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# Delaware Nutrient Management

## Meeting Minutes – March 5, 2019

### The Delaware Nutrient Management Commission

#### **In attendance:**

*Commission Members Present: Chairman Bill Vanderwende, F. Kenneth Blessing, Mark Adkins, Jim Elliott, Brenna Goggin, Laura Hill, Kenneth Horeis, Wayne Hudson, Larry Jester, Tak Keen, Jon Nichols, Jr., Bud O'Neill, Robert Palmer, Richard Sterling, Scott Webb*

*Ex-Officios Present: Nutrient Management Program Administrator Chris Brosch, Deputy Secretary Kenneth Bounds, Terry Deputy, Jamie Mack*

*Commission Members Absent: None*

*Ex-Officios Absent: Secretary Michael Scuse, Jennifer Singh, Shawn Garvin (sent proxy)*

*Others Present: Bob Coleman, Clint Gill, Aaron Givens, Julia Moore, Brooke Walls, Garry Killmon, Sydney Riggi, Sally Kepfer, Jeffrey Ulrich, James Knotts Jr., Bassam Elmasri, Brandon Bonk, Brenna Ness, Jennifer Walls, Hollen Foltz, James Woznicki, Chris Schoenbeck*

***This meeting was properly notified and posted as required by law.***

#### **Call to Order/Welcome:**

Chairman Vanderwende called the meeting to order at 7:00 p.m., welcomed everyone in attendance, and reminded those seeking education credits to sign the sign-in sheet.

#### **Approval of Minutes:**

A motion was heard to approve the minutes of the last Full Commission Meeting of February 5, 2019. The minutes were moved for approval by Commissioner Elliott and seconded by Commissioner Horeis, resulting in a final vote of unanimous approval.

#### **Discussion and Action Items:**

##### ***Introduction of newest Commissioner: Administrator Brosch***

Administrator Brosch introduced Tak Keen, the Nutrient Management Consultant who will now be representing his fellow Consultants on the Commission by fulfilling the last 2 years of Jessica Inhof's term. If he wishes to be renewed after this expiration, he is free to do so.

- Commissioner Keen stood and introduced himself with a brief bio:
  - He runs the independent crop consulting business his father started in 1980 on the shore.
  - He works the whole peninsula with row crops, vegetable crops, and a bit of environmental related monitoring.
- Each Commissioner then introduced themselves briefly - it was fortuitous that the entire Commission was in attendance this evening.

***Recognition of retiring Commissioners: Administrator Brosch***

Commissioner Goggin was recognized with a plaque and words of thanks for her 3 years on the Commission. Commissioner Sterling was also recognized with a plaque and many words of thanks for his 20 years of service to the Commission. Both will be missed.

***New Web Mapping Tool Demonstration: Administrator Brosch***

An encapsulation of the presentation:

New mapping technology to assist nutrient management consultants to write complete and accurate plans was under development by the Program and the Department of Technology and Information (DTI). Assisting with the project to consolidate disparate sources of spatial information were additional DDA staff, like GIS specialist Jimmy Kroon, as well as U.S. Geological Survey's, Mark Nardi. Regulations in place since 2006 required aerial photos be included in the plan as well as soil information, field boundaries, roads and lanes, surface water bodies, irrigation, any physical best management practices (BMPs) and other environmentally sensitive areas such as wells. Under the new Standard Operating Procedures for auditing plan implementation, it was immediately clear that many plans were missing at least one element in the mapping. Partners in the project were first to exhibit that much of the often missing data was publically available, but in no central location. DTI ultimately put together the pilot project by centralizing the data and having it hosted on a web portal, so that no specialized computer hardware or expensive software be purchased.

For the first time ever, the below are all included layers for Consultants to print off over top of aerial and topographic imagery:

- DNREC Well data,
- NRCS Soil data,
- DNREC Tax Ditches,
- Surface water bodies,
- DELDOT Roadways,
- Center Pivot Irrigation (c. 2013),
- Tax Parcel information,
- User entered data on other wells, best management practice (BMP) installations, driveways, private drainage ditching and field boundaries,

The Nutrient Management Program plans to roll out this project in the 2019 season to select Consultants as beta-testers. After necessary adjustments are made to accommodate the ease of use, a finished product will be unveiled for free access to a first-of-its-kind planning tool for farmers to protect water quality not only from nutrients, but any of the chemicals that are regulated under agricultural use.

