

# WATERWAYS

A Quarterly Publication of the Iowa Drainage District Association

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## Federal Judge dismisses Waterworks lawsuit

A federal judge has dismissed Des Moines Water Works' lawsuit against drainage districts in three northern Iowa counties the utility claimed are funneling high levels of nitrates into the Raccoon River, a source of drinking water for 500,000 central Iowa residents.

Federal Judge Leonard Strand dismissed all of Water Works' claims against drainage districts in Sac, Buena Vista and Calhoun counties, determining that Iowa's water quality problems are an issue for the Iowa legislature to resolve.

The Des Moines utility sought to have the drainage districts, and indirectly farmers, regulated under the federal Clean Water Act as a "point source" of pollution, much like businesses and manufacturing plants.

Strand sided with the Iowa Supreme Court, which ruled in January that Des Moines Water Works could not obtain damages from north Iowa drainage districts to reimburse the utility for the cost of cleaning excess nitrates from the water.

Through a rare procedural move known as a "certified question," state Supreme Court justices were asked to tackle questions about state law before the federal judge issued a decision.

"Drainage districts lack the broad police powers exercised by counties and other political subdivisions," Strand wrote, citing the Supreme Court. It removed support for a large chunk of the lawsuit. "The drainage districts have not unconstitutionally deprived the Des Moines Water Works of any property. The Raccoon River is owned by the state of Iowa in trust for the public," Strand wrote, pointing to the Supreme Court ruling Strand said the utility promoted a "policy argument, not a constitutional one," that is best directed to the Iowa Legislature.

Bill Northey, Iowa's agriculture secretary, applauded the ruling, saying the costly lawsuit has diverted attention from conservation practices, such as cover crops, buffer strips or terraces, that farmers could use on their farms to reduce nitrogen and phosphorus losses.

"It took a lot of dollars and it took a lot of focus from what folks could do in the field," said Northey, a Spirit Lake farmer. "They were concerned about what the lawsuit would mean for them legally and financially." Northey said Iowa farmers and cities are working together on projects across the state to improve water quality. The agency recently announced 12 urban-rural new water projects this week that will join work in 22 watersheds.

"There's a lot of work that's quietly been done that might get more attention now that the Des Moines Water Works lawsuit isn't sucking up all the oxygen and attention," Northey said.

Northey said he's hopeful lawmakers would push forward with one of several legislative funding proposals that boost water quality spending. (Note: Water quality legislation did not see final action this year but will still be on the agenda when the legislature returns in January.)

Environmental and ag groups have pushed for the state to raise the sales tax three-eighths of 1 cent and dedicate that money to improving Iowa's natural resources, including water quality.

With 23 million acres of corn and soybeans in Iowa, experts have said the state's water quality challenge is massive, potentially costing up to \$1.2 billion annually for several years.

Rolland Schnell, president of the Iowa Soybean Association, said the lawsuit has been divisive.

"We encourage the utility to re-engage in a cooperative approach to make real and long-lasting improvements in water quality," Schnell said.

### Executive Director Comments

Step into Mr. Peabody's Wayback machine with me. (Some of you have no idea what I am talking about so Google it if you are puzzled by the reference.) We are going back in time to January 8, 2015 in the late afternoon to a meeting of the Des Moines Waterworks Board of Trustees. A meeting and hearing is being held to seek public input on whether or not suit should be filed against 10 drainage districts in three counties – Buena Vista, Calhoun and Sac. I attended the meeting to hear what was being said and see first-hand what Waterworks had in mind.

The hearing was predictable. Most of the comments came from members of the Citizens for Community Improvement (CCI.) Those comments, as expected, were fully in support of the suit being filed. I went back and listened to a tape of the meeting a few days ago and found however that two presentations were largely ignored by the Waterworks board and Mr. Stowe as their CEO. Fred Dorr is an attorney in private practice in West Des Moines. According to his web bio, he has 35 years' experience on public utility issues. He flatly told the board that they would lose the lawsuit if they filed it because they would not have jurisdiction and said that you, (Des Moines Waterworks) are the wrong body to file this suit. He called the idea of filing such a suit "folly."

