

**MINUTES OF MERCER COUNTY
SOIL CONSERVATION DISTRICT
BOARD OF SUPERVISORS MEETING
590 HUGHES DRIVE
HAMILTON SQUARE, NJ 08690
DECEMBER 9, 2021**

MCSCD SUPERVISORS

Scott Ellis
Gary Mount
Lucia Huebner
Theodora Wang

STAFF

Paul Schiariti, P.E.
Linda Sandusky

OTHERS

Lewis Goldshore, Esq.
Clint Oman, P.E.
NJ DEP Dam Safety
Andrew Reece, Esq.
NJ Attorney Generals Office
For DEP Dam Safety

The meeting was called to order by Chairman, S. Ellis at 11:40 am. The Statement of Adequate Notice was read.

The minutes of the November 9, 2021 meeting were reviewed by the Board.

MOTION 1

A motion to approve the minutes was made by L. Huebner, seconded by T. Wang, carried unanimously.

HUNT LAKE DAM

The District Manager presented a PowerPoint presentation on Hunt Lake Dam, explaining the dam issues, what will be required and what is to be expected for the future of the dam. The District Manager is currently waiting for an estimate on the dam spillway repairs required. C. Oman mentioned the inadequate spillway capacity is the main item of concern.

Under the Watershed Rehabilitation Program (WRP), NRCS will prepare three assessment reports, at no cost to the Sponsoring Local Organization (SLO). The SLO needs to respond to NRCS by May 1, 2022. If the request for assessment studies is not received by May 1, 2022, NRCS will close out the operations and maintenance agreement and will cease to perform any and all inspections.

Andrew Reece asked if the district has contacted the Dept. of Agriculture with regard to sponsoring the Hunt Lake Dam. L. Goldshore will contact New Jersey Dept. of Agriculture to clarify if they have the authority of land rights, power of eminent domain and the ability to tax for dam safety issues and/or decommissioning. L. Goldshore will follow up with a letter and copy the District, C. Oman & A. Reece. C. Oman reminded the district, since the DEP regulates 1,730+ dams in New Jersey, they cannot be an owner/sponsor as the regulatory authority. There is \$500,000.00 in funds available through DEP, earmarked for dam rehabilitation and/or decommissioning.

The District Manager suggested a meeting for assistance from the DEP Commissioner and the Secretary of Agriculture. The purpose would be to find a critical path to move forward. C. Oman and A. Reece feel the next step should be the district contact the Dept. of Agriculture for funding.

L. Goldshore suggested contacting local State Legislators for State assistance and funding. L. Huebner suggested contacting Bonnie Watson Coleman for assistance on the Federal level with funding through the Infrastructure Bill.

G. Mount questioned what the cost will be to decommission the dam. The District Manager will be attending a seminar titled: The Cost to Decommission Dams, on the 14th. No cost estimates are available yet.

The Treasurer's Report was presented to the Board. The district was in the black for this period with insurance, vehicle repairs and Hunt Lake Dam being the top expenses.

MOTION 2

A motion to receive and file the Treasurer's Report pending audit was made by G. Mount seconded by T. Wang, carried unanimously.

The Director's Report was given.

NON-POINT SOURCE POLLUTION PROGRAM

14 - APPLICATIONS RECEIVED
2 - PREREVIEW INSPECTIONS
18 - REVIEWS
77- INSPECTIONS
1 - PRE-CONSTRUCTION MEETINGS
10 - FINAL REPORTS OF COMPLIANCE
6 - CONDITIONAL REPORTS OF COMPLIANCE
0 - VIOLATION NOTICES
0 - STOP WORK ORDERS
0 - DENIALS
0 - CERTIFICATION DELEGATIONS
2 - 251 EXEMPTION DETERMINATIONS

CHAPTER 251

Materials shortages and supply chain issues continue to present challenges to developers regarding construction sequencing. Specifically, some materials required to complete stormwater management facilities are on back order, creating issues with the critical path for project completion. The district is examining each of these issues on an individual basis and offering solutions that allow for the continuation of the project, but which also meet the requirements of the Certified plan.

HUNT LAKE DAM CONTINUED

The district manager and district counsel conducted a teleconference call with Hilary Trotman, State Engineer, regarding a letter prepared by the NRCS addressing several issues related to Hunt Lake Dam. Ms. Trotman clarified several aspects of the letter and respective requirements associated with the options presented in the letter. One of the main issues related to NRCS programs is Local Sponsor Eligibility. The district does not meet some of the requirements to be solely considered an eligible sponsor. Therefore, the programs would not be available directly to the district without an additional sponsor, meeting the established criteria.

