

Monongahela Conservation District
Board Meeting Minutes
November 4, 2021
@ 9:30 a.m.

Call to order

Chairman Rick Abel called to order the regular meeting of the **Monongahela Conservation District** at **9:45 a.m.** on, **November 4, 2021**, in person and via teleconference.

Roll call+

Present: Supervisors: Rick Abel, Chuck Cienawski, Art Mouser, Mark Myers (Video), Andy Price Associate, Jean Conley Associate, H.R. Scott Associate, Dustin Adkins NRCS (Video), Rudy Williams WVDOF, Jim McDonald supervisor, Ed Utterback supervisor (Video), Chris Ellison WVCA, Ross Tuckwiller NRCS, Heather Duncan WVCA, Sigrid Teets WVCA Conservation Specialist, Davin White WVCA, Dustin Adkins NRCS, Ed Martin WVCA, Gene Saurborn WVCA, Todd Kalner EQT Director of Permitting, Hayward Helmick, Robert Hawkins EQT, Frank Furby EQT, Jeremy Slayer WVCA (Video), Dee Altman WVCA (AS).

Pledge of Allegiance

Was recited by all present

Prayer

Prayer was given by Jim McDonald

Approval of August Meeting Minutes

Art moved to approve the October 7, 2021, minutes. Seconded by Chuck. Motion carried.

Approval of financial statements

Credit Card Receipts and Statements- *Chuck moved to approve the Credit Card Receipts and Statements. Seconded by Ed Utterback. Motion carried.*

General/CDO financial statements- *Chuck moved to approve the General/CDO Financial Statements and audit Seconded by Art Mouser. Motion carried.*

Co-Administered Funds Financial Statements- *Art moved to approve, the Co-Administered Funds Financial Statements. Seconded by Ed. Motion carried.*

Rick stated that Bookwise keeps a close watch on all funds. Rick also stated that we are trying to have just two accounts instead of four, he is working on this and is close to closing the Wesbanco account as soon as all transactions have cleared. The Finance committee meet just prior to the board meeting today and reviewed all accounts in depth. This committee will continue to meet prior to each board meeting. Rick also passed around all invoices that need to be initialed by at least two supervisors. This is being done as a request/suggestion from the last audit, From Lowe & Associates. Rick went on to state that he had deposited \$3,000 in wrong account, and will get a refund from that, and place in correct account. Rick called for a motion allowing him to fill out and sign the Brim survey. Ed Utterback made a motion to allow Rick to complete this task. This was seconded by Chuck Cienawski. Rick will complete and submitted said survey.

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Visitors Comments – Ed Martin stated that Representatives are present from EQT, to address the issue at the Upper Buffalo Dam Project. Ed continued to explain that EQT had inadvertently been over on land belonging to MCD. **Todd Kalner stated the EQT agrees to work with the MCD on land right issues associated with this project.** Ed Martin has contact information for him. Ed Martin stated he has provided them with a checklist and an evaluation of the site, EQT has responded to this and has included the DEP, and NRCS in their response. Ed stated he had two questions regarding the situation:

- 1) What Impact does this have on the function of the dam
- 2) Permission Issue/ Easement of land ownership

Todd Kalner stated EQT will work with Ed on these issues.

Gene Saurborn stated this parcel of land has been messed up for a long time. Gene asks Ed approximately how far over on MCD land EQT was. Ed Martin stated approximately 700 feet. Gene Saurborn then stated if the deed is searched it will come back to MCD, Gene also suggested that Hillary (Attorney) look at this to protect all involved. Rick Abel then stated that board signatures are the only things needed on this issue. Rick asks if the board would like to send a cease & desist order letter or if the board would like to let EQT to continue to work. Chuck Cienawski stated he thought it would be a good idea for Jim McDonald and himself go out and take look at the site, prior to any decisions. The board agreed with this idea. Rick will be contacting Hillary (Attorney) and speaking with her. Rick then called for a motion to allow him to contact Hillary and let her look at this situation more in-depth. Jim McDonald made a motion to allowed Rick to contact Hillary, this was seconded by Chuck Cienawski. Motion Carried. Ed Martin stated that we do not want a slip to coming in and obscuring the water from leaving the channel. Ed also stated he is waiting on NRCS dam safety report. Andrew Price asks, whom would be responsible for removing this culvert if necessary? Also, he feels this should be in a letter to state who would be responsible. This previous Attorney that worked on this was Phil Pritchard.

