanced nutrient management over tile drains and karst topography.

D. Stein raised NEDPA's concern about nitrogen and phosphorous entering the Finger Lakes in response to a group monitoring water from water entering ditches from tile drainage outlets. M. Latham explained that since nitrogen moves through the soil naturally, it would be necessary to determine those levels before determining the actual load that would need to be decreased and whether the source is actually farms. Various practices were discussed including better management of manure application over tiles, wood chips and bio-filtering. P. Kaczmarczyk noted Iowa studies. M. Latham pointed out the work done in the Lake Champlain Watershed. B. Silvestri reported on the Miner Agricultural Research Institute's Tile Drainage Meeting held a few years ago involving New York, Vermont and Canada. Clinton County District Manager Steve Mahoney, considered the on-the-ground expert by the group, presented the advantages of "Deep Pattern Tile Drainage," a parallel pattern enclosed tile system placed 4 to 4.5 feet deep, rather than the commonly used 3 foot depth. He also discussed guidelines for the appropriate management of tile drained lands on specific soils. B. Silvestri offered to provide Mahoney's "10 Points of Tile Drainage" and meeting notes prepared for the Commissioner to those interested.

J. Littrell suggested that with ACRF dollars running out for flood recovery and land restoration projects perhaps stabilization of streambanks on agricultural land should be targeted for specialized funding. C. Colby pointed out that in some cases many of the most important farm needs have been prioritized and addressed, however, additional practices that may be needed can cost even more than all the rest. Discussion ensued regarding changing farm needs and the recent increase in silage leachate systems as a result of a change in NRCS standards.

K. Smith reported on the recent NPS Coordinating Committee meeting focusing on watershed management planning. EPA's nine-point plan includes pollutant loading and TMDL efforts. With better coordination and a pooling of resources, these efforts can complement each other and maximize results.

M. Latham emphasized that this is an ongoing dialogue and asked that State Committee members and Districts provide feedback. B. Steinmuller will develop an early schedule for Round 19 to allow for further discussion.

AEM Worksheet Review and Approval – B. Steinmuller

B. Steinmuller expressed appreciation to the staff and partners for their work in revising these worksheets. B. Steinmuller presented a set of four Draft AEM Assessment Worksheets recently revised by a multi-disciplinary and agency team of experts. The State Committee's Technical Advisory Committee (TAC) recently reviewed and recommended approval by the full Committee of the following four worksheets:

- Manure and Fertilizer Storage
- Manure and Fertilizer Management
- Water-Borne Pathogens
- Management of Feed Nutrients

Discussion ensued. D. Stein noted that the Management of Feed Nutrients Worksheet deals with very complex nutritional issues and questioned whether Districts would have the capacity to assess the management of feed nutrients through the Tier 2 process. B. Steinmuller noted that all new worksheets will be accompanied by a set of AEM Reference Sheets and specific web-based and center based training. Steinmuller also noted that the Management of Feed Nutrients Worksheet is designed to be discussed with farmers by individuals with the appropriate background and skill sets. In most cases this would be an assessment conducted by our partners in Cornell Cooperative Extension.

D. Stein moved to approve all AEM Worksheets as presented; seconded by D. Brass. Motion passed; carried.

Clean Water Act Section 319 (Nonpoint Source) Report – Don Tuxill, Chief NPS Section, Division of Water, DEC

D. Tuxill provided a report to the Committee on the recent developments on the CWA Section 319 Program. Tuxill reported to the Committee that the EPA is responding to two critical reports to the Federal Office of Management and

Budget (OMB) and the General Accounting Office (GAO) evaluating key elements of the program. The reports point out deficiencies in the program and distribution of federal funds to the states. As a result, the EPA is holding a series of stakeholder meetings and teleconferences with the various states talking about revisions to the existing 319 Program. Currently, DEC is having discussions with the EPA on how NYS will review and modify program elements. One major mandate is that states are going to be required to update their Nonpoint Source (NPS) Management Program. NYS developed a comprehensive NPS Management Program, approved in 2000, that outlines ambitious program goals, benchmarks, and objectives. This will be a major undertaking in NYS if the Management Program needs to be majorly overhauled. One other recommendation made in the report is that each state must use at least 50% of its share of the funds for on-the-ground implementation projects. Meeting this recommendation will be a challenge in NYS because a majority of the 319 Program dollars are used for staff resources. Discussion ensued regarding other recommendations of the report including better coordination between the EPA and the USDA-NRCS on funding priorities within EQIP. The OMB report also mentioned the establishment of a mechanism to improve partnership and collaboration with other entities such as Conservation Districts, regional planning commissions, and non-profit organizations, e.g. NACD. Discussion continued on the challenges with demonstrating quantifiable water quality accomplishments with the 319 Program funds. The full report entitled "A National Evaluation of the Clean Water Act Section 319 Program" can be accessed at: http://www.epa.gov/owow/NPS/pdf/319evaluation.pdf.

