

wetland matters



OXBOW, INC. NEWSLETTER

P.O. BOX 43391
CINCINNATI, OHIO 45243

NOVEMBER, 1991

SPECIAL WETLANDS ISSUE

**PRESIDENT'S
"NO NET LOSS" PLEDGE
BEING ABANDONED!**

CHANGES TO WETLANDS MANUAL THREATEN NATIONAL WETLAND RESOURCES.

Oxbow, Inc. members are being asked to join with other conservationists across the country to speak out against an assault on wetland protection laws and regulations

The Bush Administration, led by Vice President Dan Quayle's Council on Competitiveness, and urged on by a coalition of developers, agribusinesses, the oil and gas industry, and the American Farm Bureau, has proposed an overhaul of the "Federal Manual For Identifying And Delineating Jurisdictional Wetlands." This manual is the guide for consistent regulation of wetlands. It was prepared jointly by the United States Environmental Protection Agency, the United States Fish and Wildlife Service, the United States Army Corps of Engineers, and the Soil Conservation Service. The impact of the changes, which greatly narrow the definition of wetlands, will be to open 10 to 50 million acres of wetlands previously protected from development and to simplify the licensing process for securing government approval to build on such land.

The proposed changes were published in the August 14th *Federal Register*. The public had 60 days to comment on the proposal. Major environmental groups, scores of biologists, state agency regulators, and grassroots conservation organizations are denouncing the weakening of this fundamental wetlands protection instrument

PROPOSED CHANGES

Specifically, the proposal would weaken the 1989 Federal Manual by—:

- 1 – Requiring that unreasonably stringent criteria be met before a wetland qualifies for protection. Even where known wetland plant species or wetland soils exist, time periods for soil saturation are significantly increased. New definitions eliminate seasonally wet areas that do not have standing water for at least 15 consecutive days, or soils saturated to the surface for at least 21 consecutive days during the growing season.
- 2 – Arbitrarily requiring the ponding or saturation occur during the "growing season," defined as the frost-free period. Areas which flood in March or early spring **WILL NOT BE** classified as wetlands, because they flood at the wrong time of the year.

- 3 – Limiting the use of soil types and other indicators in determining the hydrology of the wetland site.

- 4 – Allowing "classes" of delineations to be made rather than site-specific determinations.

The Indiana Department of Natural Resources has estimated that 52% of Indiana's wetlands will no longer be classified as wetlands under the new criteria.

Nation

Effect of plan for wetlands downplayed

ENQUIRER NEWS SERVICES

WASHINGTON: The Environmental Protection Agency, at the urging of the White House is withholding conclusions showing that vast stretches of the nation's wetlands would lose federal protection under new guidelines proposed by the Bush administration, officials said Saturday. The studies by four government agencies suggest that 50% or more of the nation's 100 million acres of wetland, including large sections of the Everglades and Virginia's Great Dismal Swamp, could be opened to development, said an administration official, speaking on condition of anonymity.

People at the EPA are 'livid' about White House pressure to suppress the conclusions the official said. He said the EPA's general counsel has told the White House the conclusions should be made public.

—Cincinnati Enquirer 11-7-91

SUPPRESSION OF WETLAND REPORTS

Weakening of the federal wetlands manual is not the only attack underway on wetlands policy. The Administration is also moving ahead with other actions, including a proposal to exempt a broader range of wetland disturbance activities from regulation, a freezing of enforcement initiatives, and the suppression of major U.S. Fish and Wildlife reports on wetland status and trends.

SECTION 404 UNDER ATTACK BY PROPOSED LAWS

Last, but not least, the Administration, Vice President Quayle's coalition, and supporters in Congress are also promoting new legislation to weaken the basic wetland protection provisions found in Section 404 of the Clean Water Act. Presently, Section 404's modest wetland protection is a requirement that a permit be obtained from the U.S. Army Corps of Engineers before a wetland may be filled in. Anti-wetland bills by Representative Hayes and Senator Breaux weaken Section 404 by establishing an arbitrary "value"-ranking system of wetlands.

If a "High Value" classification of a wetland prevents development, the landowner would be entitled to compensation determined by the owner. Development of "Middle Value" wetlands could be mitigated with the replacement of man-made wetlands. Present law allows mitigation under some circumstances. "Low Value" wetlands would receive virtually no protection. These bills would also eliminate the Environmental Protection Agency from the permitting process. Conservationists opposed to the Hayes HR 1330 house bill, and the Breaux S 1463 senate bill, are giving support to Florida Congressman Bennett's house bill HR 251, the "Wetlands No Net Loss Act of 1991."

DEADLINE EXTENSION

Time limitations on public comment prevented WETLAND MATTERS from informing Oxbow, Inc. members of these proposed changes in time. The comment deadline for the wetland manual changes has been extended to DECEMBER 14TH. Your comments should be sent to Gregory Peck, Chief, Wetlands and Aquatic Resources Regulatory Branch, (A-104-F), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC

20460. Also send copies to your Congressperson, Senator Lugar and Vice President Dan Quayle's Council on Competitiveness. Urge them to request that **NO ACTION BE TAKEN ON THESE CHANGES FOR AT LEAST ONE YEAR** so that the NATIONAL ACADEMY OF SCIENCES HAS TIME TO SELECT A COMMITTEE TO EVALUATE THE VALIDITY OF THE CURRENT AND PROPOSED DEFINITIONS OF WETLANDS AND TO MAKE RECOMMENDATIONS.

Quoting Tom Dustin, Izaak Walton League, Indiana Division, "These proposed changes represent a white flag of surrender in the long battle to reverse the continuing loss of wetlands."

PLEASE TAKE A MOMENT TO VOICE YOUR OPPOSITION TO THESE CHANGES.

Information from Hoosier Environmental Council "Boardwatch"



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