



Minnesota Crop Production Retailers

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Capitol Update

What a difference a month makes.

Reflecting on the last Capitol Update, I was reporting about the debate and polemics around the projected surplus of \$1.3 billion and a rainy-day account at a record \$2.36 billion. I predicted the Legislature's split between a GOP-controlled Senate and a DFL-controlled House and DFL Governor would make for a spirited contest and election focused outcome.

Given the COVID-19 pandemic, the projected budget surplus disappeared with the recently passed \$330 million bill authorizing more funding for the state to combat COVID-19. Instructively, the bill passed in the House by a vote of 99-4 and in the Senate by a vote of 67-0. An unusually nonpartisan one-sided majority.

The legislation, HF4531, is actually a package of bills to respond to the coronavirus pandemic, headlined by a bill that moves \$200 million from the state's general fund to the COVID-19 Minnesota fund. Gov. Tim Walz received broad discretion on how to use that money to combat the virus when it was signed into law.

The legislature has very few committee meetings since the start of the Governor's



sheltering in place and social distancing orders. The meetings are virtual internet meetings. Even the Governor, who is self-quarantined in the Governor's mansion on Summit Ave in St Paul must communicate via video and telephone. The political posturing has substantially subsided. Statesmanship has become the new normal at the State Capitol.

MCPR's focus has shifted to keeping MCPR members informed about the State of Minnesota's creating of flexibility and trust in its citizens in response to the closing of many state offices and inability to surmount the demands of a state that already over-regulates. Once again, MCPR members and staff have been frustrated by the stodgy, cumbersome Minnesota release of control to temporarily allowing MCPR members to get crop inputs products and services to growers. Minnesota simply has not kept up with surrounding upper Midwest state governments in such issues

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Executive Director's Report

Hello MCPR members,

COVID-19 has changed everything.



Unprecedented seems to describe almost everything we encounter each day. The MCPR office, while sheltering at home and social distancing, has been adjusting while we continue to meet your needs for critical information with the E News and web posting. We are answering individual questions and concerns, and all done within the President's and Governor's Executive Emergency Orders. Shelter at home may be the order for some, but we know for MCPR members who are essential workers, the social distancing and other best practices are just more barriers to surmount as you perform the suppliers "spring" into action.

The duty of lobbying and influencing state government changed dramatically when COVID-19 started defining how, when and where we work. MCPR is fortunate in having a seasoned government affairs staff with years of service, experience, and

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Executive Director's Report

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relationships within the state and federal government. Like you, most of my work is designed and operated around the trusting relationships I hold with the decision makers. Countless conference calls, texts, phone calls, and emails have produced an ability to influence critical decisions about how MCPR members are able to operate within the new guidelines.

Like you, I get irritated when Minnesota government seems stodgy and reluctant to take decisive action compared to surrounding states and even the federal government. Business as usual seems to be the focus of some of the agency regulators. MCPR has made an art form out of demanding change while maintaining relationships with these officials...and pulling strings to circumnavigate the roadblocks from officials that simply will not change when change is required.

MCPR has worked together with our state and federal partners in the association and nonprofit organization world to get things done and keep you informed. MCPR's E News and web page has become a critical part of our communication with you. You have also been calling Jessi and I and MCPR Board members when you need prompt attention or just to check to see if what you are experiencing is a common experience among MCPR members.

We can't do this alone. When I have asked for your response to a question so I can gauge better how to make a decision or provide evidence to a skeptical administrator, some of you have responded with information that has been critical in making our case to get things done. Thank you!

But MCPR members long term concerns, beyond the COVID-19 pandemic, are

not being neglected. Environmental activists are bemoaning the neglect they are getting from the press and right now making plans to launch strong new initiatives in the months and years after the pandemic is history. A case in point is the lawsuits around the Gulf of Mexico hypoxia lawsuits. MCPR members may have forgotten that the courts ruled in agricultures' favor to stop the nutrient numeric criteria (NNC) water standards that environmental groups had demanded. The court's rational at the time was that they would give agriculture several years to make progress toward the NNC standards which they judged to be too severe and unrealistic in the short term. However, agriculture collectively promised to make improvements. Well, guess what...our friends in the environmental movement are now asking what agriculture has done in the last five years to improve and how can we prove it.

Which is one reason MCPR stepped up to the plate and is leading the Minnesota 4R Certification Nutrient Stewardship Program. In addition, the MCPR Board has asked to add to my responsibilities service to you as at the 4 R Certification Nutrient Stewardship Council Executive Director. The Council which will direct the program has been elected, an Executive Committee has been appointed, and a budget and fundraising has already started. Yes, this is a very difficult time to start a new nutrient stewardship program, but the MCPR Board believes this must be done now.

On another regulatory front related to the environmental activists, please review the insert from Steve Taylor, a friend of mine and consultant to our industry on Waters of the United States (WOTUS). He points out that federal oversight has

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Capitol Update

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as seasonal CDL licensing and hours of service emergency orders.