Cooperating Agencies - No Report

WV Division of Forestry- Rudy Williams Stated they have hired a new forester for Monongalia County who will start next Monday he name is Bob Boyce. Rudy went on to stated they are fortunate to get Bob on board, and they only had two applicants and George Nolan is finishing up his master's degree at WVU and they are trying to bring him on board for the Marion and Taylor County position.

Watershed Division- Ed Martin stated there is no report on Upper Decker's at this time. Maintenance UDC consist of tree planting. Ross Tuckwiller stated the money for the mitigation and planting is there and with the budget. Mark Myers made a motion to purchase needed for mitigation, this was seconded by Art Mouser. Motion Carried Tree to be ordered. Ed martin mentioned the 713 MOU letter has been sent out, Rick then stated this has already been singed by Art Mouser. Our estimated cost is \$31,350.00 Rick called for a motion to Send letter Regarding the signing of the 713 MOU letter. Art Mouser made a motion to that effect, this was seconded by Jim McDonald. Motion Carried. Rick will send letter.

EWP and SSRP- No Report

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Conservation Specialist –

Sigrid stated that some people have completed their practices already, and the AgEP Committee approved for payment the following Cooperators:

Gary Walls	Nut. Mgmt	20 acres	\$1,100.00
Gary Walls	Lime	14 ton	\$488.24
Bill Howell	Lime	51.24 ton	\$922.32
Tyler Brown	Invasive Spec	30 acres	\$1,079.10
Tyler Brown	Water Sys	Trough	\$1,100.00
William Lyons	Water Sys	Trough	\$1,287.96

Ag Enhancement Approval Request John Keener Lime 136.2 tons \$2,145.15

Mark Myers made motion to approve, Art Mouser Seconded. Motion Carried John Keener Approved for Payment.

Sigrid stated the deadline for New Practices, and Exigency Practices ideas is Nov15,2021.

New Practice Ideas - Sigrid listed several potential practice ideas for FY23 AgEP that were discussed during the November 1st AgEP Committee Mtg. Some discussion followed. Board acted on three practice ideas for AgEP Exigency Program which include a modification of the existing Water Tank practice. Changes include increase cost share rates to be determined by individual Conservation Districts, allow for all Agricultural uses, and include cost-share on solar and other pumping options. The second and third are new practice proposals. The first in response to severe wildfire and to include cost-sharing opportunities for erosion. The other to repair high tunnel plastic following a severe weather event involving hail or ice. Art made a motion to add modification to water hauling tank practice, Chuck seconded this motion carried. Changes include increasing cost share rate 75%, allowing for all agricultural uses and including cost share for pumping. Second motion made by Jim McDonald to propose two new exigency practices 1) Severe Forest Fire to address erosion 2) To Repair high tunnel plastic following severe weather involving hail or severe ice.

WVU Extension No Report

NRCS- Dustin Adkins reported the following.

- CSP Payment Processing is underway. All CSP payments have been mailed to participants and are due to be completed by 12/3/2021.
- CSP assessments are being developed for 3 FY22-Renewal contracts. We have (2) in Mon. County and (1) in Preston. Those are due to be obligated in December.
- Jim Allen, Soil Conservation Technician in Kingwood has retired effective 10/31/2021.
- FY 2022 program sign-up closes 11/5/2021 for AMA, EQIP and RCPP-EQIP.
- The NRCS liaison to the WVACD has requested the following information be provided:

-Name, Title, Email Address and Telephone number for these individuals:

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MCD Admin Contact
MCD Program Director
MCD Program Contact
MCD Signatory Official

***This information can be provided to me at dustin.adkins@usda.gov and I will forward it on.**

- COVID-19 Status update:

- White Hall - Service center doors remain locked, 1-2 employees will be available in the office, customers are not permitted entry to the office. We will work with customers in the parking lot or on their farms as needed. Masks are required inside the office regardless of vaccination status for employees.

- Kingwood - Service center doors remain locked, 1-2 employees will be available in the office, customers are not permitted entry to the office. We will work with customers in the parking lot or on their farms as needed. Masks are required inside the office regardless of vaccination status for employees.