Roger Wolf, who is director of environmental programs

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Waterways is a quarterly publication of the Iowa Drainage District Association. Comments can be directed to the association at:

**Iowa Drainage District Association**

[www.iowadrainage.org](http://www.iowadrainage.org)  
 3775 EP True Parkway, #124  
 West Des Moines, Ia. 50265  
 515/221-1961 (phone)  
 515/598-7897 (fax)  
 515/707-7451 (cell)  
**[jtorbertidda@gmail.com](mailto:jtorbertidda@gmail.com)**

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# A Farmer’s Response to Nutrient Reduction

*Curt Zingula is a Linn County grain farmer and Iowa Farm Environmental Leader Award recipient.*

*By Curt Zingula, guest columnist*

We’ve read it time and again regarding nutrient reduction, that ‘voluntary’ is a “failure” because results were not swift and decisive. Actually, failure belongs to those who don’t take the time to learn how reduction needs to occur.

In 2012, the IDNR, IDEALS, and ISU presented a likely nutrient reduction strategy. The most important message they gave us was that nutrient pollution would not be adequately reduced by simply adjusting a farmer’s fertilizer applications, but rather by implementing combinations of four conservation practices. Those four included wetlands, cover crops, cellulosic bioreactors and stream buffers. Since then, we can probably add newer practices such as prairie strips and saturated buffers.

Conservation practices that involve construction and/or CRP contracts need to be implemented by the land owners. 53 percent of the time that involves absentee landlords. That group includes thousands of urban farmland owners, many of whom don’t understand that nutrient reduction includes them.

It’s easy then to see how some people would consider forced conservation a necessity. Keep in mind though that the regulatory approach was thoroughly investigated by the Founding Fathers of the reduction strategy and they could not envision the massive bureaucracy needed to make it work. For comparison, the much smaller, less ambitious Chesapeake Bay watershed initiative will require 11 federal agencies and 15 years to implement.


Over the past year, I’ve worked to install a saturated buffer for the purpose of reducing nitrates from subsurface drainage lines. This project accumulated many days of investigative digging for drainage lines, elevation calculations, soil probing for sand lenses, writing blue print construction plans, buffer seeding plans and planting, plus installing the equipment necessary to create saturation. All for buffering 12 acres of Iowa’s 9 million plus acres containing sub surface drainage.

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# Complex Nitrogen Cycle made simple

Space aliens turning a telescope to Earth might think it's a static blue ball. We know better. Earth is driven by dynamic cycles. Some are long, as the geologic ones with glaciers that grind rock into dust over centuries. Much shorter weather cycles bring life-giving water. The carbon cycle includes plants that turn carbon dioxide, a gas that animals exhale, into oxygen and the starches and sugars that sustain us.

All of these cycles are complex. So is another one that is now, at times, controversial—the nitrogen cycle. More than three-fourths of our atmosphere is nitrogen. Nitrogen is locked into the amino acids, proteins and DNA of all life. But in the air, it's mostly useless until soil microbes convert it into the forms of nitrogen that plants can take up and use for growth.

Mike Castellano, an Iowa State University agronomist and expert on the nitrogen cycle, estimates that a typical soil in Iowa has between 2,000 and 5,000 pounds of microscopic life in every acre. Microbes live in an underground ecosystem of organic matter, which has 100,000 pounds of soil carbon and 10,000 pounds of soil nitrogen per acre. Each acre hosts millions of species of these microbes and they impact nitrogen in the soil.

"It's a lot like the microbes in your gut. It's diet dependent," Castellano says.

Fortunately, farmers can, and do manage nitrogen with what they put on their fields. Very little of that 10,000 pounds of nitrogen in an acre of Iowa's fertile soils is available as nitrate for the crops. Microbes free up 100 to 400 pounds a year as they digest part of the soil organic matter. Microbes also use some of that nitrogen, taking back 150 to 350 pounds each year. Farmers typically add about 165 pounds to each acre as fertilizer for a corn crop.

