

WATERWAYS

A Quarterly Publication of the Iowa Drainage District Association

Volume 2, 2008

IDDA sees success in 2008 session

IDDA enjoyed another successful year in the state legislature. Our number one priority – which raised the dollar threshold limits for various drainage activities – passed the legislature with only two no votes between the two chambers.

HF 2554 was requested by IDDA in February. IDDA board member from Kossuth County Don McGregor told the board that he felt it was necessary that the limits increase. The cost of drainage repairs and improvements has gone up considerably in the last few years, mainly due to the increase cost of petroleum based products. One estimate is that the cost of concrete and plastic tile have seen cost increases of around 30-35% in the last three years – far outstripping the rate of inflation. Don persuaded the board to back the legislation so a bill request was taken to Representative Dolores Mertz who is chairman of the House Agriculture Committee. Rep. Mertz agreed to sponsor the bill which eventually became HF 2554.

The bill, as it finally passed, makes the following changes:

- If trustees are going to make a repair, the dollar threshold is raised from \$15,000 to \$20,000 before a hearing would be required.
- If the trustees are going to make a minor repairs using secondary road or weed fund equipment, that threshold amount is also raised from \$15,000 to \$20,000
- If an improvement is going to be made, the threshold is raised from \$15,000 to \$20,000 before a notice would be required
- Finally, the bill raises the remonstrance threshold from \$20,000 to \$25,000.

The bill passed the house by a vote of 96-2 and the senate by a vote of 49-0. It was signed by Governor Culver on April 8.

IDDA would like to thank the following legislators for their assistance in getting this bill passed – Representative Dolores Mertz for agreeing to sponsor the bill and shepherding it through her committee and passage on the house floor, Senator Rich Olive for chairing the subcommittee of the senate ag committee and floor managing the bill in the senate, Senators Thurman Gaskill and Jack Kibbie for their support in subcommittee and Senator Gene Fraise, chairman of the senate ag committee who allowed the bill to be taken up in his committee just two days before the funnel closed. ♡

Scientists say the farm runoff in the Gulf make it more acidic

Coral and other marine organisms in the Gulf of Mexico have become more susceptible to damage over the past fifty years as drainage from farms made the sea water more acidic, a new study published in the Magazine “Nature” found.

Peter Raymond of Yale University and colleagues found that changes in farming – from the use of lime to the choice of crop rotations – had more to do with a huge increase in the water flowing into the Gulf from the Mississippi River than did changes in rain patterns.

The changes, over a half-century were equivalent to adding a major tributary, the scientists wrote. Raymond, an ecosystem ecologist, said the research relied on 100-year old water treatment plant records in New Orleans as well as monitoring data from the Mississippi River.

The researchers tracked changes in the levels of water and bicarbonate, which forms when carbon dioxide from the water in the soil dissolves rock minerals. Bicarbonate absorbs carbon dioxide from the atmosphere. Oceans then absorb the extra carbon dioxide

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Mark your calendars

The IDDA annual conference will be held on Friday, December 5 in Ft. Dodge, Iowa. An agenda will follow in later issues.

and become more acidic.

Corals and other marine organisms have a tougher time forming a strong protective shell in the more acidic water and become vulnerable to scratches and other damage. The oceans also soak up carbon dioxide from the atmosphere, leading to a similar reaction.

“Ocean acidification makes it more difficult for organisms to form hard shells in coral reefs,” said marine biologist R. Eugene Turner of Louisiana State University, co-author of the study.

The scientists found that the same amount of precipitation now produces 9% more flow in the Mississippi River than before. They didn’t examine whether that is because of more field drainage tiles or other factors, Turner said.

Raymond said the added flow in the Mississippi River is huge. “It’s like the discovery of a new large river being piped out of the corn belt,” Raymond said in a statement. “Agricultural practices have significantly changed the hydrology and chemistry of the Mississippi River.”

