



# Delaware Nutrient Management



## Meeting Minutes – October 3, 2017

### The Delaware Nutrient Management Commission

#### **In attendance:**

*Commission Members Present: Chairman William Vanderwende, Technical Sub Committee Chairman Kenneth Blessing, Brenna Goggin, Laura Hill, Kenneth Horeis, Wayne Hudson, Jessica Inhof, Bud O'Neill, Robert Palmer, Richard Sterling, Scott Webb*

*Ex-Officios Present: Administrator Chris Brosch, Heather Hudson, Jennifer Singh*

*Commission Members Absent: Mark Adkins, Jim Elliott, Larry Jester*

*Ex-Officios Absent: Secretary Michael Scuse, Shawn Garvin*

*Others Present: Deputy Secretary Kenneth Bounds, Bob Coleman, Clint Gill, Aaron Givens, Julia Moore, Brooke Walls, Garry Killmon, Sally Kepfer, Jessica Collins, Harvey O. Thomas Sr., Carol Atkinson, James Atkinson, Garry Killmon, Jack Kohland, Catherine Kohland, Benjamin W. Johnson, Gerhard Maute, Eugene Maute, Mark Browning, Victor Fibelkorn,*

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

#### **Call to Order/Welcomes:**

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 Full Commission Meeting of August 1, 2017. The minutes were approved by Commissioner Horeis and seconded by Commissioner Palmer, resulting in a final unanimous approval.

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

##### ***Deliberation and vote on proposed changes to regulations incorporating the State Technical Standards – Administrator Brosch***

- The update is the comment we received and incorporated in our August 1<sup>st</sup> meeting – it was to extend the field staging time for field staged poultry litter from the 90 days that was currently in the standard to 120 days, based on a report that was sent to us by Amy Shober, originally authored by Greg Binford. That change was accepted by this body to be Public Noticed, which began September 1<sup>st</sup> and ended September 30<sup>th</sup>. We received no comments during that public comment period. So now that we are in our October meeting we can evaluate that body of technical standard for final approval again.
- Commissioner Hill made the motion to approve this change and Commissioner Blessing seconded it, with a unanimous vote by the full commission.

##### ***Environmental Stewardship Award – Bob Coleman and Administrator Brosch***

- Bob Coleman: During last year's Environmental Stewardship assessment field trip with the 3 poultry company representatives, they asked him to approach the Commission this year with the information that their folks are having a real challenge coming up with good nominees for the Environmental Stewardship Award, and it was their feeling that if they could get a year off it would help. He reviewed that we like the nominees to be in business over

3 years, so they cannot draw from those who built during the most recent growth spurt that occurred in the poultry industry. If they had a 1 year hiatus, it would make some of the eligible and give a better field of candidates from which to choose. But they made it clear that if it is the will of this committee to continue with the award, they will participate fully.

- Discussion ensued, with much disappointment expressed and many comments that there should be enough who would qualify.
  - Consideration was given to removing the requirement for 3 years in operation in order to open up the pool, and maybe changing what is awarded to make it more palatable to the poultry companies.
  - Commissioner Webb: Part of the problem in getting poultry farmers interested is the concern that people will be coming around and inspecting their farms, along with the good bit of paperwork that is involved.
  - Bob Coleman: Agreed, but there is either a \$500 or \$1000 payout for their effort. And the judges need background information in order to make an informed decision. Its government, and part of the process.
  - It was also brought up that Environmental Stewardship is not just about poultry and maybe we should expand the award to include other industries. There were logistical concerns about this that made it a poor consideration.
  - Commissioner Palmer: This had been discussed before, but through the Governors Environmental Stewardship Program the Districts already gave an award to farmers in general. There was no need for redundancy.
  - It is also nice to be able to present it at Ag Week, to recognize those who are doing a good job in the poultry industry.
- Chairman Vanderwende: Is there a consensus? Commissioner O'Neill made the motion to continue on as in the past, and Commissioner Blessing seconded, with a unanimous response from the commissioners.
- Bob Coleman: Will take this back to the poultry companies and proceed with the selection process as usual.

