

Via Email to Kevin Summers - [kevin.sumner@ocsoil.org](mailto:kevin.sumner@ocsoil.org)

**From: Steve Cruz**

**October 26, 2020**

In response to the letter dated August 18, 2020 from the Orange County Soil and Water Conservation District my response is as follows:

- A. I did not receive this letter until 10/26/2020 via email from Kevin Summer and only received it when I called to follow up after getting another bill for the seeder rental. I never received this letter by USPS and made Travis Ferry and Kevin Summers aware of that.
- B. In paragraph 3,
- 1) you held a non-agricultural job as your primary occupation at least up until very recently; **How did you derive this erroneous information as no one from your office ever asked me about any job outside of my farm?**
  - 2) the majority of your property is devoted primarily to support of a sport hunting preserve; **This is incorrect only a small portion of the property is dedicated to hunting as most of our income is derived from birds sales to hunting clubs and individuals. Where did you derive this erroneous information?** and
  - 2) the primary purpose of the planting you did with our equipment was to provide food and cover for game birds released on your property, we determined that you did not meet the parameters established for waiver of the equipment rental fees. **Again the hunting operation is only ancillary to bird sales. What is the basis for your conclusion?**
- C. Orange County Soil and Water Conservation District does not dispute that the raising of pheasants for sale is agricultural in nature. One relevant issue discussed with you during the Board meeting involves the primary intended use of the grain/cover planted using our equipment. As stated in the meeting, Ag and Markets has issued opinions on hunting preserves and the raising of animals for hunting. Their opinion states that raising of the birds is agricultural, but any land used for the hunting of animals is classified as recreational, not agricultural. **Please provide the publication verse and chapter that supports this conclusion. As you know, we are inspected every 90 days by AGs and Market for bird health. The representative that inspects in our area does not support your conclusion. I believe this arbitrary on the part of the Board to exclude us from any remedies we may be entitled to.**
- D. You indicated to the Board during their meeting that the plantings you established with our equipment will be 'harvested' to supplement feeding of the birds you raise. When asked if you own harvesting equipment, you indicated as we understand it that you mow the plantings, rake the clippings, and somehow separate grains and perhaps other components of the raked clippings for

feeding to your birds. I never made any representations about separating the grains from the stalks. It is accurate that we mow and rake the stalks but there is no need to separate the stalks from the grain as we feed both stalks and grain heads to the birds. After the grains are eaten by the birds the stalks provide litter for the outdoor pen and helps control moisture.

E. The Orange County Soil and Water Conservation District Board of Directors has discussed the situation. The Board is requesting that you provide documentation that the grain planted with our equipment will be or is harvested and fed to the poultry produced at the facility. This could be accomplished by reporting to our office with reasonable advance notice of when you will be harvesting the plantings so that the harvesting operation can be observed by someone from our staff, or by other means deemed mutually acceptable. Once suitable documentation is obtained, the Board will then resume discussion of the matter. Please note that, to be considered a substantive and legitimate use of the plantings for agricultural purposes, we would expect that a significant amount of grain will be collected from the planted areas for feeding purposes. We can have further discussion regarding what would constitute a 'significant' quantity. We believe this request is reasonable given your contention during the Board meeting that the plantings are used for feeding your birds. Be specific what documentation are you requiring? The only way to ascertain what quantities are being utilized is to cut my birds open to see how much of the grain is being consumed. Is that what you are suggesting? We harvest as needed to supplement our feeding requirements. We have a full flock in September and taper off as we sell the birds and our requirements lessen. We also have to wait for the Sorghum to ripen as harvesting too soon results in high tannin in the grain. I am open to any reasonable suggestion to satisfy your requirements but will insist that you provide me with the number and names of other farmers that have to meet this requirement.

F. Kindly let us know if you are agreeable to providing the documentation requested. Also, feel free to provide any additional information in advance of the harvesting operation that might assist the Board in further evaluating this matter including, for example, more detail on how you segregate the portions of the clippings you feed to your birds and when the harvesting operation takes place. I am willing to meet any reasonable request the Board may have. What documentation? As I stated previously we utilize both stalk and grain so no separation is needed.