“We show that the increase in bicarbonate and water fluxes is caused mainly by an increase in discharge from agricultural watersheds that have not been balanced by a rise in precipitation, which is also relevant to nutrient and pesticide fluxes to the Gulf of Mexico,” Raymond wrote. *Source – Des Moines Register* ♪

Unattributed Wisdom

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IDDA web site up and running

After months of work and planning, the IDDA web site is finally functional. The web site address is iowadrainage.org

The “home page” of the web site has link called “additional drainage facts.” By clicking on the link, visitors will have access to many facts about drainage in Iowa and also about the environmental benefits of drainage.

Then, along the left side of the home page are “tabs”. Currently, the web site has the following tabs – About IDDA, Membership, Financial, Meeting Documents, Publications, Legislative Program, CREP Program, Meetings/Conferences, Sponsors/Opportunities and related links.

In the “About IDDA” tab, visitors can see a brief history of the IDDA. There are also pictures of the board and staff, and bios for all the board and staff members.

In the membership tab, a description is provided on the various types of association membership. These include drainage district membership, associate or corporate membership and individual memberships. You can click on any membership category and see a list of the members in that category.

The financial tab has a copy of the board approved 2007-2008 budget.

Board Meetings contains agendas and minutes of the IDDA board. The publications tab contains back issues of the “Waterways” publication.

The legislative tab contains a copy of IDDA’s legislative platform and also legislative updates and summaries that are published periodically during the session.

The CREP tab contains information on the Conservation Reserve Enhancement Program. IDDA provides staff support for that program under contract with the state.

The meetings and conferences tab is where you will find information on the IDDA annual meeting. Agendas will be listed there for each year’s annual meeting. Additionally, you can download and print off registration forms for the meeting.

The sponsors/opportunities tab is currently empty and will be added to at a future date. Finally, the related links tab is where you can be directed to other state,

national and drainage related web sites.

John Torbert, IDDA executive director said that he was very pleased that the association finally has a web site. “We hope that our membership will really start to use it as a resource. Also, there is a lot of misinformation out there about drainage. This website gives us a way to get some positive information out there for anyone who wants to see or use it.”



Rulemaking Petition threatens drainage exemption

Late last year, the state Environmental Protection Commission (EPC) was presented with a petition for rulemaking. The petition – which is essentially a request that the state draft new rules – was filed by three environmental groups. They allege that the state has not done enough to protect Iowa’s water. The petition is referred to as the anti-degradation petition because the rules that are proposed seek to stop or limit the degrading of Iowa’s water resources.

The petition was turned over to the DNR staff for review. What is currently taking place is that new rules are in the proposal stage. The state hopes to finalize the proposal and formally start the rule making process later this summer. The DNR staff is meeting with stakeholder groups to work through the new rules on a step by step basis.

How does this affect drainage? Currently, if you repair a drainage ditch, you are not required to get a permit from the state because drainage has an exemption in the Iowa Administrative Code. Section 71.2(4) of the Code states that “Approval is not required for repair and maintenance of a drainage district ditch as defined in 70.2(455B) is the drainage area of the ditch at the location of the proposed work is less than 100 square miles.”

If new rules are written on the degradation of water resources, the exemption would cease to exist. IDDA executive director John Torbert met with DNR staff earlier this year and was told by them that “EPA will not permit new rules to go into effect that still has the drainage exemption in place.” EPA sees the exemption as “inconsistent” with the purposes of the Clean Water Act.

IDDA has been working with the Two Rivers Levee and Drainage Association in southeast Iowa and with DNR staff to come up with language that would protect the ability of drainage districts to repair their facilities yet pass muster with the EPA.

Options for the Conservation Reserve Program

Record crop prices are signaling the world's farmers to produce more. The recent prospective acreage report released by the USDA shows that the ability of U.S. farmers to grow more is limited by lack of land. The USDA projects that acreage planted to crops in the United States will increase by about 1 percent in 2008 relative to 2007 acreage and about 2.5% to 2006 acreage. This lack of a supply response to U.S. farmers shows how insensitive aggregate U.S. planted acreage is to price changes, at least in the short run. It explains why introducing a major new demand for agricultural output in the form of biofuels should be expected to have such a large impact on commodity prices.

The only way that crop pricing will return to lower levels is through an expansion in aggregate supply. This expansion can come from two sources: expansion in land planted to crops in other countries and conversion of land in the Conservation Reserve Program (CRP) in the United States. Brazil, Argentina, Africa, and Central and Eastern Europe all have land resources that are not currently planted or that could generate substantially more production. We should expect production in these areas over the next two to five years to increase sharply.