- Overall: Encourage anyone you speak with to call either service center to schedule a meeting. Staff may or may not be available on site, entry is not permitted.

- Feel free to contact me at 304-368-6910 (White Hall) or 304-441-3767 (Kingwood) with any questions or need or further information.

Rick stated that any action on the MOA will be discussed at next meeting. MOA attached at the end of minutes.

FSA- No Report

Solid Waste Authority-

Mon County has a new SWA Representative his name is Dave Cluster. Hayward Lucky stated this. Marion County Jim McDonald stated they are moving cardboard and some clear plastics. Building is very full currently. The Right of way is all figured out now, with no issues. Chuck Cienawski stated that money from the county commission will help a lot with trucking. Preston County – Nothing to report.

Administrative Specialist Dee stated that the credit card machine is installed. Dee also stated that no sealed bids were received for the lime spreader. Rick asks that Dee place this out for bid to the public. Jeremy stated this must be a sealed bid process. Mark Myers made a motion to place the 4-ton Lime Spreader out for bid to the public, this was seconded by Jim McDonald. Motion Carried. Rick stated the board needs to decide when to move the equipment to Wilson Works. Rick also mentioned possibly moving the meeting days to the second Thursday of the month, due to the bank statement's not coming in time for the first Thursday meetings. This will be place on the December Agenda. Rick mentioned getting rid of the surplus furniture in the conference room. This will be on Dec Agenda.

WVCA Area Director

Jeremy stated the state budget is doing well. Possibly getting more dams. He would like for the MCD to look over Policy Manuals. Asks Rick to have Dee make copies of manual and send out to supervisors.

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Invoices-

Bookwise Business Service November 2021 \$300.00

CTL Engineering Invoice #WV-119978 \$2,773.00

Mark Myers made motion to pay invoices, this was seconded by Jim McDonald. Motion Carried.

Approval of Supervisor Travel and Per Diem Claims

Art Mouser-\$	Chuck Cienawski- \$	Richard Abel- \$	H.R. Scott -\$
Ed Utterback-\$	Jim McDonald- \$	Mark Myers- \$	Jean Conley-\$
Andy Price -\$			

Mark moved to approve Supervisor payments as submitted and authorized when they arrive from the bookkeeper. Seconded by Ed. Motion carried.

Unfinished Business

Weed Management Program

Sigrid reviewed this program would like to see the following changes made

1)Change to Custom Weed Management

2) Two Cooperators per district, they would get \$5,000 each for three years

New Business

WVCACD: Women's Auxiliary Support Donation \$1,000

Monongalia County Livestock Improvement Association \$1,000, Request from Shockey

Need to appoint a stand in for the State AgEP Committee (Chuck)?

Eastern District Meeting/ Planning for January Meeting (Hosting)

. Chuck made a motion to donate \$2,000.00 to the Women's Auxiliary Fund, which will help with the education part of the scholarship fund. This was seconded by Mark Myers. Motion Carried. A motion was made by Chuck to donate \$ 1,000.00 to the Mon County Livestock program, this was seconded by Art Mouser. Motion Carried. Rick then asks Mark Myers if he would like for someone to fill in while he is feeling ill. Mark stated yes, A motion was made by Mark to have Chuck Cienawski to fill at the state AgEP presentative level. This was seconded by Jim McDonald. Motion Carried.
Chuck has asks that the Eastern District Meeting be set up on December 15,2021 at !0:00AM at the MCD office in Morgantown.

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Committee Reports:

Finance- Previously Covered

Education- Mark stated not much going on right now

Legislation/Policy- Delegates and Senators Social 2/8/2022 Caperton Building

Grasslands- no report.

Safety/Buildings and Grounds Snow removal contract awarded to Rays Land, Beardies notified they're service is no longer required, gutters are doing well, Typar price after checking was .78, we are selling ours for \$1.19. Wilson Works will be doing rental service repairs.