A lot of that variation in native nitrate production and re-use by microbes depends on rainfall and temperatures. In a drought year, the process virtually shuts down. In those rare, extremely wet years like 1993 in Iowa, waterlogged fields favor anaerobic bacteria that convert nitrate back to atmospheric nitrogen. Even in a normal year, about 10 pounds of nitrogen gases per acre escape to the air.

Outside of Castellano's office, it's a warm day in late March. With soil temperatures above 50 degrees, microbes are already starting to mineralize organic matter in soils. Their own metabolism releases nitrate. "They're not doing it as a community service," he says. Fast growing corn and soybeans will use almost every bit of a soil's available nitrogen, but not for another two months. So, the heavy rains that usually arrive in early spring carry the unused nitrate toward groundwater and streams.

"If there's no crop there to use it, you lose it," Castellano says. "There's a mismatch between native nitrogen production and crop use."

It's the mismatch between natural water and nitrogen cycles and the row crop growing season that makes the system leaky.

And land use changes over the past 50 plus years have contributed in-part to the mismatch. It's the result of the mismatch that concerns some. Cover crops, if they're planted the previous summer or fall, put down roots that will lap up some of the nitrate in the row crop "off-season."

When corn is grown, about 30 pounds of nitrogen (as nitrate) leaches below the plant root zone of an acre each year. There is a misconception that nitrogen fertilizer is largely to blame. But when corn fields are planted the next year to soybean, which get no nitrogen fertilizer, about 30 pounds of nitrates is lost, Castellano says.

To reduce the loss of nitrate, "there are a lot of things we can do," Castellano says, "but cover crops are something we can do that treats the root of the problem, no pun intended."

Iowa's Nutrient Reduction Strategy calls for a statewide drop in nitrogen loss of 45 percent. The strategy offers more than 20 practices farmers can use to approach that goal. A cover crop of rye can reduce nitrate loss by up to 31 percent. Cover crops and changes in fertilizer management are two ways to manage nitrogen in the field. Several edge-of-field practices, such as bioreactors, saturated buffers and wetlands can catch part of what's missed in the field.

Because of the timing mismatch between crop use and native nitrate release from soil organic matter, Castellano doesn't see more precise fertilizer management as a big solution for Iowa's nitrate management. It is part of the solution. For example, changing the timing or rate of nitrogen application might lower nitrate losses by about 15 percent, he says. Switching from fall to spring preplant nitrogen helps, too, but cuts nitrate loss only about 6 percent and results are highly variable. Fertilizer management is not enough, as the Iowa Nutrient Reduction Strategy calls for a 45 percent reduction.

Soil is a complex community that ties together those important cycles of water, carbon and nitrogen. Even with scientific understanding that's still evolving, there's a lot that farmers can do to raise better crops and minimize the impact on the environment at the same time. "Ultimately, you're managing microbes when you manage the things we've discussed," says Castellano.

*Source – Iowa Agriculture Water Alliance*

## Ike Petersen retires

Ike Petersen, a long time CREP field specialist has announced his retirement effective July 1st. CREP field specialists are employed by IDDA under a state contract with the Iowa Department of Agriculture and Land Stewardship. Ike was an asset to the program and worked with many landowners over the years to place nitrate removal wetlands on their land. He will be missed but IDDA wishes him well in retirement. Interviews have been scheduled to fill his position and it is hoped we will be able to fill it quickly.

and services for the Iowa Soybean Association also addressed the board. The Iowa Soybean association had actually worked with Des Moines Waterworks on a water quality sampling program. He noted that contrary to what was being stated, that the actual trend line for nitrate levels over the past 10-years was down. (see Waterways, Volume 1 2014). This downward trend was despite a significant increase in corn acres during the period studied. He went on to point out that the waterworks board was contemplating using the courts to make policy (as opposed to trying to effect change through the legislature, congress or regulatory bodies). He stated that “there is no evidence that a regulatory approach will work on non-point source pollution.”