At current prices and current CRP rental rates, a large proportion of CRP land will be taken out of the program as contracts expire for the simple reason that the returns from crop production are now higher than the returns that can be obtained from the program on most CRP land. In one sense, that is how the program is supposed to work. When the CRP began in 1986, crop prices were so low that Congress was desperate for any means to reduce supply. In addition, the farm crisis was in full swing in 1986. CRP rental rates acted as a stabilization program that created a floor on land prices. Today, with record high crop and land prices, there is no



reason to use CRP to control supply. Thus, the decision to bring CRP land back into production would seem to serve the public's interest.

However, most CRP land today provides more than supply control. It also provides a wide array of environmental services, including critical wildlife habitat, reduction in nutrient and sediment loads in rivers and lakes, and carbon sequestration benefits. The transition of CRP from a supply control program to an environmental program began in the early 1990s and continues today. Consequently, the public interest in seeing lower crop prices needs to be weighed against the public interest in maintaining the substantial environmental benefits of land in CRP.

Current CRP Policy

If CRP policy remains unchanged, perhaps two million acres of CRP land per year will be brought back into crop production over the next ten years as contracts expire. This would reduce the size of the program from today's 34 million acres to less than 15 million acres. The resulting expansion in planted acreage will have a noticeable impact on aggregate supply because 20 million acres represents an increase of about 6 percent of 2008 total planted acreage.

In addition to this steady increase in acreage as contracts expire, a substantial number of landowners will likely decide to pay the penalty to break the CRP contracts. The current penalty for breaking a CRP contract is to pay back all the amounts that have been paid under the contract, including annual rental payments and cost share amounts, as well as a 25 percent penalty on one year's rental payment and interest costs on the monies paid. For most farmers, these stiff penalties mean that it makes no sense to break the contracts. However, for newly signed contracts, the penalties are nonexistent or small because large payments have not yet been made.

In 2006, the USDA moved to reenroll or extend many of the contracts that would expire between 2007 and 2010. During that period, CRP contracts for nearly 28 million acres were scheduled to expire – over half of them in 2007. The reenrollment and extension program (known as REX) was successful in re-signing over 23 million acres, in part because crop prices had not yet significantly increased. Under REX, acreage was categorized with an environmental benefit index.

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Owners of the most environmentally sensitive 20 percent of eligible acreage were offered new 10 or 15 year CRP contracts: the next most sensitive 20 percent were offered 5-year extensions of their current contracts, then the next, 4-year extensions and so on. This structure made sense at the time because it locked up the more environmentally sensitive land under new, longer term contracts and allowed less environmentally sensitive lands to ease back into production over a five year period. However, REX sign-up has created an unintended situation: the penalty for breaking the CRP contracts is smaller for the more environmentally sensitive land than it is for the less environmentally sensitive land because having a new contract greatly reduces the penalty. This suggests that the USDA might want to consider some possible new strategies for the CRP.

Options for the CRP

USDA has not yet indicated whether a change in the CRP rules is being planned this summer. Livestock groups favor reducing or eliminating early-out penalties for CRP to maximize the amount of land that is cropped. Environmental groups want the current rules enforced. If nothing is done, significant expiration of CRP contracts will not occur until the fall of 2009. This means that much of this land cannot be planted until the 2010 crop year. If crop prices remain high, and the USDA does not significantly increase CRP rental rates, than a significant portion of this land will be brought back into production. But relief from high crop prices will not come until the 2010 crop is harvested. Because a significant portion of this land is likely going to come from out of CRP anyway, it might make sense for the USDA to eliminate penalties on contracts that expire in the next three years in order to get productive land back into production earlier. Bringing back some land into production would free up funds for the USDA to increase bids on the most environmentally sensitive land that offers the greatest environmental benefits. This proactive policy could preserve the most environmentally sensitive land in CRP while allowing land that is perhaps needed to grow crops to come back into production.