The district manager attended a video conference meeting with district counsel, Lew Goldshore; John Moyle, NJDEP Dam Safety; Clint Oman, NJDEP Dam Safety; and Andrew Reese, NJ DAG on November 23, 2021. Topics of discussion included: The emergency repairs status, and intermediate / long term planning process. The district has been fulfilling their obligations enumerated in the Consent Order, and the additional letter issued by NJDEP after hurricane Ida.

The district discussed the repairs suggested by the NRCS within the Emergency inspection report, prepared by the district, and the NRCS, signed by the NRCS, and subsequently forwarded to the NJDEP. NJDEP Dam Safety indicated that their interpretation of the report, was that some of the items suggested did not necessarily require immediate attention, but were more intermediate to longer term items. Dam Safety indicated that the spillway erosion be addressed immediately. They further indicated that a vegetated solution could be used in lieu of the riprap. The district agreed that we would pursue this solution, and expedite the repair as soon as possible.

Andrew Reese indicated that he believes the district has not fully explored/pursued funding sources for the implementation of either decommissioning or upgrading the Dam. The district listed several of the sources and paths that have been pursued to date.

PERMIT EXTENSION ACT (PEA 2020)

The district completed the remaining Permit Extension Act (PEA) notification and clarification letters to all applicants that were eligible for an extension. Initially, there was an interpretation that allowed for a distinction between projects that expired during the PEA and those that expired after the PEA. That interpretation was later clarified to eliminate that distinction. All projects that registered were eligible for an extension during the tolling period of the Act. Applicants that initially received notifications that

these projects were not eligible under the Act, received a clarification letter with the new expiration date in accordance with additional guidance.

MOTION 3

A motion to approve the Director’s Report was made by L. Huebner, seconded by T. Wang, carried unanimously.

CORRESPONDENCE

New Jersey Farmer Newspaper
Colonial Pipeline Co. Community Pipeline Safety Guide
Letter From Northeast Organic Farming Association of NJ

CHAPTER 251

2020-5985-E	2021-6169-H	2021-6140-H	2021-6173-HT
2021-6176-P	2021-6165-P	2021-6159-P	2021-6157-P
2020-5995-P	2020-5947-P	2020-5941-P	2021-6175-WW
2021-6166-WW			

MOTION 4

A motion to approve plans recommended for certification by staff was made by G. Mount, seconded by L. Huebner, carried unanimously.

NRCS UPDATE

The District Manager presented one CREP - Conservation Plan for Brush Management, for approval.

MOTION 5

A motion to approve CREP – Conservation Plan for Brush Management was made by G. Mount, seconded by T. Wang, carried unanimously.

EXTENSION UPDATE

M. Melendez could not make the meeting and sent an update to the District Manager.

The FDA has released the draft re-written rule for the FSMA Produce Safety Rule, subpart E, specific to water quality requirements. The burden of water quality falls fully onto the farmer. M. Melendez and staff are reading the proposed water regulations now and will post updates, include public comment options and public meetings in the near future.

The food safety team is writing a three-year grant proposal for USDA funds to continue our outreach to farmers with a specific focus on new and beginning farmers. This funding is necessary to keep J. Matthews employed after W. Kline retires. They are also in the process of proposing their scope of work specific to the FSMA Produce Safety Rule to the Department of Agriculture, hoping for a consistent level of funding for 2022, similar to 2021.

M. Melendez is hoping to announce a new hire for Mercer County Horticulturist position at the January meeting.

NEW BUSINESS

The next District meeting will be on January 13, 2022.

The District Legal Counsel, Lewis Goldshore, Esq. asked for a retainer of \$12000.00/year.

The Board agreed to have the District Legal Counsel, Lewis Goldshore, Esq. on a retainer for 2022.

The meeting adjourned at 1:35 pm.

Respectfully submitted,

Paul Schiariti, P.E.
Secretary to the Board

**MINUTES OF MERCER COUNTY
SOIL CONSERVATION DISTRICT
BOARD OF SUPERVISORS MEETING
590 HUGHES DRIVE
HAMILTON SQUARE, NJ 08690
NOVEMBER 9, 2021**

MCSCD SUPERVISORS

Scott Ellis
Theodora Wang
Lucia Huebner

STAFF

Paul Schiariti, P.E.
Linda Sandusky

OTHERS

Meredith Melendez
Lewis Goldshore, Esq.