Ag Enhancement- Previously Discussed

Correspondence- Rick stated he spoke with Jennifer and is waiting on answers from RCPP Program to see if they will match funds to the districts. Rick stated to remember to take rack cards to the meeting Sigrid stated she would be here on 11/9/2021 to work on the finalization of ideas to the AgEP Practices/ Proposals. Rick read a letter regarding the possibly saving of Clements nursery. Art stated that he found a place to hold the banquet in Preston County, that would be at the Masontown Fire Dept, and the can catered as well. A motion was made by Chuck to allow Art to book and order the food for the upcoming banquet. This was seconded by Jim McDonald. Motion Carried, Art will let us know the date. All supervisors are asks to come to the next meeting with a list of potential candidates for awards, as the awards will need to be ordered. Banquet will be held in January.

Public Comment- None

Supervisor Reports

- **Mark Myers**– No Report

- **Ed Utterback** – No Report

- **Art Mouser** – No Report

- **Jim McDonald**– No Report

- **Chuck Cienawski** – No Report

- **Richard Abel** – No Report

- **Jean Conley** – No Report

- **Andy Price**- No Report

- **H.R.** -No Report

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- **Adjournment**

Art moved to adjourn the meeting seconded by Jim. Motion carried Meeting adjourned @ 1:44 PM

The next scheduled meeting is December 2, 2021 - Steve Lebnick Agricultural Center
Minutes submitted by Dee Altman, Administrative Specialist

Minutes approved by: _____

Rick Abel, Chairman

Date

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MEMORANDUM OF AGREEMENT BETWEEN THE
United States Department of Agriculture, Natural Resources Conservation Service
AND
State of West Virginia, Monongahela Conservation District

I. PURPOSE

This Memorandum of Agreement (MOA) is entered into between the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) and the Monongahela Conservation District (Conservation District).

The NRCS and Conservation District (the Parties) have common objectives of delivering technical and financial assistance to farmers, ranchers, forest stewards, and other entities to voluntarily protect, restore, and enhance the productivity of American agricultural lands. The Parties recognize the importance of natural resources, the wise use and management of these natural resources, and, as appropriate, the protection and/or development of these natural resources. This agreement is made and entered into with the objectives of:

- Continuing to support the delivery of excellent and innovative customer service.
- Recognizing conservation planning as foundational to our work and working together to meet the conservation planning assistance needs of our cooperators/customers.
- Strengthening and modernizing conservation delivery to optimize efficiency and effectiveness.
- Broadening our outreach to existing and new customers and partners.
- Supporting science-based decision making as close to the resource issue/opportunity as possible.
- Encouraging a voluntary approach as the primary means of accomplishing conservation goals; and
- Using sound approaches to strengthen each Party and its role in the delivery of soil, water, and related natural resource conservation across the nation.

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II. BACKGROUND

The NRCS and Conservation District share a rich history of collaborating to deliver comprehensive technical and financial assistance to farmers, ranchers, forest stewards, and other entities to voluntarily protect, restore, and enhance natural resources.

The Soil Conservation Service was established in 1935 (renamed NRCS in 1994 to reflect its broader conservation mission). NRCS is committed to “helping people help the land.” It aids and resources for conservation practices that improve water and air quality, prevent erosion, restore wetlands, and enhance wildlife. NRCS’s approach to mission delivery and customer service is deeply rooted in the notion that locally led, voluntary efforts yield the most effective and productive outcomes. Locally led conservation is the principle that farmers, ranchers, and forest stewards know their lands better than anyone else based on their personal knowledge and experience with those lands. As such, they are best positioned to make optimal decisions for the benefit of their operations, its natural resource conditions, and their communities.

The first Conservation District and the first State Conservation Agency were established in 1937 to provide local leadership in natural resources management. Conservation Districts serve as the link between federal and state agency resources with the local farmers, ranchers, and forest stewards. They are responsible for promoting and carrying out their conservation programs by assisting communities and its members develop, apply, and maintain appropriate conservation practices and resource management systems. They are authorized to provide broad area planning and implementation assistance to units of government. They are a focal point for coordinating and delivering technical assistance and funding to their respective communities.

III. STATEMENT OF MUTUAL BENEFIT

In conjunction with the NRCS, the Conservation District coordinates and implements locally led conservation plans using their connections to Federal, State, Tribal, and local governments; private resources; and the public. The Parties agree to facilitate cooperation, collaboration, and agreement between agencies, landowners, and other stakeholders; develop comprehensive conservation plans; and bring those plans to the attention of landowners and others within the district.