#### ***Compliance update from the Technology Committee – Chairman Blessing and Administrator Brosch***

- Administrator Brosch gave a brief summarization of the details thus far:
  - We have been very effective at being Chesapeake Bay Model “police” this year.
  - When we stood our ground about weak data that was representing agricultural soil phosphorous, the EPA understood our position and reciprocated our hard work by offering to do a study related to how much inspections are necessary to have faith in a resulting annual compliance score. They wanted to perform that study and at the same time investigate an opportunity to supply the program with an additional audit staff person, a full time employee, in order to double our potential for performing annual inspections from about 3.5% to 7%. They think that that particular sampling on an annual basis will be statistically sound when the report that determined what the number would be can be published.
  - So much of the discussion that we had revolving around whose going to do compliance inspections, how it gets reported, and who can read the data was largely moot. It looks like it will all stay in-house, which is a relief to the Districts and we will certainly welcome the help. The details with the EPA still need to be ironed out – it was a verbal commitment over the phone - but hopefully we’ll have a more solid answer by the end of this week.
  - That takes care of most of the discussion with the exception of the audit, or the inspection Standard Operating Procedure (SOP), draft that’s been emailed to the whole commission.
  - So the sub-committee that met today spoke about the circumstances, how they’ve evolved over the last 3 months of meetings, and made comments in regard to the SOP. The message to the full commission is that our staff are ready to take comments as well as discuss comments, both at the committee level and, when necessary, at the commission level.
  - So for those commissioners that weren’t involved in the earlier discussions we had, we’ve had a number of comments and will be working to incorporate those to get another draft. We’ve probably identified another 3 major questions which won’t be summarized on the fly today, but we have them captured and we’ll mull those over before we ask the commissioner how to answer them.
- Commissioner Blessing: A lot of the articles in this audit may seem redundant because a lot of this language was written with the CAFO’s, so when this comes to the private audits, the devil is in the details and we just want to make sure we get it right.

### ***Watershed Implementation Plan 3 Kick-off briefing – Administrator Brosch***

- In the course of the last week, the Chesapeake Bay Program (CBP), subsequent to the model review, has reevaluated their schedule and basically postponed some of the decision items for later to allocation of loads by 2 months. New assignments for DE are due back in December and finalized in April.
- So for that reason I think it's best to talk about this more in our December meeting. But as a preview:
  - In regard to evaluation of the Modeling Tools – the new Phase 6 Model that we've been policing in earnest – we've understood in meetings that I, Commissioner Palmer and Deputy Secretary Bounds have attended at different management levels in the CBP, that the preliminary data coming out of that Model suggesting that the level of effort for BMP's in this state in its previous Watershed Implementation Plan, the 2<sup>nd</sup> version gets us on the order of 15% more credit than it did before. And all of the other states had their Watershed Implementation Plan effort levels evaluated and went the other direction. So this is potentially good news for us. The devil here is the 2 month delay – it's for the EPA to shore up its Models, because there were so many comments. So there is some likelihood that the 15% is going to change. We know that 2 hot button topics are Climate Change (because that will offset the loads on the order of 1% in the wrong direction), and we also know that the Conowingo Dam has reached what they call Dynamic Equilibriums so all of the sediment entering the dam from storm flows at some point is flowing back out in the near future, where before, that dam was trapping sediment. That is going to result in on the order of 1% more load. And the distribution of Climate Change may be universal to the bay, but the distribution of additional Conowingo Dam load is NOT going to be proportional to all the states. It should be a sign to the states that cause the load, primarily PA, to a certain extent also NY, and a very small extent to MD. That's going to entail a lot of negotiation. We know that 4 scenarios in terms of who does something have been evaluated. One of them includes DE but it has largely been taken off the table. We've been loud and clear that it's not our problem and we don't plan on pitching in to fix it. Our partners have said that seems equitable.
  - So what that means in terms of how the 15% changes – the other 3 strategies that employ other stated doing something to ameliorate the dam filling could increase that 15% number to as much as 20% more pollution for the same level of effort. So we're going to keep following that one.
  - This was reviewed because the commissioners had sat in on briefings about how the model has been improved and this version, specifically with respect to agriculture. And the representatives in this state and the other states that serve in the Ag Workgroup, the Modeling Sub-Committees, and some of the management decision bodies received a letter today from the Director of the CBP thanking them for 2 hard years of labor in proving that tool.

