

**New York State Soil & Water Conservation Committee**  
10B Airline Drive, Albany, NY 12235 -- Telephone (518) 457-3738  
**State Committee Meeting**  
**State Office Building, Conference Room B**  
**207 Genesee Street, Utica, NY**

**Present:**

G. Proios, Chair, D. Stein Vice-Chair, D. Brass, C. Colby, J. Dickinson, Voting Members; M. Latham, Director, B. Steinmuller, Assistant Director; C. Frasier, SWCC Staff; D. Pettit, NRCS; J. Rusnica, DAM; A. Kumar, DEC; P. Kaczmarczyk, DOH; N. Billhardt, NYSCDEA; J. Littrell, NYACD.

**Call to Order**

G. Proios called the meeting to order at 10:20 a.m.

**Review/Approval of Minutes**

**D. Stein moved to approve the July 17, 2013 minutes as presented; seconded by D. Brass. Motion passed; carried.**

**Correspondence**

B. Steinmuller made the correspondence available. Correspondence included a variety of Soil and Water Conservation periodicals, reports and District Newsletters and Reports.

B. Steinmuller read a letter from Hellene Dillard, Cornell Cooperative Extension Director, and Kathryn Boor, Dean CALS, Cornell University to Michael J. Latham appointing Deborah Grantham as the CCE/CALS representative to the New York State Soil and Water Conservation Committee. The State Committee welcomed D. Grantham as the official representative. In the past, D. Grantham and L. Telega shared this responsibility and when one could not attend the meetings, the other would be an alternate. G. Proios asked that the SWCC send an acknowledgment to the Director and Dean and respectfully request that an alternate also be appointed to share the representation as it has been done in the past.

**Advisory Member / Partnership Reports / Public Comments - ALL**

**NY Farm Bureau** – J. Dickinson read the NYFB report, provided by C. Mural. It is with mixed emotions that NYFB reports that Julie Suarez will be leaving the Public Policy team to take a position as Assistant Dean for Governmental and Community Relations at Cornell's College of Agriculture and Life Sciences. NYFB will miss her dearly and appreciate all her contributions to the agriculture industry over her 15 years with NYFB. Jeff Williams will be the new Director for Public Policy and begins in this new role on October 7<sup>th</sup>.

NYFB will be filing an amicus brief (or Friend of the Court brief) to support NYS DEC in their CAFO litigation. Our members continue to show interest in taking advantage of the ECL CAFO rule change but remain wary as litigation is still ongoing. Members are looking into the [Dairy Acceleration Program \(DAP\)](#) and the valuable services it provides.

Adding additional pressure at this busy time of year, OSHA-NY has communicated their intention to begin a focused enforcement initiative for dairy farms called a Local Emphasis Program. NYFB is working closely with NED-PA, PRO DAIRY and Farm Credit East to prepare the producer community for this targeted initiative. NYFB is also working with OSHA National to make sure adequate resources are available for producers and appropriate measures are being taken by inspectors as they move towards rolling out this LEP in June or July 2014.

The state budget process begins now for state agencies and the Executive staff – NYFB is meeting with DOB, Executive staff and others to promote and try to secure adequate funding levels for our agricultural environmental programs like AEM and SWCDs. NYFB is also closely monitoring the development of a possible bond act which could direct funding to AEM and that may materialize in the budget process.

**NYACD** – J. Littrell reported on [NYACD's Annual Conference](#) to be held October 16<sup>th</sup>, 17<sup>th</sup> in Oneonta, NY (Otsego County). The agenda is taking shape with many pertinent topics on District operations, current programs and future District programming. Littrell advised the Committee that she has received tremendous help from SWCC Staff on development of sessions. Littrell announced that NYACD is planning to have the District's in the Media Award and a speaker on climate change from Cornell University present to the group both at the evening session. Littrell noted that the [NYACD Website](#) address has changed as well as her email: [jlittrell@nyacd.org](mailto:jlittrell@nyacd.org).