In addition, the Parties recognize the importance of working together to broaden strategic assessment and planning authority under the Soil and Water Resources Conservation Act of 1977 for the conservation, protection, and enhancement of soil, water, and related natural resources. The Parties further recognize that natural resources are finite and under increasing pressure from a variety of impacts. Soil, water, air, plants, animals, and energy are all addressed under the programs, initiatives, and partnership efforts of the Parties.

To deliver the necessary technical and financial assistance to enable locally led, voluntary conservation, the Parties agree to adhere to the principles, roles, and responsibilities outlined in this section of the MOA. This MOA does not affect or modify existing regulations or agency responsibilities and authorities. Moreover, this MOA does not commit either part to activities beyond the scope of its respective mission and statutory authorities.

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A. Locally Led, Voluntary Conservation

The Parties agree that locally led, voluntary conservation must be driven by natural resource conservation needs, rather than by programs. Its primary focus is to identify natural resource concerns, along with related economic and social concerns. Locally led conservation consists of a series of activities and phases that involve community stakeholders in natural resource planning, implementation of solutions, and evaluation of results.

1. The Conservation District shall:

- a. Assist NRCS in promoting USDA programs by participating in outreach and community education activities.
- b. Advocate for a strong natural resource conservation program by keeping appropriate boards, landowners, legislators, county commissioners, and other key stakeholders apprised of conservation activities within the district.
- c. Assemble and chair the USDA local working group, as chartered under the State Technical Committee, and authorized by 7 CFR 610, Part C, to encourage public participation.
 - i. Encourage diverse participation in local working groups through community outreach and education, to include stakeholders from historically underserved community.
 - ii. Open local working group meetings to the public and advertise notification of meetings in one or more newspapers, including Tribal publications.
 - iii. Develop the agenda and associated materials/information for local working groups and distribute at least 14 calendar days prior to the meeting.
 - iv. Develop and file local working group meeting records within 30 calendar days of the meetings at the local NRCS office.
 - v. Adhere to local working group responsibilities and standard operating procedures, as documented in NRCS policy (Title 440, Conservation Programs Manual).
- d. Develop the conservation needs assessment through broad-based community participation and in accordance with NRCS policy and procedures. This will provide a comprehensive evaluation of the district's natural resource base and be the basis for making decisions about local priorities or policies in all local conservation programs.
- e. Recommend local natural resource priorities and criteria for NRCS conservation activities and programs based on the conservation needs assessment and public input.
- f. Develop a District Long-Range Plan every three (3) years *[this frequency can be tailored to meet the standards for various states]* and an Annual Plan of Work each year. These documents must incorporate local and community inputs.
- g. Identify NRCS program resources, develop and implement conservation plans and natural resource systems, and evaluate/measure the technical and community impacts of solutions.
- h. Update NRCS on activities of local and state advisory committees and community groups attended by Conservation District board members and staff.
- i. Cooperate and collaborate across conservation districts, as appropriate.

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2. NRCS shall:

- a. Support outreach activities and ensure the Conservation District is kept informed of NRCS activities and programs on at least a monthly basis. This includes bringing technical and financial assistance opportunities (including matching fund strategies) to the attention of the Conservation District.
- b. Work cooperatively to solicit and leverage community recommendations to inform priorities that guide the delivery of NRCS conservation programs.
 - i. Designate a representative to participate in Conservation District meetings and events, including local working group meetings. Alternatively, NRCS will chair the local working group should the Conservation District be unable or unwilling to.
 - ii. Develop and transmit written notifications to the local working group members as to the decisions made in response to their recommendations within 90 days.
- c. Respond to requests from the Conservation District for technical guidance and assistance.
- d. Partner with local and Tribal agricultural, conservation, agency, and community groups where possible, to further Conservation District natural resource conservation goals and objectives.
- e. Provide an annual summary of NRCS accomplishments to the Conservation District.

B. Adherence to Technical Standards

The Parties agree to the use of science-based decision-making to address local natural resource issues. Implementation of sound conservation plans, and practices will strengthen each party, as well as their roles in the delivery of soil and water conservation.

1. The Conservation District shall:

- a. Adhere to Federal, State, Local, and Tribal laws and regulations.
- b. Adopt NRCS policies and procedures, including the NRCS Field Office Technical Guide (FOTG), and other science-based technical standards.
- c. Leverage and promote use of USDA technologies and applications, as appropriate.
- d. Assign conservation practice job approval authority to its personnel based on employee knowledge, skill, and ability level, and within applicable laws and guidelines. Obtain NRCS concurrence for job approval for practices involving USDA authorities or programs.
- e. Participate in local, state, and national opportunities for policy, program, and project development.