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

- Complaints – Bob Coleman: Since his last report he has received two informal complaints, both valid, and only one remains open. The others he had kept open from the previous meeting are now closed because he is satisfied that they are solved.
  - The one complaint he has open is still a problem, and is really unusual - he has never seen anything like this in his 12 years here, and he and Administrator Brosch have had some pretty extensive discussion about it.
  - Feathers from molting birds are flowing out the tunnel fans of the poultry houses and a really far distance to a neighbor's property. It's a whole bunch of feathers that are actually going up and over a pretty significant hedgerow that runs along the tax ditch containing sweet gums, maples, and other various shrubs and small trees.
  - Georgie Cartanza, Jim Passwaters from DPI, and Bud Morrow all visited the farm today. Bob asked them to put their heads together to see if they can figure a way to stop this.
  - A discussion ensued about various distance requirements. Bob confirmed that it is a big new farm, raising broilers, and is compliant. This is just a very unusual occurrence that we will all certainly learn from.
- Certifications – As reported, certifications are at 1,804, by nature of the season.
- CAFO General Permits update – Administrator Brosch:
  - There are 23 new farms that are on Public Notice. There is also 1 that is ready to go on Public Notice but it will be a few weeks out because we need to get more added to that batch before it will be Public Noticed.
  - We have learned that the Hearing Officer's Report for the farm that had a hearing almost a year ago is finally complete and on the Secretary's desk at DNREC for signature. It has been completed and awaiting signature for about a month. We don't know why the report took so long or why there is a delay still at DNREC's Secretary's desk. Deputy Secretary Bounds will make a call to try to get closure.
  - We have reached out to the integrators to send strongly worded letters to their growers to get in touch with the department if they haven't been in touch with us; to fill out an NOI, update and NOI, and to transmit

their NM Plan to us in order to get CAFO permit coverage. That has really started the phones ringing and by and large the folks are very receptive as we take the calls and get them on the path to getting that paperwork done. So we're hoping to pick up the pace a little bit.

- Salesforce Database Updates – Administrator Brosch: 2017 Annual Reports will be mailed following the Christmas holiday so there is less time between when the blank form hits the mailbox and when the producer can drop it off at Ag Week. That will be 10 days rather than a month or more. This was changed based on a recommendation we heard from last year, in an effort to increase even more the return rate.
- Agriculture Census Mailings – Administrator Brosch: The Ag Census forms are to go out in about 7 weeks. Please fill them out as accurately as possible, as the data is vital to allocating resources from Federal Agencies, and will help the whole state in terms of resources.
- Meetings and Training – Administrator Brosch: A lot of model policing activities and outreach occurred in the last 2 months.
- Financials – Administrator Brosch: We got another \$30K pass-through from the EPA for a NM Facilitator position, which we did not take in the past year – we instead allocated all those resources to litter relocation. Now we're returning to our old division of 1/3 staff, 2/3 relocation for the 319 money.
  - Discussion covered manure relocation numbers, with Bob Coleman advising that we are going at a slightly less clip than in the past, but a steady one. There are more vendors taking part in the relocation program, but the % is down a bit because we just don't see much paperwork from Perdue AgriBusiness. They we never steady, but when they submitted, it would come in big batches of several tons.
  - We made the field staging time change to 120 days as noted earlier in the meeting, since the haulers stated that the 90 days was holding them back from delivering litter to farmers as opposed to alternate uses. This may be too late for this growing season, but we might see improvements over the next growing season.

**Next Meeting:** The next regular Full Commission meeting will be December 5, 2017 at 7:00 pm, if deemed necessary. At this time there is nothing to report on, so it may likely be January 2, 2018.

**Adjournment:** Chairman Vanderwende adjourned the meeting at 7:44 p.m.

Approved,

B. Vanderwende, Chairman  
Delaware Nutrient Management Commission  
jlm