



**2010  
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## LICA NEWS

May 2010

### June District Meetings:

**NW District June 5, 2010**

**SW District June 6, 2010**

**NE District June 12, 2010**

**SE District June 13, 2010**

Watch for the June Newsletter for times and locations or give me a call at 319-334-9884 or call my cell at 319-240-2420.

Please plan to attend the meeting in your area. As we will be discussing the committee process and other topics that need to be addressed.

We will be asking for volunteers to help Steve Miller at the Farm Progress Show on August 31- September 2.

Our Summer Board Meeting will be held at the LICA Farm near Melbourne on Sunday, July 11, 2010 at 12 o'clock noon. The meal will be prepared by Steve Neuzil. Plan to bring the whole family and look over the new wetland now that it is full of water. One of the main topics at the Summer Board meeting is deciding on what topics to have at the Winter Convention. If you have ideas on educational topics, let us know.



The next **Midwest Construction Expo and Field Day** will be held on Wednesday and Thursday, July 27 and 28, 2011. Get these dates on your calendar now. Over 1000 people attended last year's show and we expect more in 2011.

## Legislative Alert: This information came to me from LICA Director of Government Relations

Yesterdays papers (April 22) talked about how Rep. James L. Oberstar (D-MN), Chairman of the House Transportation and Infrastructure Committee, is pushing forward with his effort to delete the word "navigable" from the Clean Water Act (PL 92-500). This change would give the government much greater jurisdiction and control over clean water rules that opponents, including LICA, believe amounts to another federal power grab. While Oberstar maintains that his amendments are just returning the law to where it was before the Supreme Court issued rulings limiting the governments oversight, opponents, including LICA, say the bill goes further than Oberstar is letting on.

"If this bill were to become law, there would be no body of water in America that wouldn't be at risk of job-killing federal regulations - from farmers irrigation canals and stockwater ponds and streams, to puddles left by rainstorms," said Rep. Doc Hastings (R-WA), the ranking Republican on the House Natural Resources Committee. The law says in a number of places that it is to meant to govern "navigable waters." The Supreme Court ruled that language constrained the EPA, and LICA agrees with the court. The original CWA was never intended to be unlimited. At some point federal jurisdiction must end, and for now that end point is "navigable waters," however imprecise as that may be. And since these amendments would claim federal jurisdiction over all waters of the U.S., it follows that all land management activities that might impact waters in any way would also be regulated. So these amendments are a land grab as well as a water grab. The real issue is NOT one of clean water. It is one of more federal jurisdiction and control.

A Senate committee has already passed a similar bill, but it has not received a full Senate vote.

The chances for the House bill are uncertain, but I think we need to be concerned and vigilant. Oberstar said he wants to have the measure on the House floor in September.

I have attached LICA's position paper on this bill FYI. **Now would be another good time to contact your Representatives and tell them you oppose the CWA amendments.** You may refer to the LICA position paper or use it as an attachment if you like.

John Peterson  
LICA Director of Government Relations  
Email. [jwpeterson@cox.net](mailto:jwpeterson@cox.net)

### **LICA Position Paper on the proposed amendments to the Clean Water Act.**

Written 31 DEC 2009/jwp, Approved by the LICA Board, 26 FEB 2010

The US House and Senate are both proposing amendments to the Federal Water Pollution Control Act of 1972 (PL 92-500). The House Bill introduced on May 21, 2007, is H.R. 2421 championed by Rep. James Oberstar (D-MN). The Senate Bill introduced on April 2, 2009 is S. 787 championed by Sen. Russ Feingold (D-WI) and others. One of the concerns about these proposed amendments is that they would replace the term "navigable waters" with the term "waters of the United States." This change alone would vastly expand federal control over all the waters of the United States including potholes, playas and irrigation return flows on private property. These proposals:

- Grant EPA and the USACE unlimited regulatory control over all "intrastate" waters.
- Grant EPA and the USACE unrestricted authority to regulate all activities (private or public) that may affect intrastate waters.
- Nullify existing agency regulations without maintaining long-standing and important regulatory exemptions allowing historically commonsense uses.

- Include a citizen lawsuit provision that allows anyone to sue you if they “think” your activity “might” affect water.