One drawback of focusing only on contracts that expire in the next few years is that this would do nothing to keep farmers who just signed new contracts under the REX program from bringing their land back into

production. After all, it probably makes financial sense for a significant number of these farmers to pay the relatively small penalty on the new contracts and bring their land into production. One option that the USDA could take would be to rebid their entire portfolio of CRP contracts. This would allow the agency to concentrate its payments on keeping the most vulnerable land out of production – which would require significantly higher per-acre rental payments – while allowing land that is not especially vulnerable to be farmed in the 2009 season. This would meet the objectives of livestock feeders and others who want and expanded supply soon while simultaneously keeping the most vulnerable land out of production. A sensible approach to defining what land should remain in the CRP would be for state offices to designate conservation priorities and then to seek land within the boundaries that most effectively meet their objectives. The length of the offered CRP contracts could be staggered so that not all contracts come due the same year

Changing CRP contract rules might create its own problems however. The perceptions that the USDA “gave in” to political pressure from livestock and other crop user groups might weaken its future credibility when it enters into contracts. But there are sound reasons to believe that changing the rules is, in fact, justified. For the first time, agriculture is being asked to supply both food and fuel. Having to meet both demands with more than 30 million acres of land being held in reserve is difficult to rationalize. Most people recognize that the last two years have led to unprecedented changes in agriculture. Choosing to “re-optimize” CRP through a combination of penalty elimination and aggressive rebidding might be viewed as simply a reflection of this reality, rather than a sign of political weakness. *Source – Iowa Ag Review – Spring, 2008* ♪



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IDDA offers to assist Monona County drainage district in dispute with DNR

In August of last year, New Farmers Drainage District (NFDD) in Monona County contracted with a reputable contractor to eliminate aquatic weeds in one of its ditches. While the weeds were being sprayed, someone reported the spraying to DNR. When the DNR field people arrived on the site, they found dead fish in the drainage ditch and came to the conclusion that the chemical used in the spraying of the weeds caused the fish kill. The DNR came to the conclusion that the “value” of the fish killed plus expenses was \$14,732.89

The DNR presented the contractor and the drainage district with a consent order. That order, if signed by the parties, would contain a penalty of \$10,000. Additionally, the contractor would have to pay the \$14,732.89. Further, the drainage district would have to “develop a vegetation control plan to prevent fish kills and submit that plan for DNR approval.” Further, NFDD would have to notify the DNR field office in Atlantic at least 72-hours prior to the application of herbicides within the drainage district for two years.

Both of the parties involved refused to sign the consent decree. (NFDD is not a county supervisor managed district – it has individually elected trustees.) IDDA was contacted by the attorney representing the district and asked if there was any way that IDDA could assist the district. IDDA suggested to the district at that time that they have an attorney familiar with drainage law review the consent decree to see if there was a reasonable basis to contest it. Bob Brinton from Clarion did that review and came to the conclusion that there were several areas on which the decree could be challenged.

On April 17, a meeting was held in Monona County to discuss the situation and fully brief the members of the drainage district. In attendance at that meeting were landowners, the elected trustees, the attorney for the district, the contractor and his attorney, Bob Brinton, Ivan Droessler from Kuehl & Payer (the engineer who works with the district) and representing IDDA – John Torbert and President Ralph Christiansen.

Bob Brinton told the landowners and trustees present that “you have done nothing wrong. You followed the

law and hired a reputable contractor to perform a task that is fully within the purview of the district.”

The IDDA board has voted to provide up to \$5,000 in financial assistance from the Mutual Protection Fund to assist the district in taking the action to court if they chose to do so. According to executive director John Torbert “this is precisely what the mutual protection fund is for – to assist districts in legal issues where a negative precedent could be established. All this district did was to hire a contractor to perform work that state law requires them to perform. “At the conclusion of the meeting on the 17th, by a show of hands vote, the landowners agreed to take challenge the action legally.