**NYSCDEA** – N. Billhardt provided a report on [CDEA](#) efforts, including a recap from the recent CDEA Meeting held on September 12<sup>th</sup> and 13<sup>th</sup>. Billhardt noted that the 2014 Water Quality Symposium will be held in Binghamton. Billhardt advised the group that the 2013 Conservation Skills Workshop is currently underway in Cortland and told the group that the turnout is up this year. She noted that the week will round out with a Green Infrastructure tour of Syracuse led by the Onondaga SWCD, highlighting the City's [Save the Rain Program](#) on Friday.

Billhardt told the Committee that the [NYS Envirothon](#) is struggling for funding and volunteer support in this critical 25<sup>th</sup> year of the program. This year, the NYS Team one the North American Envirothon Competition, the first time the competition has been won by the NYS team. Discussion ensued regarding the funding challenges and the waning commitment from the Canon Corporation. Ideas on how to increase funding and support of the function were discussed.

Finally, the CDEA is prioritizing an effort to redevelop and publish the Administrative Manual in concert with the SWCC. Discussion ensued. M. Latham expressed concern with this task stating that it is a challenge to piece together guidance and legal references that pertain to District administration. B. Steinmuller asked the Committee if it wishes to hold a meeting to plan the scope of this project and determine how best to accomplish a re-write of this manual. The SWCC agreed to discuss this topic in greater detail with the CDEA.

**USDA-NRCS** – D. Pettit advised the Committee about a number of items impacting USDA-NRCS. Pettit noted that Emergency Watershed Protection (EWP) work continues in the areas impacted by Hurricane Irene and Lee and more recent storms and regional flooding areas. NRCS has approved \$50 million in funding for EWP sites. Pettit advised the Committee that because the state tightened federal spending this Federal Fiscal Year, NRCS-NY has been able to enter into 15 new agreements with Conservation Districts and the State Committee in order to enhance NRCS's ability to deliver programs.

Pettit summarized the efforts of the [USDA-NRCS Soil Health Initiative](#). The joint events between USDA-NRCS and the SWCC were very successful with broad based participation from federal, SWCD, state, and farmer in attendance for the two day workshops.

**NYS DEC** – A. Kumar provided an update to the Committee about the U.S. EPA's Nonpoint Source Guidelines to the States that are currently out. DEC is working in response to the guidelines with partner agencies. Kumar told the Committee that the NPSCC will be meeting this fall. Kumar made a request to the SWCC for information regarding the Round 18 AgNPS Program for entry into the EPA Grants Reporting and Tracking System (GRTS)

**NYS DOH** – P. Kaczmarczyk advised the Committee on the Filtration Avoidance Determination (FAD) in the NYC Watershed. Kaczmarczyk also told the Committee that the Lower Esopus Creek workgroup have been meeting to tackle the turbidity issues in the lower section of the creek. Kaczmarczyk noted that TMDL will be developed for sediment for the Lower Esopus.

**NYS Committee Voting Member Report** – G. Proios gave the Committee a report on the NE NACD Meeting that was recently held in the State of Delaware.

## **Agricultural NPS Abatement & Control Grant Program**

**STATUS OF ROUNDS 1-19**

Of 721 contracts, 178 are active, and 476 are complete. 22 contracts have been cancelled during the life of the program. There are 45 Round 19 NPS projects pending. 24 NPS projects have been closed out in 2013 to date.



Round #	Completed	Active	Pending
11	30	1	0
12	26	4	0
13	37	3	0
14	36	16	0
15	3	26	0
16	4	33	0
17	0	51	0
18	1	44	0
19	0	0	45
	<b>137</b>	<b>178</b>	<b>45</b>



**Amendments for State Committee**

**Consideration**

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

Request: time extension from 12/31/12 to 12/31/13

Reason: All projects are completed. One farm is using their old bunk as financial constraints prevented the pouring of additional concrete at new bunk location.