It was also noted that when boundaries or other information are added to the program, the authors are not listed, providing privacy for the clientele and Consultants. Additionally, this is not a public-facing tool. Login credentials will be required and monitored.

The price tag by the end of the project will probably be under \$20,000 and covered by some of our EPA grant funds. But this will save the Consultants possibly as much as a thousand dollars a year that they would have had to spend on other programs that are less effective and complete.

***Discussion on Chesapeake Bay Pollution Strategy: Administrator Brosch***

- This year the Chesapeake Bay (CB) Pollution Strategy is specifically geared toward agriculture. At several of this commission's meetings piecemeal updates have been provided regarding the CB pollution strategy for the 3<sup>rd</sup> Watershed Implementation Plan (WIP III). This plan has finally come together with collaboration from many. As the Commission knows, there is an Agriculture Sub-Committee that has been trying to come up with strategies for BMP's in Delaware's agriculture to get us toward our pollution goals for the CB. Farmers were part of this, there was Conservation District representation, and DNREC was a major partner as well. In the end, this is DNREC's document to which we are feeding an agricultural solution. A slideshow covering this topic was prepared, which is pertinent to the whole state, and we have gone out to agricultural speaking opportunities and shared it.

- The drafted Plan was turned in last week. It will be reviewed, then there will be a public comment period to start sometime in April, that will be open for at least 30 days.

- Important tenets of the Phase III WIP:

- It will specify states' conservation actions needed to achieve the 2025 pollution reduction goals. Example commitments include providing technical assistance for conservation plans, offering incentives for relocating poultry litter, providing cost-share for nutrient management planning, verifying voluntary measures, and pursuing policy actions.
- It will also detail best management practices (BMPs) that not only improve water quality but also provide other benefits such as improving wildlife habitats, conserving land and encouraging stewardship.
- It is encouraging farmers to focus on cover crops and nutrient management in addition to 30 other practices already identified in the Phase II WIP. Delaware's Phase II WIP identified 40 BMPs that can reduce the movement of Nitrogen and Phosphate Goals for planting riparian forest buffers were reduced, but improved estimates of effectiveness of BMPs surrounding the Soil Health Initiative have compensated. Those enhancements double the value of acres in the plan – cover crops are the best BMP we have going for us for acres in Delaware.
- To help enroll and establish cover crops (small grain or mixed cover) on every eligible acre, DDA is launching a new cost-share program in combination with USDA NRCS-sponsored cover crop programs.
- Delaware farmers are successfully using many BMPs in addition to nutrient management and cover crops.
  - We will be asking for voluntary (not cost shared) practices to be reported to the nutrient management consultants so DDA can record that the practice exists and verify it is implemented correctly during inspections.
  - Our first strategy to actively get this information will be to go to the agri-businesses that are being paid to implement them. They need to be reported, and if agri-business won't tell us for confidentiality reasons, we'll try very hard to assuage their concerns about this since we can 100% protect it.
  - We may also need to endeavor upon new Annual Reports for farmers to capture some of these additional BMP's. The program would rely on the Commission to get that done.

- We are trying to keep it simple, but we also know that the road ahead for our urban communities within the CB watershed is very difficult, and we've heard that from our DNREC partners as well. So they have agreed to come to the table and help fund more agriculture BMP's because these mentioned are very doable for us, to offset the urban situation.

- All these elements were built into the plan we submitted for the Secretaries approval, to be considered until April 14, then submitted for EPA and public comments.
- EPA wants it documented how much we are talking about our strategy, because that is important, we believe in it, so it makes sense to tell people about it. So we are inviting people to invite Jen or Chris to talk about the WIP III Plan to groups that may benefit from hearing this information. But we are not actively soliciting.