MCPR understands the issue of political staff standing up to seasoned classified departmental regulatory staff. When Bill Bond served in Governor Al Quie's office and conditions demanded Executive Emergency Orders, the regulatory staff had years and a deep understanding of the rationale and safety concerns of "loosening the strings" of state control. Frankly, the Gubernatorial Staff and Commissioners simply had to say, "No... this time you must step down for the temporary needs of our citizens in crisis."

Given the resistance to letting go of control, MCPR staff have had to risk relationships to stand up to these pressures and preserve the open doors of those who have discretion over MCPR members through rules and regulations. Also, we know the value of coalitions formed in a timely manner get around roadblocks.

And then, of course, there are the ag friendly legislators who become important "go to" officials in a time of need. In balance, these tensions are what we always face in public affairs work. The difference is this time the crisis is unprecedented. ✨



Waters of the United States (WOTUS) Update

By Steve Taylor, MidAmerica CropLife Association (MACA)

For those who follow water issues, a milestone event occurred with the finalization of the new WOTUS rule. I have read the entire 340-page pre-publication version of the final rule and compared it to the comments provided by MACA. Overall, I am pleased by how much of our comments are integrated into the final version of the rule. Basically, the federal government is generally pulling back from the aggressive expansion of the Clean Water Act. The new rule reflects a new respect for the sovereignty of the States as issues involving the use of private property are again placed within the purview of the States. It is obvious, however, that the rule was written with the next lawsuit in mind. The EPA knows more lawsuits will be forthcoming. Past legal cases and legal arguments are spread throughout the text in preparation for defending against the next lawsuit. Another general observation is that if this 'final' WOTUS rule survives the onslaught of legal challenges expected by the environmental groups, then the true nature of this WOTUS rule will be determined by how the federal and state agencies interpret and implement the rule going forward.

One possible way this new WOTUS rule could be attacked in the future would be through legal, policy, or scientific means or a combination of all three. A basic argument could be the new rule doesn't follow the science. The EPA's own Science Advisory Board (SAB) asserts a lack of scientific basis for the proposed rule

(pages 44-45). Back in 2015, SAB members actually complained that the old WOTUS rule poorly defined the term "significant nexus." But of course, with vast amounts of additional research and research grants, scientists could possibly establish connectivity.

In 2015, the SAB comments ebbed and flowed between issues of science, policy, and legal jurisdiction. The new rule states that "science cannot dictate where to draw the line between Federal and State or tribal waters, as those are legal distinctions that have been established within the overall framework and construct of the Clean Water Act (CWA) and that the definition of "waters of the United States" must be grounded in a legal analysis of the limits on CWA jurisdiction reflected in the statute and Supreme Court case law". The new rule eliminates the need for determining a 'significant nexus' that was developed by the scientists as a method for identifying jurisdictional waters and adjacent wetland. The EPA recognizes that this is a new position and that it modifies prior agency positions that were previously based on Justice Kennedy's concurring opinion in a former Supreme Court case (Rapanos). The EPA also recognizes that several courts have adopted the significant nexus standard as a test for jurisdiction for both adjacent wetlands and tributaries. ✨

Editors note — MCPR will continue to monitor and inform you about WOTUS developments going forward.

Dale's View

Hello MCPR Members,

The corona virus challenges have substantially changed our operations. What has not changed is the commitment ag retailers have to serve growers. Another thing that has not changed is the imperative of MCPR's role to lead our industry, influence the policy makers, and inform you of the latest developments. In agriculture, we surmount any challenge we face as we move full speed to service growers. Low margins leave little room for mistakes, so we have another opportunity as retailers to showcase our expertise and reevaluate grower plans and adjust to what mother nature has dealt us. MCPR is aggressively representing your interests at the State Capitol which should give you some solace. Please keep in mind that your success is measured in part by employee safety as we launch into another demanding spring. Remember, "Safety First."

MCPR Board Chair,

Dale Johnson

Dale Johnson



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Executive Director's Report

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demonstrated a sensitivity to agriculture by the current President which the previous President did not demonstrate. However, the Environmental Pollution Control Agency is preparing the report with an eye to the anti ag embedded staff members who are citing studies which challenge the conclusion of the current administration, and an obvious invitation to the environmental movement to challenge and delay the WOTUS report with law suits.

In summary, MCPR has your back as we strive to stay in front of the COVID-19 demands now and also looking to your future. Watch the E News info for timely updates as we move through this pandemic.

On a personal note, those of us with elderly parents in assisted living and long term care facilities have struggled to keep close to them in support with love and attention, which now is primarily

accomplished through an outside window. As I write these thoughts, Jessi Brunelle, on our staff and my step daughter, and I are trying to support her grandpa and my father-in law as he starts his "glide slope to meeting his Maker" in a hospice care situation. This 96 year old veteran served in Paton's Third Army operating a bazooka and has my strongest love and respect. I know of other MCPR members facing similar challenges in your professional and personal lives.

I am aware of numerous incidences in which MCPR members are supporting each other as best we can, but do contact me if you are experiencing a need which we might be able to meet. ✨

Until next time,

Bill Bond

Bill Bond