Of course, these two comments did not fit the scenario that Waterworks was laying out. Although the board would deny it, informally, the decision to sue had probably been made long before the board meeting. How else could a 17-page legal “intent to sue” document, be filed the next day after a late afternoon board meeting? (Actually, the seeds for the lawsuit were sown August 6 of 2013 when Bill Stowe went before members of CCI and referred to drain tile as “serpents of doom.”)

Mr. Stowe is entitled to his opinion on drainage but that opinion led him and his board down a two-year path of no return that cost DMWW Waterworks ratepayers more than \$1 million and a similar amount on the defense side of the equation. The suit had little chance of ultimate success from the beginning and the decisions by the Iowa Supreme Court on the state issues and then by Judge Strand to dismiss the case show why.

On the state issues, the Iowa Supreme Court basically reit-

erated decisions they had already made in rejecting DMWW’s state claims and finding in behalf of drainage districts on all those claims.

With respect to the federal issues, Judge Strand’s dismissal of the case came down to three main points –

1) DMWW is a public entity. The judge states the “here, one political subdivision created by the state has sued other political subdivisions created by the same legislature and contends that the immunity afforded by Iowa law to the defendants violates the plaintiff’s rights under the U. S. Constitution. Such a claim is not cognizable.” That is legal speak meaning that DMWW’s claim doesn’t meet the basic criteria of being viable for being tried before the court. (See Fred Dorr’s comments above)

2) Redressability – the drainage district defense was that the districts have no legal power to redress DMWW’s alleged injuries. Judge Strand agreed. “Drainage districts lack the ability to redress that injury” (alleged by DMWW.)

If Bill Stowe and company had done their homework before filing suit, they may never have filed. Michael Reck, the lead attorney representing the drainage districts deposed Mr. Stowe. Depositions, of course, are taken under oath. In reading the deposition, it becomes clear very quickly that Mr. Stowe knew very little about drainage districts and how they functioned. That would seem to be some basic research that should have been done before spending more than \$1 million.

Mr. Stowe did not know how often drainage district trustees met, did not know what they discuss at their meetings, did not know whether or not they used agendas, did not know if they could tell farmers about how to farm land, did not know



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if districts have limits on how they raise money, thought that remonstrance was some sort of an assessment process and did not know if landowners could stop drainage improvements. He was asked point blank – Do you know anything about how drainage district trustees operate? His answer – I do not. Mr. Stowe clearly did not do his homework on the duties and responsibilities of drainage districts and his board apparently did not ask the questions they needed to before embarking on the lawsuit.

Mr. Stowe was also asked if lobbyists representing the DMWW had ever lobbied the legislature on any issues with regard to nitrate for the Des Moines Waterworks. His exact answer was – not that comes to mind.

Mr. Stowe also had it pointed out to him that a university study showed that when nitrates exceeded 14 milligrams per liter at the DMWW inlet, that no more than six hundredths of that - .06 – comes from the districts up north. He was asked if he had any proof or evidence that these districts contributed more than the .06 hundredths. He said - I do not.

You read these statements and wonder why the suit even got filed.

3) Judge Strand also makes it clear that the issues raised by the lawsuit are “contentions best directed to the Iowa Legislature. He states again later – “this may be a fine public policy argument for consideration by the Iowa legislature.” (See Roger Wolf’s comments above).

The lawsuit did a huge disservice to clean water policy because it created the impression to the casual observer that the answer was easy. All you need to do is to regulate drainage districts and all of our clean water issues will be solved the argument goes. Frankly, that was never going to be the outcome of the case, even if Des Moines Waterworks had prevailed.

The cleanliness of lack thereof of water in the various watersheds of the states is an extremely complicated issue and will take years and lots of money to resolve. The estimates provided in the Iowa Nutrient Reduction Strategy are \$1.2 - \$4 billion to install the conservation practices needed and \$77 million to \$1.2 billion/year to maintain them. It is well documented that the ag economy is in bad shape right now and has been several years. Given this fact with crop prices that are stagnant or declining, farmers and landowners cannot absorb this kind of hit – not alone anyway.