The meeting was called to order by Chairman, S. Ellis at 12:43 pm. The Statement of Adequate Notice was read.

The minutes of the October 7, 2021 meeting were reviewed by the Board.

MOTION 1

A motion to approve the minutes as mailed was made by L. Huebner, seconded by T. Wang, carried unanimously.

The Treasurer's Report was presented to the Board. The District was in the black for this period and slightly up from this time last year.

MOTION 2

A motion to receive and file the Treasurer's Report pending audit was made T. Wang seconded by L. Huebner, carried unanimously.

The Director's Report was given.

NON-POINT SOURCE POLLUTION PROGRAM

12 - APPLICATIONS RECEIVED
0 - PREREVIEW INSPECTIONS
17 - REVIEWS
98 - INSPECTIONS
4- PRE-CONSTRUCTION MEETINGS
43 - FINAL REPORTS OF COMPLIANCE
2 - CONDITIONAL REPORTS OF COMPLIANCE
2 - VIOLATION NOTICES

- 0 - STOP WORK ORDERS
- 0 - DENIALS
- 0 - CERTIFICATION DELEGATIONS
- 4 – 251 EXEMPTION DETERMINATIONS

CHAPTER 251

A Violation Notice was issued for HRP Mercer Urban Renewal, located on Duck Island in Hamilton Township) due to out of sequence construction related to incomplete detention basins. The district has been working closely with the applicant / developer regarding this issue. The developer was notified multiple times, over the past year, regarding the sequencing of the detention basins related to building construction. Since the issuance of the Violation Notice, significant progress has been made towards the completion of the basins. The district manager also met several times with representatives of the owner and developer to outline the anticipated progress and completion requirements.

A Violation Notice was also issued for the Vintage at Hamilton residential project, also located in Hamilton. The main issue was regarding the removal of a stockpile of unprotected Acidic Soil. The Standards require that this material either be properly protected, mitigated, or removed. The developer was notified multiple times to address this issue.

HUNT LAKE DAM

The District Manager conducted an inspection on October 27, 2021 after a significant rainfall event occurred several days prior. There were no signs of the Primary Spillway being clogged or blocked and the water surface within the lake appeared at its normal elevation. There were no signs that Auxiliary Spillway saw any flow.

It was also noted that the embankments as well as the auxiliary spillway were recently mowed as requested. An Invoice for the work was received, and payment will be made.

The District Manager received an email from Hilary Trotman, P.E. regarding the Emergency Inspection report. She has been in touch with the National Office (USDA NRCS) regarding several options to address the current deficiencies. She will complete the report and provide the options as soon as they have been made available to her.

ADMINISTRATION

The District Manager attended two (2) separate Strategic Planning Group Meetings on 10-12-21 and 10-26-2021. Topics, including: Succession planning; Diversification of income sources; Diversification of district functions; Supervisor, administrative and technical training, were all discussed. This represents the last scheduled meeting. A report outlining the findings will be produced and presented to the State Soil Conservation Committee.

PERMIT EXTENSION ACT (PEA 2020)

A clarification was issued regarding expiration dates for the Permit Extension Act from the Executive Secretary of the State Dept. of Agriculture. The original directive expired after the end of the PEA – June 4, 2021 with a 6-month extension period until December 4, 2021. When the original Bulletin was received, the District Manager notified

applicants, in writing regarding this. The district received an inquiry from an applicant, when one of their letters was received. The request for a determination was submitted back to the Executive Secretary. After consultation, a clarification statement was issued that indicated these projects, are entitled to a time extension.

The District Manager is in the process of preparing additional / revised letters, with new expiration dates to each applicant that received the initial letter.

VEHICLE MAINTENANCE

The Ford Escape was serviced due to a Check Engine light which, in turn, caused the vehicle to fail inspection. The vehicle was serviced at Robbinsville Twp., and brought back to the inspection center. The vehicle subsequently passed inspection.

MOTION 3

A motion to approve the Director’s Report was made by L. Huebner, seconded by T. Wang, carried unanimously.

CORRESPONDENCE

The District received to following correspondence:

The New Jersey Farmer

Auction Notice for 90+ Parcels throughout Trenton

Assunpink Creek Supplemental Watershed Plan letter from USDA, Julia Hawkins, State Conservationist confirming the Districts withdrawal as a local sponsor from the Rehabilitation of Assunpink Creek Dam #8.