2. NRCS shall:

- a. Develop, update, and disseminate technical standards, policies, and procedures.
- b. Seek input and comment from communities on natural resource conservation policies and issues.
- c. Inform the Conservation District and communities when pending statutes, laws, regulations, policies, or procedures may have a significant impact on the community.

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- d. Develop and provide access to USDA technologies and applications to facilitate shared standards, as appropriate.
- e. Provide non-NRCS employees job approval authority in accordance with NRCS policy and consistent with State laws.
- f. Provide engineering job approval, as based on job class and in accordance with NRCS policy and Federal, State, and local laws, regulations, and codes.
- g. Provide conservation planning certifications for non-NRCS employees in accordance with the NRCS policy and Federal, State, and local laws, regulations and codes
- h. Create and promote opportunities for the Conservation District board members and staff to participate in policy, program, and project development.
- i. Provide technical or other training for conservation partnership employees in conjunction with its own training, or as separate events. Training must be consistent with and support of NRCS's mission objectives. As such, the principal emphasis will be on the delivery of field-based conservation technical assistance.

C. Data and Information Sharing

- 1. Any information furnished to NRCS under this agreement is subject to the Freedom of Information Act (5 U.S.C. 552).
- 2. Activities performed under this agreement may involve access to confidential and potentially sensitive information about governmental and landowner issues. The term "confidential information" means proprietary information or data of a personal nature about an individual, or information or data submitted by or pertaining to an organization. This information must not be disclosed without the prior written consent of NRCS.
- 3. Conservation District personnel will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. Section 552a, and implementing regulations and policies with respect to systems of records determined to be subject to the Privacy Act. The Partner's personnel must also comply with privacy of personal information relating to natural resources conservation programs in accordance with section 1244 of Title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171).
- 4. See Appendix A, "ACKNOWLEDGMENT OF REQUIREMENTS FOR PROTECTION OF PRIVACY OF PERSONAL AND GEOSPATIAL INFORMATION RELATING TO NATURAL RESOURCES CONSERVATION SERVICE PROGRAMS." The signatory agrees to abide by these requirements as a condition of receiving access to such information.

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IV. GENERAL PROVISIONS

A. Period of Performance

This MOA takes effect upon the signature of the Parties and shall remain in effect until mutually modified or terminated.

B. Amendments

1. This MOA may be extended or amended upon written request of either Party and the subsequent written concurrence of the other. Either of the Parties may terminate this MOA with a 60-day written notice to the other.
2. This MOA may be supplemented, to reflect mutually agreed-to detailed working arrangements, to include an Annual Workplan and/or Plan of Operations. These may include, but are not limited to, documenting specific objectives or goals, action items, provision for documentation of accomplishments, schedule of planned events, and assignment of responsibilities.

C. Transfer of Funding or Non-Monetary Resources

1. This MOA is established to document the collaborative relationship between the Parties. Nothing in this MOA shall require either Party to obligate or transfer funding, or anything of value. This may include, but is not limited to:
 - a. Office spaces and equipment/supplies
 - b. Vehicles and associated expenses (e.g., fuel, maintenance)
 - c. Computers, software, and technical equipment
2. Specific work projects or activities that involve the transfer of funds, services, or property will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This MOA does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations. The appropriate instruments include:
 - a. Cooperative Agreement (2 CFR 200.24), which allows federal agencies to transfer a thing of value to the State, local or Tribal government, or other recipient to carry out a public purpose of support or stimulation authorized by law of the United States.
 - b. Contribution Agreement (7 CFR 6962a), which is a unique statutory authority allowing NRCS to enter into an agreement with a non-federal entity that shares a mutual purpose in carrying out NRCS programs. All parties must contribute resources to the accomplishment of these objectives.
 - c. Reimbursable Agreement (31 USC 6505; PL 90-577), which allows federal agencies to provide specialized or technical services to State and local governments.