So, thanks for going back in the Wayback machine with me. One wonders if the outcome would have been different if the issue had received the right amount of vetting and the right questions had been asked by those making the decisions. However, my reference to the Wayback machine may be slightly erroneous because Mr. Peabody and Sherman could actually alter events to make them turn out right. If only..... Millions of dollars could have been saved and two plus years would not have been wasted. Folly indeed.

*John Torbert*

Other land owners report yearlong procedures due to the same prerequisites.

To date, Iowa has about 70 saturated buffers and I’m told we need 120,000. If the stars align to take construction from 20 saturated buffers per year to 2,000 per year, we would need 60 years to reach our goal!

In March last year, I inquired about enrolling some acres in CRP pollinator habitat for stream buffers. I had to postpone that intent for one year when I was told that by the time my application was processed, not enough seed would be available to satisfy planting requirements due to the program’s popularity.

However, the Federal Government also has one foot on the brake. Ducks Unlimited reported in 2013 that a five-state area, including Iowa, had 43 percent of CRP applicants turned down due to the government’s plan to trim 12 million CRP acres from the budget.

As a Director on Iowa’s Watershed Improvement Review Board I found it disappointing that several of our funded projects had terrace commitments canceled. Commodity prices were high at the time of consideration but when prices fell hard, land owners bailed out. To no avail, I offered that prairie strips would be an excellent substitution. Especially because of lower costs and a remarkable potential to slow rainfall runoff plus sequester nitrates. However, like bioreactors and saturated buffers, it’s hard to sell something unfamiliar, even to someone seeking conservation.

For nutrient reduction to succeed, education needs to be the horse in front of the cart. To that beginning, the Iowa Water Quality Initiative counted over 20,000 farmers attending field demonstrations, presentations and conferences in 2016.

Conservation education shouldn’t stop at the farm gate. The Illinois Nutrient Reduction Strategy ranks conservation practices by cost effectiveness; bio-reactors at \$1.38/lb. N removed, saturated buffers at \$2.13/lb. N, cover crops at \$3.21/lb. N, and \$5.06/lb. N for constructed wetlands. Government purchases of land to construct wetlands for nutrient reduction is an inefficient use of taxation. On the other hand, Cedar Rapids leaders are perceptively providing money for individual, prioritized practices upstream which will offer opportunities to learn and lead by example.



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# Waters of the United States on its death bed

President Trump has instructed the Environmental Protection Agency and Army Corps of Engineers to review and reconsider a 2015 rule known as the Waters of the United States rule, a move that could ultimately make it easier for agricultural and development interests to drain wetlands and small streams.

Standing in the Oval Office surrounded by farmers, home builders and county commissioners, Trump said his directive was “paving the way for the elimination of this very destructive and horrible rule” that should have only applied to “navigable waters” affecting “interstate commerce.”

“But a few years ago, the EPA decided that ‘navigable waters’ could mean nearly every puddle or every ditch on a farmer’s land, or everywhere else that they decide,” the president said. “It was a massive power grab.”

The final outcome of Trump’s order could have tremendous implications for the agricultural, real estate, gravel, sand and ranching sectors, as well as for critical habitats for aquatic species and migratory birds. Still, it could take well over a year for the directive to be carried out. It will likely trigger a fresh round of rulemaking but could also lead to extensive litigation as the agencies seek to redefine federal restrictions on what accounts for 60 percent of the nation’s water bodies.

Outdoor recreation and environmental groups said the new federal protections were essential to safeguard both public drinking water supplies and the terrain that sustains an array of waterfowl, fish and other species.

“Without the Clean Water Rule’s critical protections, in-

numerable small streams and wetlands that are essential for drinking water supplies, flood protection, and fish and wildlife habitat will be vulnerable to unregulated pollution, dredging and filling,” said Bob Irvin, president of American Rivers.

The push to unravel the rule marks yet another shift in a decades-long debate over to what extent the federal government can dictate activities affecting the wetlands, rivers and streams that feed into major water bodies. The controversy has spurred two separate Supreme Court decisions, as well as a more recent federal appellate court ruling, as the two previous administrations sought to resolve the matter through executive actions.