CHAPTER 251

2021-6163-T	2021-6153-E	2021-6145-E	2021-6162-HT
2021-6156-PB	2021-6152-P	2021-6142-P	2021-6132-P
2013-4788-R	2021-6161-WW	2021-6141-WW	2021-6109-WW
NJG0241113			NJG0325422

MOTION 4

A motion to approve plans recommended for certification by staff was made by T. Wang, seconded by L. Huebner, carried unanimously.

RC&D STATUS

The District Manager obtained the Meeting Agenda, Minutes from the last Council Meeting and the Coordinators Report from South Jersey RC&D.

EXTENSION UPDATE

Last night was Rutgers Environmental Stewards Summit Graduation for all the volunteers that did their final projects from 20-week classes teaching about the environment and New Jersey.

M. Melendez received a call from a gentleman who is partnering with Hamilton Township to have Hamilton designated as a municipal pollinator location. The topic of pollinators remain very popular with the public.

J. Mathews and M. Melendez are working on a USDA Grant focused on beginning farmers doing business planning and incorporating food safety into their business plan.

Interviews have started for the County Horticulturist position. This position is being changed from a Mercer County position to a Rutgers University position to make the position more attractive to applicants. Mercer County will fund the position and Rutgers University will implement the position with benefits, etc.

UNFINISHED BUSINESS

The District Manager presented a PowerPoint presentation on Hunt Lake Dam. Upon the receipt of the emergency repair inspection result recommendations from H. Trotman, NRCS there are a few things on the list to address as follows:

1. Stabilize the auxiliary spillway which shall include placement of rock riprap.
2. Tree and stump removals at the auxiliary spillway due to the canopy cover inhibiting grass growth.
3. Grading at the lower end of the channel
4. Inspect and investigate the aggregate and foundation drain at the downstream embankment of the dam.
5. Hydraulic and hydrologic analysis study
6. Stability analysis study
7. Failure inundation analysis study

There is an option through NRCS to fund a portion of the repairs with stipulations through the Emergency Watershed Protection Program. This program will provide assistance for Sponsoring Local Organizations (SLO) for repairs. NRCS will fund 100% of the costs for technical, engineering and administrative costs and 75% of the construction costs with the SLO to pay the balance of 25%. The SLO has to have the land rights for repair access.

SLO will supply all the necessary permits, hire a contractor, perform construction management and perform necessary maintenance for a period of 5-years.

The Federal requirement states the agreement has to be signed by December 1, 2021 for this grant.

Another option is NRCS prepare three assessments reports, at no cost to the SLO. A request in writing has to be received by May 1, 2022. Upon completion of the assessment reports, under the Watershed Rehabilitation Program,(WRP), options including breaching or upgrading will be thoroughly analyzed by NRCS. The Local Sponsor would be responsible for 35% on the construction costs. The Local Sponsor must have land rights, power of eminent domain, and the ability to tax. NRCS would pay

100% of the planning and engineering costs. There will be a 50-year maintenance responsibility agreement between NRCS and the Local Sponsor. If the request for assessment studies is not received by May 1, 2022, NRCS will close out the operations and maintenance agreement and will cease to perform any and all inspections.

C. Oman, DEP responded to a request from the District Manager with regard to the \$500,000.00 in funds through DEP earmarked for Dam rehabilitation and/or decommissioning the dam. The District Manager wanted to know if a portion of the funds can be used for emergency repair work. C. Oman responded that the funds are not available for miscellaneous repairs. The funds are earmarked specifically for decommissioning or rehabilitation of the structure.

L. Goldshore, Esq. gave a summary of all the possible scenarios with the financial implications. L. Goldshore suggested another meeting with H. Trotman, NRCS, to ask additional questions with regard to the EWPP and WRP programs and an additional meeting with C. Oman, DEP.

NEW BUSINESS

The next meeting will be December 9, 2021.

The Board discussed the 2022 District Meeting Schedule and 2022 Holiday Schedule.

MOTION 5

Motion to approve the 2022 District Meeting Schedule and the 2022 Holiday Schedule was made by L. Huebner, seconded by T. Wang, carried unanimously.

The meeting adjourned at 2:03 pm.

Respectfully submitted,

Paul Schiariti, P.E.
Secretary to the Board