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

*Previous amendments: three time extensions*

**D. Stein moved to approve the time extension; seconded by J. Dickinson. Motion passed; carried. (One abstention)**

Madison SWCD – Upper Tioughnioga River AG NPS Reduction Project – Round 16 – C700976

Request: time extension from 5/15/14 to 5/15/15

Reason: Due to financial difficulties, the landowner is requesting an additional year to complete BMPs

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

*Previous amendments: none*

**J. Dickinson moved to approve the time extension; seconded by D. Brass. Motion passed; carried.**

Tioga SWCD – Susquehanna River Lower Mainstem WS Project – Round 15 – C700954

Request: time extension from 12/31/13 to 12/31/14

Reason: Due to recent rain events the project has been delayed. The farm wants to move forward with installation of BMP, but needs additional construction season.

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

*Previous amendments: one change in BMP*

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

### **Staff Approved Amendment**

Ulster SWCD – Lower Esopus Creek – Round 16 – C700995

Request: change in BMPs

Reason: landowner requesting to change cover crop to forage and biomass planting on silage corn ground.

*Note: Brian Steinmuller, Region 6 AEA, DENIED the change in BMPs*

*Previous amendments: none*

### **On-Farm Food Processing Eligibility Pursuant to the Agricultural Nonpoint Source Abatement and Control (AgNPS) Program**

The AgNPS Program funds NPS pollution control projects on farms in NYS. Many farms in NYS are adding value to their operation with small scale on-site food processing and marketing of their agricultural products. One challenge facing farms who are conducting on-farm food processing is how to manage waste and nutrients from the processed product. Historically, Conservation District applicants have inquired as to the eligibility of on-farm food processing waste management projects through the AgNPS Program. Consistently the SWCC has ruled that food processing waste management is not eligible under the AgNPS Program since waste from food processing facilities traditionally is not defined as agricultural and it is the wastewater that is generally permitted through the NYS Department of Environmental Conservation's State Pollutant Discharge Elimination System (SPDES).

Over the years, more farmers have begun to conduct on-farm food processing using products grown at their farm. New laws impacting breweries, wineries, distilleries and other food products and movements such as "buy local" has incentivized this growing trend. As a result the SWCC resolved to have the staff conduct more research into the classifications of food and agricultural wastes, clarification on the need for a SPDES Permit, definition of on-farm processing, and legal determination of SWCD Section 11-B, the authorizing statute for the AgNPS Program to recommend a policy to either support this type of project or to maintain ineligibility. The following information attempts to answer the questions posed above and lay the foundation for the policy recommendation, Resolution 13-04, at the conclusion of this brief.

### **Food Processing Waste Classifications**

According to the NYSDEC, food processing waste is categorized as either recognizable or non recognizable wastes.

- **Recognizable food processing wastes** are residues that are easily identifiable as parts of plants, e.g. grape pumice, apple pressings, brewers/distillers grains, and other fruit or vegetable scraps. According to DEC Division of Materials Management, a permit or registration is not needed if the waste is applied at or below agronomic rates, and nuisance conditions such as odors are minimized and the facility is operated in a manner to minimize the potential for negative surface and ground water impacts
- **Non recognizable food processing wastes** are any liquid, solid, semi-solid, or liquid food sludge that

is a byproduct of plant, fruit, vegetable, or dairy products and is not recognizable to its parent product, e.g. dairy whey, tank lees, or winery process water. According to DEC Division of Materials Management, land application of this waste is an option, but may require a Part 360 registration or permit. However, an individual SPDES permit is needed if the liquid waste requires treatment with a specifically engineered on-site waste water treatment system.

This distinction is important since recognizable food processing waste does not require a permit to manage for land application as long as it is done at or below agronomic rates. Non recognizable food processing waste can also be land applied following agronomic rates; however, the management of this waste may either need a Part 360 Land Application Registration or potentially a SPDES Permit if the liquid waste requires treatment with a specifically engineered on-site waste water treatment system.