Two Supreme Court decisions that came down during the George W. Bush administration, in 2001 and 2006, fostered uncertainty over exactly what falls under the federal jurisdiction under the Clean Water Act. In the 2006 *Rapanos v. United States* decision, for example, the court’s four most conservative justices at the time offered a very constrained view that only “navigable waters” met this test. But Justice Anthony M. Kennedy, who refused to join either the conservatives or the liberals, suggested in a concurring opinion that the government could intervene when there was a “significant nexus” between large water bodies and smaller, as well as intermittent, ones.

Speaking to reporters Monday, a senior administration official who asked for anonymity in advance of the announcement said the regulation issued in 2015 “vastly expands federal jurisdictions over state waters, and we think . . . it could potentially violate previous Supreme Court decisions.”

While acknowledging that past court decisions have been “confusing,” the official said that administration officials think “the Supreme Court has tried to make it clear that the federal agencies that oversee this issue, the Army Corps of Engineers and the EPA, should be shrinking” their say over smaller bodies of water across the country.

But John Gale, conservation director for Backcountry Hunters & Anglers, who noted that the previous administration had weighed 1 million comments when crafting its rule, said these smaller streams and water bodies create “healthy riparian areas critical to more than 80 percent of our wildlife, including numerous species of big game. Sportsmen will not stand for shortsighted, irresponsible attacks on fundamental conservation laws like the Clean Water Act.”

The EPA’s most recent administrator, Gina McCarthy, also criticized Trump’s impending order, saying it was the latest example of his administration “sidelining EPA’s public health mission.”

“The only thing these orders do is make clear this Administration will defer needed public health protections for the American people for the sake of partisan politics,” McCarthy said in a statement. “In fact, these EOs reflect the administration’s fear that the court will find the [existing] rules are neces-

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sary and legally solid — as EPA has said all along. They can't change science and facts.”

The rule McCarthy helped oversee has not gone into effect, since the U.S. Court of Appeals for the 6th Circuit put a nationwide stay on the Obama-era rule last year. But opponents of the regulation criticized both the process that led to the regulation, as well as the final product.

Mace Thornton, a spokesman for the American Farm Bureau Federation, said in an email that as his group has fought against the current policy, “our constant message has been that regulators need to go back to the drawing board to get this rule done right. We welcome this action, but realize a lot of work lies ahead to secure a policy that works in a fair and transparent manner.”

Craig Uden, president of the National Cattlemen's Beef Association, said in a statement Tuesday that the new administration should treat it the way a rancher would dispose of a farm animal that is no longer useful. “Ultimately, this rule should be taken out behind the barn and put out of its misery,” Uden said.

## BV Supervisor responds to *Times* editorials

*Tuesday, April 25, 2017*

*From PAUL MERTEN / Buena Vista County Supervisor  
In response to the latest editorial in the Storm Lake Times newspaper:*

I had a hard time plunking down a dollar to purchase the latest rant on the Buena Vista County Supervisors (Wed. 4-19). I remembered the tag line at the bottom. (“Ye shall know the truth, and the truth will set you free.” - John 8:32). I believe it is time your devoted readers realized a few truths, especially on your editorials regarding the DMWW lawsuit. I am also aware of your award of which you are so proud, and how those opinions were based on half-truths and plain lies. I guess if you tell lies long enough, they become the truth in the mind of the teller. Maybe now we should clear the air a little bit.

For the umpteenth time you tell how we, the Supervisors, have not let our County Attorney be a part of this process. We did in fact keep him in the loop from the beginning with DMWW's intent to sue, all the way through the dismissal of the lawsuit. He was always welcome to be a part of any and all conversations, and he did participate. At no time did he ever recommend settlement.

You also stated that we schedule “closed meetings.” This is also a lie. If you read the agendas put out (including the one prior to your last editorial), you will notice they say the words possible Closed Session. Until this DMWW lawsuit we have very rarely gone into closed session, if ever, during my tenure on the Board. There are very few situations where we are allowed to go into closed session and we always ask the attorneys present if they recommend that a closed session be warranted. When the County Attorney has been present for these situations, he has never been asked to leave and always asked for his input. No action may take place in closed session nor has any action ever taken place in closed session. On this last Tuesday, the agenda also stated a possible Closed Session. However, for some reason you were not aware that when we

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To further delay the 2015 rule, the senior administration official said, Trump's executive order will instruct the attorney general to go back to the 6th Circuit and “take appropriate steps to hold that case in abeyance while the evaluation occurs at the Army Corps and the EPA.”