Two Supreme Court Decisions have provided some regulatory relief for landowners and local governments, and have had a profound effect on the ever-expanding jurisdictional reach of EPA and the USACE. They are the *Solid Waste Agency of Northern Cook County* (SWANCC) decision in 2001 that said the CWA does not have jurisdiction over isolated wetlands. The *Rapanos* decision in 2006 said that the jurisdiction under the CWA must show a clear connection to a navigable water, the term used in the Act. Some have not liked the reigning in of EPA and the USACE, and want to get back to a point prior to these Supreme Court decisions and in fact expand federal authority and jurisdiction even more. The EPA administrator admits these amendments will expand enforcement.

While **the original CWA** was very broad and extensive, it **was never intended to be unlimited**, and that is what these amendments would make it. At some point, federal jurisdiction must end, and for now that end point by definition is “navigable waters,” as imprecise as that may be. And since these amendments would claim federal jurisdiction over all waters of the U.S., it follows that all land management activities that might impact those waters in any way would also be regulated. So, this is not just a water grab, but a land grab as well. The real issue is NOT one of clean water; it is one of jurisdiction and federal control. And federal jurisdiction does not equal protection, just look at the plight of our National Parks and Monuments that have to seek maintenance funds from commercial companies.

Many groups supporting these amendments are the anti’s; anti-private property, anti-free market, anti-use, organizations such as Earth Justice, Greenpeace, etc. Those that oppose these amendments tend to be the actual producers in society, the National Cattlemen’s Beef Association, Wheat & Corn Growers, National Mining Association and even the National Association of Counties. These amendments would have an adverse impact on LICA construction activities.

These amendments go far beyond the interpretations of jurisdiction advanced by the agencies in the 30 years preceding the SWANCC and Rapanos decisions. The National Center for Public Policy Research says they would do more to threaten the cherished pastimes of outdoor enthusiasts than they would do to ensure the cleanliness of the nation’s water. These bills push the limits of federal authority not matched by any other law, with the possible exception of the cap & trade & national health care legislation also being proposed. For these reasons, **LICA opposes H.R. 2421 and S. 787.**

#### **LICA MEMBERSHIP:**

*Hello everyone. Since all the states are really going after membership and everyone seems to be doing so well, I have decided to make a contest of it. I will award \$250 to the state that gets the most NEW members by total new members and \$250 for the state that get the most new members by percentage. The new member count will be from January 1, 2010 to December 31, 2010. This contest is for Region IV states ONLY.*

*Good luck to everyone and happy membership hunting,  
Steven Miller, Region IV VP*

This is a great time to recruit a new contractor member. Anyone who signs up as a new member now, is a paid up member through 2011. They also will receive free convention registration for the 2011 Annual Membership Meeting and Convention in Des Moines on January 9, 10, and 11, 2011. I am sure that the Iowa LICA Membership Committee will also be doing something to encourage new membership. We need to hit that **400** mark this year.

*LICA Contractor and Associate Members,*

*Thank you so much for helping pay for my medical bills. It was greatly appreciated.*

*Recovery is coming along slowly, but I plan to be back helping put conservation on the land very soon.*

*Melinda*

*NRCS-TECH*

*Marshalltown, Iowa*

This is a copy of the thank you note I received from Melinda. As you may remember, Melinda, was injured in a traffic accident shortly after the field day last year.

Iowa LICA members wish her all the luck in her recovery and hope to see her at the field day next year.

### **Letter from your Executive Director,**

We have a lot of work to do this year. It is the hope of the Board of Directors that the committee system will be up and running soon. I have a list of things that need to be done and the only way this list can be accomplished is with the help of members. Right now, I know all of us are busy. This has been one of the best spring seasons that I can remember. In a few weeks we may slow down a little and we can start putting the committees together. We have already gotten the State Chairs filled and now we need to have people at the district level step up to the challenge.

This work will not be hard. It shouldn't take up a lot of time, and travel will be kept to a minimum. I have had the opportunity over the past several years to hold and attend meetings via the telephone. This works really great. I had a one hour meeting the other day right out in the field! When a State Chairman calls you, I hope you will accept his request to work on a committee. The more active you become in the association, the more you will get out of it. I will guarantee it!!

Have a great Spring season and I hope to see many of you at the district meetings in June.

Dan Rasmussen  
Executive Director of Iowa LICA

**For the past few years, I have seen an awful lot of this. We install fabric check strips in waterways and they seem to hold the soil above them but we get increased erosion below them. Has anyone else noticed this. What is the solution? Getting less rain is not the answer I am looking for!**