**Since the requirement to obtain a SPDES Permit defines an operation as a point source, then that part of the operation would not be eligible under the AgNPS Program, notwithstanding Concentrated Animal Feeding Operations (CAFOs) pursuant to SWCDL Section 11-B(7). Other projects could still be viable even if an environmental permit is needed; a Part 360 registration or permit would not necessarily cause a project to be ineligible for funding. However, with the uncertainty for how food processing wastewater, especially for wineries, will be addressed by a proposed General Permit, it may not be prudent to develop a policy to address wastewater and/or non-recognizable waste from on-farm food processing facilities at this time.**

#### **SWCD Laws Section 11-B**

**Under the law**, the project must consist of activities or plans which will identify, reduce, abate, control or prevent nonpoint source pollution **originating from agricultural sources**. **The statement, "*originating from agricultural sources*," is the provision upon which the Department's legal interpretation is based: certain types of food processing waste could be eligible since it originates from agricultural sources.** Wastes that would not qualify under the law would be any that require a SPDES General, or Individual Permit, or 360 registration.

#### **On-Farm Food Processing Definition**

The definition of on-farm food processing is another important factor to be determined. A major reason that food processing eligibility has been denied in the past is the risk that precedent would be set allowing large scale industrial food processing facilities to gain access to cost-share through AgNPS. With limited funds available, costly industrial scale waste management projects could absorb the vast majority of the program's appropriation.

The program was designed and is administered to assist farmers to assess environmental risk posed by their operation, develop a plan to address the risk, and provide cost-share to implement best management practice (BMP) systems to abate and/or control that risk. The program has been widely successful and acclaimed as a complement to federal agricultural conservation programs such as Environmental Quality Incentives Program (EQIP), Conservation Reserve Program (CRP), and Conservation Reserve Enhancement Program (CREP). The program was never intended to assist large-scale, off farm "industrial" food processors. Other state and federal programs are available to assist these operations.

Notwithstanding any other provision of law, an **on-farm food processing facility** shall be defined as a facility that processes a majority of its **own farm-grown, agricultural crops on land owned or rented by the applicant into products on-site** for purposes of qualifying for funding pursuant to this section.

#### **BMP System Standards to Address Food Processing Waste**

According to SWCD Law Section 11B, the project must identify agricultural nonpoint sources of pollution or propose to implement best management practices, as defined in section three of SWCDL. All BMPs proposed for implementation through the AgNPS Program must meet New York State Natural Resources Conservation Service (NRCS) Standards and Specifications; if no NYS NRCS Standards or Specifications exist then the practice must be designed to meet nationally recognized standards (e.g. American Concrete Institute Standards.)

**Projects proposed to address the food processing component on the farm must meet the same standards as any other project eligible for funding under the AgNPS Program. Projects to address on-farm food processing wastes could include Waste Storage and Transfer Systems including Composting, and Nutrient Management Systems for land application.**

**Policy Resolution 13-04**

WHEREAS: Recognizable Food Processing Waste does not require a SPDES Permit through the DEC and is authorized for land application following good farming practices at or below agronomic rates;

WHEREAS: Under SWCDL Section 11-B, the project must consist of activities or plans which will identify, reduce, abate, control or prevent nonpoint source pollution originating from agricultural sources.