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D. Other

1. This MOA is not intended to, and does not create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by any party against the United States, its agencies, its officers, or any person.
2. The Department of Agriculture and Conservation District and their respective agencies and offices will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.
3. All activities and programs conducted under this MOA shall follow the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended; Civil Rights Restoration Act of 1987 (Public Law 100-250); and other nondiscrimination statutes; namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendment of 1972, and the Age Discrimination Act of 1975. Also, they will be in accordance with regulations of the Secretary of Agriculture (7 CFR Part 15, subpart A), which provide that no person in the United State shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of an applicant or recipient receiving federal financial assistance from the Department of Agriculture or any Agency thereof.
4. All activities conducted under this MOA shall follow the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D).
5. Contacts for each Party for administrative or technical concerns are listed below:

Natural Resources Conservation Service	Monongahela Conservation District
<i>[insert contact info]</i>	<i>[insert contact info]</i>

[insert additional contact and signature blocks if additional stakeholders are included.]

V. **SIGNATURES**

**USDA NATURAL RESOURCES
CONSERVATION SERVICE**

MONONGAHELA CONSERVATION DISTRICT

Jon Bourdon, State Conservationist

[Insert Name, Title]

Date

Date

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APPENDIX A

**ACKNOWLEDGMENT OF REQUIREMENTS FOR PROTECTION OF PRIVACY OF PERSONAL AND GEOSPATIAL INFORMATION
RELATING TO NATURAL RESOURCES CONSERVATION SERVICE PROGRAMS**

I. Purpose and Background

The purpose of this Acknowledgment of Section 1619 compliance (hereinafter, "Acknowledgment") is to require acknowledgment by Monongahela (hereinafter, the "Conservation Cooperator") of the requirements of 7 USC 8791 (Section 1619 of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill)), which prohibits disclosure of certain information by the Department of Agriculture (USDA) and its cooperators. The Conservation Cooperator assists USDA in the delivery of conservation-related services (for example, services that sustain agricultural productivity, improve environmental quality, reduce soil erosion, enhance water supplies, improve water quality, increase wildlife habitat, and reduce damages caused by floods and other natural disasters) or with monitoring, assessing, or evaluating of conservation benefits from USDA conservation programs under a federal agreement. Those individuals or organizations (governmental or nongovernmental) that assist USDA with providing conservation-related services are known as Conservation Cooperators.

II. NRCS Conservation Cooperator

As a Conservation Cooperator, the Conservation Cooperator is authorized access to otherwise-protected agricultural information. Such protected information must be strictly limited to only that information necessary for the Conservation Cooperator to provide conservation related services or to perform monitoring, assessing, or evaluating of conservation benefits (as specified in the agreement between NRCS and the Conservation Cooperator). Disclosure to the Conservation Cooperator can include receiving the protected information either 1) directly from USDA; 2) directly from the producer or owner as part of the process required to enable a producer or owner to participate in a USDA program; or 3) in another manner with the producer's permission.

III. Section 1619 of the 2008 Farm Bill

Section 1619 of the Food, Conservation, and Energy Act of 2008 hereinafter, "section 1619" provides that USDA, or any "contractor or cooperator" of USDA, "shall not disclose—(A) information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in the programs of the Department; or (B) geospatial information otherwise maintained by the Secretary about agricultural land or operations for which information described in subparagraph (A) is provided." USDA may disclose protected information to a USDA cooperator when such cooperator is "providing technical or financial assistance with respect to the agricultural operation, agricultural land, or farming or conservation practices" if USDA determines that the protected information will not be subsequently disclosed, except in accordance with the exceptions contained in Section 1619. The Conservation Cooperator is a "contractor or cooperator" of USDA within the meaning of Section 1619. Accordingly, the Conservation Cooperator may not subsequently disclose any information protected by section 1619. By entering the agreement that references this Acknowledgement, the Conservation Cooperator is certifying future compliance with the statutory obligations under Section 1619.