Since that time, the DNR has reportedly come back with a revised consent decree with a lesser penalty and fewer strings attached. According to Bob Brinton, the district is still of the position that it will challenge the decree in court. IDDA will continue to follow this very important issue. ☘



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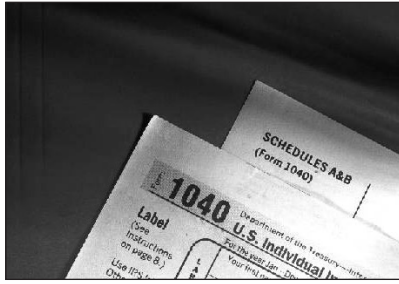
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Executive Director Notes

As a lobbyist, one always hears state legislators talk about Iowa's tax competitiveness. The concern that is often expressed is that



Iowa has an unfriendly tax climate. This impacts our ability to draw businesses and people to the state – or so the argument goes.

Earlier this year, MSN Money issued a report that compared tax burdens in the fifty states. The study looked at sales tax, gas tax, cigarette tax/ pack, beer tax/gallon and the burden these taxes create. The study also makes reference to local taxes so it is assumed that property taxes would be part of this study. So how did Iowa and its neighboring states come out? The study breaks everything down on a per capita basis. So, everything considered, Iowa came in at – are you ready – number 33. What about neighboring states? Minnesota was 11th, Nebraska 22nd, Missouri 38th and Illinois 14th. So, at least according to this study, Iowa's per capita tax burden is lower (better) than all of our neighboring states except Missouri – and we were very close to them.

Tax studies are a little tricky because you really have to know in detail the methodology that was used to put them together to see how valid they are. But, here is at least one respected electronic media outlet that shows that Iowa's structure is not as bad as many would have you believe. *John Torbert*

CFS Program Expanded

IDDA has signed a contractual amendment with the state to expand the CFS (Crep Field Specialist) program. IDDA was awarded the contract in December 2006 to provide these specialists to the state. They work with landowners who have land that has been identified as a good site for a CREP nitrate removal wetland. The goal of the CFSs is to get the landowner to grant an easement to the state to construct the wetland. The original contract was for three years for a total amount of \$454,000. That provided for three CFSs.

Under the expanded program, up to eight CFSs will be provided. The contract amount was amended to add \$418,000 for the final two years of the contract. Interviews for the new individuals were conducted in late March and early April and employment offers extended to six individuals – all of whom accepted. As a side note, two of the new hires should be familiar to the IDDA family. Eddie Peterson, former Webster County supervisor and IDDA board member was hired along with former Palo Alto County supervisor and board member Lannie Miller. Other new specialists hired are Jay Lynch from Humboldt, Bob Powers from Ogden, Gerald "Ike" Peterson from Graettinger and Mark Sandvik from Thompson. A training session for the new CFS personnel will be held in mid-May in Fort Dodge. The training will be conducted by state CREP personnel and John Torbert and Julie Fridolfson of the IDDA staff. 🌿



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Culver signs water quality legislation backed by Farm Bureau

Governor Culver has signed into law the Surface Water Protection Act which will create a coordinating council charged with developing an integrated approach to surface water management in the state.

The measure is the result of almost two years of work by the Watershed Planning Task Force. According to Rick Robinson, environmental policy advisor for Farm Bureau, “We know farmers and all Iowans want to see improved water quality throughout the state, but it will take a lot more on-the-ground assessment, monitoring and education to bring all citizens together to see real improvements.”

Robinson continued that “A crucial component of this plan is the Water Resources Coordinating Council and we are all excited that the Governor’s office will have direct oversight of the group, which is an integral part of Iowa’s watershed improvement success.”

In addition to Governor Culver’s participation, the

Water Resources Coordinating Council will coordinate at least twelve state agencies, including members from the Iowa Soil Conservation Division, the Department of Agriculture and Land Stewardship, Department of Public Health, Homeland Security, Department of Transportation and Department of Natural Resources.

The council will coordinate plans and resources to assess Iowa’s water resources and develop a marketing campaign to educate and engage Iowans on water quality issues. Under the legislation, the DNR will conduct a comprehensive statewide watershed assessment that is to be completed in five years.

Iowa Secretary of Agriculture Bill Northey lauded the new water quality measure. “Improving water quality is central to the work at the department and I look forward to working with the governor’s office and the other council members to continue to advance this important issue and better coordinate our efforts,” he said. *Source – Iowa Farm Bureau Spokesman* 🌿



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