Annual Plans of Work Approval

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

Cayuga	**Ontario**
Chemung	**Oswego**
Columbia	**Rockland**
Essex	**Seneca**
Hamilton	**Steuben**
Madison	**Suffolk**
Monroe	**Tioga**
Montgomery	**Washington**
Nassau	**Wyoming**

Advisory Member and Other Reports

NRCS: D. DeWeese introduced Carrie Mosley, Acting NY State Conservation on detail from Montana. Mosley told the Committee that she is excited to be here in NYS to help out anyway she can. Mosley advised the Committee that NRCS is extremely busy working on the Emergency Watershed Program (EWP) to address post-Irene and Lee storm damage. Discussion ensued regarding the flooding impacts to existing NRCS flood control structures. It was noted that NRCS flood control structures held up quite well. B. Steinmuller also noted that in discussions with District and NRCS employees indicated that NRCS Standard Conservation Practices by-in-large also held up quite well. Often comments are made on the over designing of practices and structures based on NRCS Specifications, but it could be said that these practices are designed to higher standard that can manage and hold up well to major storm events.

C. Mosley briefed the Committee on the President's recently announced Budget that includes a reduction in NRCS funding. This reduction does not impact NRCS' standard operations. Much of the budget impacts will not be fully known until the next Farm Bill is authorized. Discussion ensued regarding the current status of the Farm Bill deliberations.

Voting Member – Grange: D. Brass reported that the state FFA president recently joined the Jefferson County Grange. This young individual brings a wealth of youthful enthusiasm to the local organization.

DOH: P. Kaczmarczyk spoke about the hydrilla outbreaks that occurred in Cayuga Lake in and around Ithaca over the summer. This was a major issue because the invasive species is so hard to control because it cannot be mechanically harvested.

CCE: D. Grantham advised the Committee on the shared business network model that is currently being implemented by Cornell Cooperative Extension. This model consolidates much of the support operations for the county offices by regionalizing fiscal and human resource related functions. Grantham also told the Committee that CCE is looking at formulating "Regional Ag. Teams" for various types of agricultural operations such as vegetable crops, grapes, etc… Grantham concluded that CCE offices have been impacted hard by county budget cuts.

CDEA: J. Lieberum reminded the Committee that the Annual Water Quality Symposium will be held in Auburn on March 13th – 16th. Lieberum briefed the Committee on the recent National Association of Conservation Districts (NACD) meeting he recently attended in Las Vegas.

DA&M: R. Rausch advised the Committee that the final ACRF component program is currently out. This program component provides up to $20,000 for equipment and fixture replacement. The open call for applications closes on March 28, 2012. This program is being coordinated with Empire State Development. Applications and program information can be found at: http://www.esd.ny.gov/.

NYACD: J. Littrell advised the Committee on the progress with the Association's annual Legislative Days. She told the Committee that the main message was to support the Governor's budget for the EPF and to make permanent the proposed raising of the District Aid budget cap. The jointly attended legislative meetings with the CDEA highlighted the critical role of Districts on disaster response and mitigation and reminded the members and staffers that Districts were not provided with funding for staff support through their parts with the ACRF Conservation Program. NYACD is advocating for additional increases in the EPF for Conservation Districts. Other major efforts include advocating for changes to SWCDL for invasive species management and environmental education. NYACD is also focusing on direct eligibility for Districts to apply for the DOS Waterfront Revitalization Program that includes funding for watershed management and other water quality projects.

DOS: K. Smith reported on the recent 2011-2012 Waterfront Revitalization Program solicitation. In response to the RFP, 138 applications were received and 43 projects were awarded. The major emphasis was on economic development projects. Out of the 43 projects awarded, four were focused on water quality. $11 million was made available for the 2011-2012 LWRP.

Voting Member – Chair: G. Proios advised the Committee that he recently attended the Agricultural Society Meeting. He met with Cornell Cooperative Extension (CCE) Director Helene Dillard. Proios also advised the Committee that the Brookhaven National Laboratory has started a campaign to get young people excited about careers in sciences. He had a chance to talk with a representative from BNL and discussed Conservation Districts and the Envirothon Program.

Director: M. Latham spoke about the pending USDA Farm Services Agency (FSA) office closures. Office closures are planned for Albany, Saratoga, and Yates Counties. M. Latham suggested that he write a letter to Secretary Vilsak advocating keeping those offices open. Latham also advised the Committee that he is monitoring pending NRCS Soils office closures as well. Twenty-four soils offices in 21 states are slated for closure, including one in Binghamton.

Next Meeting:
Discussion took place on the next possible meeting date. B. Steinmuller will reach out to Voting Members if a meeting in March is necessary. If not, the next meeting is scheduled for April 17th at 10:00 a.m.

The meeting adjourned at 2:19 p.m.

To access the audio-cast of this meeting, please visit the New York State Department of Agriculture website at: www.agriculture.ny.gov.