IV. Responsibilities

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A. The Conservation Cooperator certifies that:

1. It acknowledges and understands that the Conservation Cooperator is legally bound by Federal statute to comply with the provisions of Section 1619 and that the Conservation Cooperator will not subsequently disclose information protected by section 1619 to any individual or organization that is not directly covered by this Acknowledgment. Any such subsequent disclosure of the protected information (except as permitted under Section 1619) will be considered a violation of Section 1619. The Conservation Cooperator will be held responsible should disclosure of the protected information occur.
2. Acceptance of the agreement referencing this Acknowledgment legally binds every owner, manager, supervisor, employee, contractor, agent, and representative of the Conservation Cooperator to comply with the provisions in Section 1619. The Conservation Cooperator must consult with USDA prior to providing protected information to an entity or individual outside of the Conservation Cooperator and as necessary to implement the program to ensure that such release is permissible.
3. The Conservation Cooperator will use the protected information only to perform work that is directly connected to conservation related services or perform monitoring, assessing, or evaluating conservation benefits, as specified in the agreement between NRCS and the Conservation Cooperator (hereinafter, "the Work"). Use of the protected information to perform work that is not directly connected to the Work is expressly prohibited.
4. The Conservation Cooperator must internally restrict access to the protected information to only those individuals who have a demonstrated need to know the protected information in order to perform the Work.
5. The provisions in Section 1619 are continuing obligations. Even when the Conservation Cooperator is no longer a Conservation Cooperator, or when individuals currently affiliated with the Conservation Cooperator become no longer so affiliated, every person having been provided access to the protected information will continue to be legally bound to comply with the provisions of this Acknowledgment.
6. The Conservation Cooperator must notify all managers, supervisors, employees, contractors, agents, and representatives about this Acknowledgment and the requirements of Section 1619. For the duration of this Acknowledgment, notifications about the existence of this Acknowledgment must be made to those individuals who are new to the organization and periodic notifications must be sent throughout the organization (as well as to all contractors and agents) to remind all about the ongoing and continuing requirements.
7. When the Conservation Cooperator is unsure whether particular information is covered or protected by Section 1619, the Conservation Cooperator must consult with USDA to determine whether the information must be withheld.
8. This Acknowledgment is nontransferable and may not be bought, sold, traded, assigned, extended to, or given free of charge to any other individual or organization not directly covered by this Acknowledgment.
9. Use of the protected information for any purpose is expressly prohibited when an individual or organization is no longer a Conservation Cooperator. When the Conservation Cooperator is no longer a Conservation Cooperator, any protected information provided under this Acknowledgment must be immediately destroyed or returned to USDA. The Conservation Cooperator must provide to USDA written certification that the protected information (paper copy, electronic copy, or both) has been properly destroyed, removed from any electronic storage media, or both.

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10. The State's "sunshine law," "open records act" or other version of the Freedom of Information Act is superseded by section 1619 under the Supremacy Clause of the U.S. Constitution. Accordingly, information protected from disclosure by section 1619 must not be released under such State laws.

V. Protected Information

- A. An example of the type of information prohibited by disclosure under Section 1619 includes, but is **not limited to**, the following:
1. State identification and county number (where reported and where located).
 2. Producer or landowner name, business full address, phone number, Social Security Number, and similar personal identifying information.
 3. Farm, tract, field, and contract numbers.
 4. Production shares and share of acres for each Farm Serial Number (FSN) field.
 5. Acreage information, including crop codes.
 6. All attributes for Common Land Units (CLUs) in USDA's Geospatial Information System
 7. Any photographic, map, or geospatial data that, when combined with other maps, can be used to identify a landowner.
 8. Location of conservation practices.
- B. Section 1619 allows disclosure of "payment information (including payment information and the names and addresses of recipients of payments) under any Department program *that is otherwise authorized by law*" (emphasis added). The names and payment information of producers generally may be provided to the public; however, the Conservation Cooperator shall consult with USDA if there is any uncertainty as to the provision of such information.
- C. Section 1619 also allows disclosure of otherwise protected information if "the information has been transformed into a statistical or aggregate form without naming any—(i) individual owner, operator, or producer; or (ii) specific data gathering cite." The Conservation Cooperator must consult with USDA as to whether specific information falls within this exception prior to relying on this exception.

VI. Violations

The Conservation Cooperator will be held responsible for violations of this Acknowledgment and Section 1619. A violation of this Acknowledgment by the Conservation Cooperator may result in action by USDA, including termination of the underlying Federal agreement.

VII. Effective Period

This Acknowledgment will be in effect on the date of the final signature of the underlying agreement and continues until USDA notifies the Conservation Cooperator that the Acknowledgment is no longer required based on changes in applicable Federal law.

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