It is my intention to be a working and contributing part of the agricultural community in Orange County. When I bought 145 Bushville Road it was a shambles neglected in every way. I have made substantial investments in trying to preserve the farm and work hard at paying the bills. Just this year we were able to construct a new breeder facility to increase our capacity and everyone has been very supportive. I think the community can point to our operation and take pride in what we are doing. As you know, I have allowed portions of our property to be utilized by our neighbor's dairy operation because I want to see them succeed. I want to be able to continue to improve the property and preserve it for decades to come. It is my hope that OCSWC will cease being an obstacle and join in helping the community. I can be very cooperative and open minded. However, be aware I am not one to run away from a fight. I will not allow you to discriminate against me by dealing unfairly and continuing to enforce a higher standard on me than everyone else.

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PMF  
Nov

# 2021 Legislative Day



**SAVE THE DATE!!!**  
**ANNUAL LEGISLATIVE DAY!!!!**

**WE ARE GOING VIRTUAL!!!**

**MONDAY, MARCH 1, 2021 - EVENING MEETING**  
**ZOOM MEETING TO SHARE TOPICS OF DISCUSSIONS**  
**WITH LEGISLATORS**

**TUESDAY, MARCH 2, 2021 – MEET WITH LEGISLATORS**  
**ZOOM MEETINGS WILL BE SCHEDULED**

Meet with your Legislators by Zoom will be scheduled through-out the day. We will remind them of all the projects your District completes to improve New York's soil and water.

**MORE DETAILED INFORMATION WILL BE FORTHCOMING IN THE NEXT COUPLE OF MONTHS.**

**March 1-2, 2021 are the dates!!!!!!**

for more information contact: Blanche L Hurlbutt

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## TF November Board Meeting Activity Summary

- Inspected cover crop being done under the Carbon Farming Project.
- Soil samples collected and sent to Cornell Soil Health lab for Carbon Farming Project
  - Received results of the soil sampling we did earlier this year, forwarded those results onto the farmers.
- Started working on annual vegetation report for Wallkill Bench due at the end of the year as a condition of our permit.
- Continuing to coordinate no-till rentals with Ron. Season is almost done, looking to investigate acreage discrepancy between main and native grass box meters.
- Working on AEM Strategic Plan update that is due by the end of the year.
- Spent two days in the field with B&L's environmental scientists doing wetland delineations and environmental assessment work for phase 4.
- Conducted AEM Tier 1 & 2 visits to a local vegetable farm.
- Marked trees downstream of Celery ledge with Kevin.

### **C. DeGroot Board Meeting**

#### **Activities October 17, 2020 – November 12, 2020**

- We currently have \$266 cash awards on the rewards credit cards.
- Typed last month's Board Meeting transcript.
- NYS and FIT/FICA quarterly reports completed and sent in.
- Prepared the 2021 Performance Measures Part B Voucher.
- Requested a 2021 audit Engagement Letter from O'Connor Davies since the old one expires at the end of 2020. They said they will keep their fee for 2020 the same as 2019 (\$3,750). The Engagement Letter can be viewed on the District's website.
- NYS Retirement Update – They have still not entered us into their system. Their email said "There has been an unforeseen delay in getting Orange County SWCD into the production environment of Retirement Online. We have recently asked for an updated processing time and will reach back out to you once we have it." They are also looking into an Invoice they sent us in the amount of ~\$20,000 which included all staff instead of just Travis.

## Report to the Board

November, 2020            KMS

### OLD BUSINESS

#### a. Walkkill Flood Projects

1. Phase 3 Bench Project – Current Contract work completed 10/25. Site is stabilized. We hope to proceed with tree planting component in April, 2021, funding permitting, using same contractor who was the low bidder on both parts of Phase 3 (Area 1 and Area 2), including tree planting.

Communications with Green Farmland continue. They expressed unhappiness with the topsoil placed on their field. I replied, expressing our belief that the topsoiling operation fully meets the requirements in our Agreement with them, and that the operation will result in improvements to the area. They also questioned whether or not they had received all the trees/logs as specified in the Agreement. I replied that they received more trees/logs than the Agreement states.