WHEREAS: the Department of Agriculture and Markets Counsel's legal interpretation is that certain types of food processing waste could be eligible since it originates from agricultural sources;

WHEREAS: Wastes that would not qualify for funding under the AgNPS Program would be non recognizable food processing wastes and/or any that require a SPDES General, or Individual Permit, or 360 registration;

WHEREAS: To avoid consideration of projects that would claim cost-share to address wastes from "large scale, industrial" food processing facilities, this policy restricts the AgNPS Program to addressing only on-farm food processing facilities;

WHEREAS: For purposes of qualifying for funding pursuant to the AgNPS Program, an on-farm food processing facility shall be defined as a facility that processes a majority of its own farm-grown, agricultural crops on land owned or rented by the applicant into products on-site;

WHEREAS: The funding and scope of the project would be proportioned based on the processed waste from only the product that was grown on-site;

WHEREAS: BMP System projects proposed to address the food processing component on the farm must meet New York State NRCS Standards and Specifications, or nationally recognized standards. Projects to address on-farm food processing wastes could include Waste Storage and Transfer Systems including Composting, and Nutrient Management Systems for land application

Now, therefore, be it

RESOLVED, That it is the State Committee's policy to qualify for funding (deem eligible) projects that identify agricultural nonpoint sources or propose to implement BMP Systems to address on-farm recognizable food processing waste that is not subject to NY SPDES Permit. Soil and Water Conservation District applicants must verify the eligibility status of all operations preceding the submission of any proposal to the AgNPS Program. The SWCC reserves the right to seek additional information from the applicant to determine program eligibility, and/or to reject any portions or all proposals received with respect to future RFPs.

**John Dickinson moved to approve Resolution 13-04; seconded by David Brass. Motion passed; carried.**

**2014 – 2019 SWCC Strategic Plan Update, SWCD Survey Results – Mike Latham, Brian Steinmuller**

B. Steinmuller presented to the SWCC the results of a recent survey of Conservation Districts and the recommendations from the subgroup on proposed changes to the Strategic Plan's Mission, Values, and Vision Statement. The presentation is enclosed with the minutes. B. Steinmuller presented the following Mission, Values, and Vision Statements for approval:

**The mission of the New York State Soil and Water Conservation Committee is to Advance Comprehensive natural resources management through the Support of local Soil and Water Conservation Districts.**

**The State Committee Values:**

- Comprehensive and science-based natural resource management on lands both public and private
- Cooperative partnerships to achieve natural resource conservation goals
- Local leadership and grass roots decision making as key to successfully managing natural resources
- A Strong voluntary local delivery system provided through Conservation Districts
- Trust that exists among landowners, local officials, conservation partners and soil and water conservation district personnel
- Natural resource conservation within the context of a working landscape
- Leadership that unites federal, state and local initiatives that promotes natural resources management on a watershed scale
- A system that allows and fosters an ongoing opportunity for Districts to adapt to a changing landscape: environmental, technical, and political [new]
- The environmental stewardship role of NY farmers and the benefits of well managed farms to local communities [requested to remain by D. Stein]

**It is the Vision of the State Committee that:**

- Conservation is locally led, science based and natural resource driven
- Conservation District legislative authority, and funding fully addresses emerging conservation issues
- Community based land use planning considers natural resource impacts
- District technical capacity is enhanced to effectively address local natural resource issues
- District operations are well managed and financially secure to effectively address local natural resource issues [new]
- Public awareness of the District mission to protect and enhance natural resources is increased within their communities

B. Steinmuller discussed the next steps toward redevelopment of the Strategic Plan for 2014-2018. The next Strategic Planning Subcommittee meeting is scheduled for October 22, 2013.

**Changes were made to the agenda based on previous reports given and the need to discuss contract matters relating to the Tompkins County SWCD – M. Latham**

M. Latham provided a briefing to the SWCC on the matters concerning the Tompkins County SWCD. Discussion ensued and the Committee was in consensus to fully support the District's plan to restore contract accounts and return to financial security.

**Approved by Motion at October 2013 Meeting**

**Next Meeting – October 17<sup>th</sup>, 2013, Holiday Inn, Oneonta NY. At the Conclusion of the NYACD Annual Meeting**

**The Meeting adjourned at 2:40 pm.**

**Audiocast available at: <http://www.agriculture.ny.gov/webcasting.html>**