In addition, the official added, the directive tells the two agencies to “consider thinking about” a decision by Justice Antonin Scalia in 2006 that suggested dramatically curtailing federal jurisdiction over smaller water bodies.

Lowell Rothschild, counsel with the law firm Bracewell LLP, said in an interview that the new administration's approach “would provide more certainty down the road, but until the rule is completed and the legal challenges to it is complete, that certainty is not going to exist.”

“Whether or not Justice Scalia's opinion is the correct guidance for interpretation of the Clean Water Act will certainly be litigated,” Rothschild added.

asked Mr. Armstrong if he recommended closing the meeting, he said “NO” and everyone was allowed to remain in the room. Unfortunately, maybe by this time some in the audience were getting their morning nap. Any and all conversation was open to anyone in attendance.

There are other half-truths that need to be addressed, since they seem to have been to your benefit and not to those of our county, which are the figures and amounts as well as the “players” in this funding you so haphazardly throw around in your editorials. Not sure if you are throwing these out there to see what sticks or you have actual facts. We as a Board are only privy to the bills that are submitted to us for payment. Those amounts have always been open and shared by this Board through the Sac County Auditor's Office, who is the fiscal agent. The entities that contributed those amounts are also public, and I know your staff had access to that information. We are proud of those who stepped up to help fund our defense in any way they could and I am proud to call them friends. Anything we've seen, you've been able to see as well. We take transparency very seriously, unlike what you would have your readers believe. As to the amount raised and paid to national counsel, again, what we've seen, you've seen as well. We are not hiding anything as you have so often accused us of doing.

Do we want our ducks in a row? Yes. Do we want this to be a burden on our taxpayers? No.

When we literally pass the hat for the remaining funding, will we tell you who contributes and how much? Absolutely Yes. I fear that you will not be patient to wait for this information, but I wish you would trust that we are doing what is in the best interest of the county and not your editorials. You must also remember we were wrongfully sued and therefore forced to defend ourselves. You always wanted us to settle even after being told multiple times we legally had nothing to settle with.

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We do remain open to any and all funding to finish paying any outstanding debts to our attorneys when those bills are submitted.

I also don't know where you came up with the dollar amounts you so easily float around in your editorials. Anywhere from \$300,000 here to \$3 million there. I guess whatever is outrageous enough to garner attention for yourselves or pose some type of shock factor is fair game. The bottom line is that we 3 counties have paid less than 5% of the total costs so far but always maintained 100% of the control of the lawsuit. That would/should be wonderful news but doesn't seem to be in your world.

While these are just a few of the inaccuracies of your editorials, I don't have the space for the others at this time. I just want to say that I have been disappointed in your editorials (which I know are just your opinions) regarding this lawsuit. Throughout the last two years, you seem to have definitely picked a side in this argument and that side has not been with your friends,

neighbors, and businesses of Buena Vista County. Throughout this process, you could not help but demonize the agricultural community. On top of that, I think you fail to see the bigger picture of who the "Big Guys" were in this case. You took the side of a person who feels the need/want to expand his water empire in central Iowa, who used bully tactics to try and make 10 small drainage districts in northwest Iowa pay for his years of mismanagement and his desire for expansion his empire beyond the Des Moines city limits. I can't help but feel you've rooted against us all along and you are disappointed that we prevailed in this unprovoked attack against our county. I would rather that you'd won your award by reporting on how the agricultural community is addressing the problems and the facts of how nitrate movement actually occurs, instead of painting farmers as industrial polluters. Not once did I read anything in your editorials where you even considered we were right. These error filled attacks by you should end. Congratulations on your Pulitzer award even if some think it is tainted. I also would like to invite you to our meetings. It may add credibility to your editorials.



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