***Discussion on Turf Management: Administrator Brosch***

- There was a small turf management meeting held which included 2 Commissioners who are deeply involved with turf management, and the Minutes were passed around the table to the commissioners. While NM is doing an excellent job in agriculture with 85% compliance over 300,000 acres out of a half million that are cultivated for crops in Delaware, there is more to do.
- This Commission, and our program, is responsible for regulating fertilizer and manure application of any individual or entity if they exceed 10 acres of application. What some Commissioners are concerned about, and is related to the CB strategy, is the urban side of the question. We know there are lawn care operators that are performing their services on greater than 10 acre tracts of land cumulatively. And when we presented some of our strategies for this WIP to the Secretaries of DNREC & DDA they were keenly interested in earning NM credit for turf. Most of this state is designated as shallow ground water acres and because of that sensitive nature of those turf soils, an Urban NMP is worth twice as much on those acres as on a standard acre anywhere else in the CB watershed.
- UMD conducted a survey on lawn care and found that about half of homeowners are using a service for their lawns. If we combine urban NM from those lawn care operators on lawns and residents that are hiring them, we stand to get close to 50% of our acres in lawn covered by an urban NMP that is worth twice as much in our state as in other states.
- So NM asked Commissioners O'Neill and Nichols to join them and some folks from UD that are intimately involved in our education and certification for Nutrient Handlers (NH) to have a discussion about what the best strategy to present the Secretaries would be for gearing up our program to include those lawn care operators. Making sure they get certified and handing them the tools to be able to write NMP's that are consistent across all of the lawns they service are, of course, key.
- The Minutes bring to the commission a list of concerns and issues we think we can tackle. And we think the best time to fund a new program specifically tailored for lawn care operators and their compliance with the law would need to begin to happen as early as November.
- Big talking points from the meeting include:
  - In order to do both training and enforcement there will need to be new staff responsible for doing that.
  - We realize we can't do an adequate job of doing that if we don't have a concentrated plan of outreach to those lawn care operators that may never have even heard of NM, let alone realize that they are supposed to be certified and following a plan.
  - If you get them certified and they ask what their NM plan should look like, we need to be prepared to answer. And because lawns are not crops, they are usually fertilized to make people happy, not to turn a profit. So Dr. Amy Shober was asked to work with UD to prepare a template for them, to give them a way to list what they plan to do on all their lawns as a whole.
  - There were also some "Parking Lot" items, those things that without a regulatory change by this body, would not be able to be tackled in this next calendar year.
- Commissioner O'Neill said this was long overdue. The turf industry has come a long way since this Commission was formed, and technology as far as nutrients is improving every year. Labeling is now more like a pesticide label, much more complete than in the past. And UD is doing a great job with the human aspect as far as providing education and certification so the companies and operators apply properly and understand the soil. And the turf

industry has some highly trained, professional applicators. But of course there are some bad apples, and the homeowners are the biggest concern. They need to be captured and trained. So two people would be needed to enforce and run this particular part of NM.

- Commissioner Nichols agreed, stating the largest thing he wants to see is just how much we can change the model with this industry. There is a significant problem with homeowners too, but it may not be an issue NM can tackle. So definitely there is the need to work hard as possible with lawn care operator to pull them into compliance. There is a real problem with education and compliance in the industry, but it's not as bad as some might like to believe.

- Commissioner O'Neill noted that a big positive in the industry is the education being provided in the schools. Educated youth are following through and entering the business, providing a new generation of lawn care professionals.

- Administrator Brosch noted that we have not been totally ignoring those growing grass. The program has an excellent coverage of sports turf fields and making sure those operation are in compliance – it also includes golf courses. They are run exceptionally well in Delaware because of our regulations and the fact that we have not ignored them. Part of the reason for our success with them is that they are easy to track down. Lawn care is different and difficult to nail down. But it is doable, and it would be a good thing for agriculture if there is the same level of enforcement here.

- Commissioner Elliott asked where the funds for the needed staff would come from.

- Administrator Brosch replied that the Secretaries of DNREC and DDA asked for an informal proposal, and he wrote this "pre-proposal" following the Minutes from the meeting to get them to start thinking about what is possible, given their own budgets. It included 2 full-time staff: 1 Enforcement Officer and 1 Education/Outreach Coordinator. The cost won't be less than \$130,000 per year. It wasn't written in time for the Joint Finance Committee meetings, but it did include a November deadline in order to make it happen in time to capture those lawn care operators at the season for which they can be taken in and educated and shown the tools we want to put in place to regulate them like we are supposed to.

