

PolicyPennings by Daryll E. Ray & Harwood D. Schaffer Reaction to Des Moines Water Works lawsuit was quick and sharp

The response to the Des Moines Water Works lawsuit against the three Iowa counties at the headwaters of the Raccoon River, arguing that the drainage districts for whom the counties served as trustees should be treated as point sources of pollution and thus required to obtain a National Pollution Discharge Elimination System (“NPDES”) permit or other state permit in violation of the Clean Water Act (CWA), was in many ways a predictable reaction to a practice that has been the norm for agriculture for many years. Without some sort of drainage, Iowa’s prairie pot holes would fill up with water the way they were when the settlers arrived in the area that became the state.

“The move by the Des Moines Water Works (DMWW) to file a lawsuit against drainage districts in three northwest Iowa counties shows a lack of understanding of the complexity of non-point water issues. It also risks slowing the momentum of the state’s nationally recognized strategy to reduce nutrient levels in rivers and streams, the Iowa Farm Bureau Federation (IFBF) and other farm groups said” (<http://tinyurl.com/qjapfdl>). The other farm groups include: Agribusiness Association of Iowa, Agriculture’s Clean Water Alliance, the Iowa Agriculture Water Alliance, the Iowa Cattlemen’s Association, the Iowa Corn Growers Association, the Iowa Pork Producers Association, the Iowa Poultry Association, the Iowa Soybean Association, the Iowa State Dairy Association and the Iowa Turkey Federation.

The March 16, 2015 press release by the IFBF continued, “Rather than litigation, Iowa is much better served when communities and farmers collaborate to improve water quality. We’ve got examples of that all around Iowa,” said Craig Hill, IFBF president. “This choice to file a lawsuit is not constructive and, frankly, threatens to delay the conservation and water quality progress that Iowans are making.”

The response of Randy Feenstra, a Republican state senator from Hull, Iowa was to propose a boycott of Des Moines in retaliation for the lawsuit.

“Cedar Rapids Mayor Ron Corbett says the lawsuit is the wrong tactic, threatening an important piece of the economy in the Cedar Rapids region and the state — agriculture. ‘It could have a huge impact on agriculture,’ said Corbett, a co-leader of the newly formed Iowa Partnership for Clean Water” (<http://tinyurl.com/q225zpj>). According to its website the “Iowa Partnership for Clean Water (IPCW) is a 501c4 organization dedicated to broadening the understanding of agriculture, as it pertains to clean water and conservation initiatives within our state. IPCW brings together active voices within Iowa to promote the environmentally responsible practices that Iowa

farmers employ to ensure the health and safety of all Iowa citizens.”

On its website the IPCW says, “Inflexible regulations will impede progress that Iowa farmers are currently making toward nutrient reduction” and “Lawsuits aren’t the answer. Collaborative solutions are the right approach to improving water quality in Iowa.”

As Kyle Munson writes in an article titled “Finding common ground in the fight over Iowa’s water” in *The Des Moines Register*, “The big ‘R—regulation—often is where this whole conversation breaks down. It’s where political philosophies diverge. The debate becomes characterized as extreme environmentalists versus stubborn farmers. Without regulation, [DMWW CEO] Stowe fears the threat to the land and water. With regulation, many farmers fear for their livelihood as they dutifully tend their acres” (<http://tinyurl.com/qznu37m>).

A July 8, 2015 *Des Moines Register* editorial says, “Litigation is never an ideal way to resolve a dispute, but this particular lawsuit could actually force the state to address a growing problem many Iowa leaders refuse to even acknowledge: agriculture’s contribution to high nitrate levels in our drinking water.”

In arguing that they are making progress the IFBF writes about “the ‘hair-trigger’ litigious approach by Des Moines Water Works.” Instead the IFBF argues, “Progress comes when farmers roll up their sleeves and seek solutions. They’ve been doing this for years. They voluntarily spend tens of millions of dollars out of their own pockets each year, to do right by the land and take great pride in seeing results. Results are imperative to the long-term success of their farm. But one type of conservation practice won’t work on every farm, for every terrain, for every crop they grow. Finding the best fit for their farm doesn’t happen in two months or two years. When it comes to changes in water quality, scientists say it can take decades” (<http://tinyurl.com/p6uu9ys>). It’s those decades that has DMWW worried.

With a year before the lawsuit is argued in court, there may be time for the parties to come up with workable solutions.

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