They did invoice for rental of the 10 acre soil receiving area (presented for approval this month).

These disagreements are distressing , given the efforts to which we have gone to accommodate the landowner's requests and given the need we have to secure continued agreements from them particularly the Phase 3 Conservation Easement (CE).

The County surveyors have already surveyed the as-built condition, to be used for construction contract-related soil quantity calculations and for the Conservation Easement. This is a significant cost savings for us. Outreach was also made to the County Law Department (10/27) regarding assistance in progressing the CE, but no reply has been received as of writing of these notes.

2. SAM Grant –Still no firm information on when to expect award/contract.
3. Climate Resilient Farming Round 5 Grant – The Governor has still not authorized release of the results that were accepted by NYSSWCC in April.
4. Bench Phase 4 – Despite lack of info on CRF5, we have proceeded with hiring consultants for Phase 4 studies, per approval of the Board at October's meeting. Field work for archeological and environmental work has been completed, poising us to pursue an aggressive schedule in 2021 for required permits.

A Phase 4 landowner called to inquire about potential payments to them associated with Phase 4 work (we wrote to Phase 4 landowners recently to brief them on the proposed project). I explained the precedents from Phases 1 – 3. They were generally accepting of the work, and I promised to keep them informed of developments including how much of their land and where is being considered for inclusion in the project. I mailed them a follow up map with more

detailed information on land proposed for benching work relative to their property. Most of their land expected to be impacted is actually upstream from the currently proposed upstream limits of Phase 4.

5. No new information or progress on Celery Ledge project.

b. Hudson Valley Carbon Farming Project (HVCFP)

1. Dutchess County SWCD issued reporting/reimbursement requirements different from what we submitted previously, so we had to prepare new reimbursement paperwork. This took a considerable amount of time – requiring detailed staff time reports by day and by project. An updated reimbursement request was submitted on 11/4 in the amount of \$11,751. No opportunity was offered for requesting advances on construction projects, so this updated request was considerably less than the draft submitted and reported on at the Board meeting last month. We also learned that NYSSWCC adjusted the staff time budgets to make each participating county's scheduled staff time budget the same. This amount is considerably less than the staff time budget we submitted earlier this year when the Project budget was being developed. I have questioned this decision, given that some counties have only one project to oversee/complete while we have six – some of which are demanding in terms of design time required. We were also never informed until we saw the updated budget figures on 10/22 that our staff time budget was being reduced even though the contract started on 5/1/2020 and we had been proceeding on the basis that our staff time budget was as we submitted it.

Soil Health test reports for 4 of the participating farms have been received.

I entered into an agreement with Aaron Weiss Engineering to prepare a 'generic' compost shed design that we expect to use for one of the HVCFP farms and also for one of the Year 16 (2020/2021) Implementation farms. We are thinking of splitting the engineering costs between these two projects. The Agreement is listed in this month's correspondence for director review.

There will be a 'kick-off' meeting on the HVCFP on 11/12.

- c. Office Procedures – We continue to follow the protocols being practiced by the other USDA agencies who are conducting operations from the Service Center. We are still limiting public access to the office.
- d. County Legislative Budget Hearing – I sent the Board a brief report of the outcome of this hearing. The 15% cut imposed by the executive branch was not restored. There was talk of possible re-visiting of the cut after the Legislature received a report from their auditors on 11/5. I note that Paula followed up immediately on securing a support letter from the Grange, and that Paul moved to have our funding restored but retracted the motion after it was clear that the motion did not have enough support to pass.

## NEW BUSINESS

- a) We have not become aware of any changes that would cause us to adjust the projections presented to the Board last month. We expect to end the year approximately as we described at that time. We should discuss the remaining obligations we have for employee retirement contributions for 2020.
- b) Performance Measures Update - DeGroot
- c) NYS Retirement Update – DeGroot
- d) Employee Appraisals - Sumner

## Other Items

Minor edits made to 2021 APW version reviewed by directors, including adding Covid-19 procedures statement.

First day of remote Southeast NY Stormwater Conference was on 11/5. A powerpoint summarizing our work on Wallkill/Black Dirt flood mitigation was presented.