- Commissioner Goggin said this is an issue that the environmental community is very much willing to help NM work on as well. They would embrace the opportunity to work together, and she suggested several sources for funding, as well as the local and Federal government, to help meet the goals. She noted there are lots of requirements when it comes to education and outreach specific to homeowners and more specifically to reducing fertilizers on property.

- Administrator Brosch was appreciative of this input and will take it into advisement. He also wanted to be transparent with the Commission about this effort since Commissioners O'Neill and Nichols are participating in this conversation. It was agreed upon between those present, and that is what has been presented.

#### ***Administrators Report – Administrator Brosch and staff***

- Complaints – Bob Coleman
  - For the first time ever, there were no informal complaints opened since our last meeting in February.
  - One informal odor complaint just East of Bridgeville is still open. There is a possibility that legal action may occur, so it has been kept open so that we can continue to monitor it.
- Certification sessions are in process now, so there are no updates at this time.
- Audits, Inspections, Reporting – Administrator Brosch. Due to weather and observation of safety practices on and around poultry farms, we are low on audits to report. We plan on ramping up on CAFO operations when farmers are finished planting crops and will be doing plenty of audits of the 2018 calendar year's records.
- CAFO Update – Administrator Brosch. The numbers are relatively light but we did send invitations for a choice of 3 more public meetings to farmers we identified as qualified for CAFO. Aaron Givens and

Amanda Fabi will help attendees fill out a current NOI and apply for permit coverage. So our numbers will likely go up in the next few months.

- One comment: the program has heard plenty about increasing lay-offs between flocks going up for some integrators and for others flock sizes have been decreasing.
- This poses a legal challenge: some may fall below the CAFO threshold temporarily as a result of this, but will go back up as the industry rebounds. So we are advising that they should still apply for coverage. We don't want to miss them when they go back up because we are not aware of it. The extended lay-offs won't affect CAFO – they should still qualify.
- Salesforce Database Update – Administrator Brosch. We are behind last year's numbers in receipt of Annual Reports. This is the most disappointing drop in the last 3 years. We don't know why, but suspect it is probably due to the rain. So we might send reminder letters. UPDATE: letters were mailed.
- Meetings and Training – Administrator Brosch. Most noteworthy here is the additional information we have added. Next month's scheduled meetings have been included in case any commissioner has input for us or interest in any of them.
- Financials / Budget – Administrator Brosch. The 4 grants for which we are tracking funds spent have been highlighted. They have not been updated because they were not reconciled due to the short month of February. But everything else is current as of Monday (the day before this meeting). When budgets such as travel run out, we transfer funds from another line of funding.

***Comments from the Commission:***

Commissioner Adkins voiced that he expects we will be having more complaints due to the weather. It has been so wet, lots of folks are doing clean-outs and finding it difficult to find any place to get out to the road. He suggested that we educate the complainants to soften the issues a bit. It has been really tough on the farmers. And that may be part of the reason why so few Annual Reports have been returned this year.

Administrator Brosch agreed, confirming that we usually do include a dose of education with each complaint. He also agreed that the weather may have impacted the farmers to where they are afraid to share their additional nitrogen applications. We've had to tell some farmers, during audit compliance checks, that they have 20% wiggle room on an annual basis from their NMP rate. We know those rescue applications were necessary, and appropriate, and berating them won't make their job any easier. We have also told them that if they document the anomalies and work with their consultants, there is nothing we can do legally. One other comment: the poultry litter piles look significantly better this year!

Chairman Vanderwende commended Administrator Brosch for the presentation he gave at the Kiwanis Farmer Night. He heard several nice comments about it afterward.

***Public Comment –***

- There were no public comments voiced.

**Next Meeting:** The next regular Full Commission meeting will be scheduled for April 5, 2019 at 7:00 p.m.

**Adjournment:** Chairman Vanderwende adjourned the meeting at 8:09 p.m.

Approved,

B. Vanderwende, Chairman  
Delaware Nutrient Management Commission  
jlm