

HAS THE TIME COME TO REGULATE FARMERS? WE ALREADY DO, BUT HOW DO WE DECIDE WHAT IS ENOUGH, HOW CLEAN IS CLEAN?

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Introduction

We have argued that there are four basically different types of policy tools; information, bribes, coercion, and restructuring of decision making. Federal programs to deal with pollution from dispersed or nonpoint sources have sought packages that minimized the use of coercion. However, the use of cross compliance rules between environmentally desirable practices and price supports, pesticide labeling restrictions, and limitations on measures included in water projects are coercive in character. But except for the expansion of the USEPA role in wetlands protection mostly through its role in the "404" program where the Corps of Engineers operates the permit process, this is not the work of the CleanWater Act.

Wetlands

The wetlands issue appears to be the major focus of the farm groups who argue that restraints on the drainage of wet soils restrict output and world competitiveness in a major way for a negligible return in habitat and water quality improvement. Along with the concerns of the urban land development interests this appears to have led to a classic controversy over the redefinition of "wetland."

Political stability on the wetland issue may be very hard to achieve given the very large potential capital gains from non-farmland development and the long standing animosity between water fowl and farm groups. It is clear to us that water management projects that evenhandedly treat habitat and cropland qualities as joint management

objectives are not common, but may offer significant gains.

At the larger system level, the North American Migratory Water Fowl Plan is a step in the right direction, responding to the relevant treaties and serving as a focal point for some impressive private support groups. It has only minimal linkage to the Corps' "404" permit and water management activities, with the Upper Mississippi being a significant and pioneering exception. But more to the point for this article there is far too little integration of this planning effort into the farm establishment. For example a developer with land in the mud flats of San Francisco Bay or an irrigation district in the San Joaquin Valley would be hard-pressed to find out in any useful detail how objectives for the Western Flyway might affect their future plans. For another example—several cycles of program planning under the Resource Conservation Act of 1977 have come and gone with little in the way of a joint approach to the wetland problem. As is so often the case, experimentation and coordination stimulated from the local level may lead to the formation of a more coherent federal policy. Examples could include the case of the Upper Mississippi, or what may be developing around the five refuges being proposed along the Saint Lawrence River in New York.

Non-point and Return Flow Pollution

According to some Congressional observers, it might pay for farm interests to put more effort into the evolution of programs to deal with the loss of silt, nutrients and pesticides from farm land and the concentrations of these and other

contaminants appearing in water that leaves irrigated land. All of these pollutants have their non-farm sources as well. Indeed, the idea of municipalities trading pollution reduction opportunities with farmers who can achieve goals for streams more cheaply may provide some interesting incentives for innovation. But even in these cases, the expectation is that for the immediate future, state and local developments will probably take the lead in terms of innovations in regulation.

Federal experimentation with more regulation in these areas will be on hold while the results of the US Department of Agriculture's part of the recent Presidential Initiative for Water Quality have time to work themselves out. The USDA Initiative uses research, technical assistance and education plus some cost sharing along with the organization of watershed projects at different levels of intensity. Given the crude and expensive nature of water quality monitoring, and the politically important symbolic value of regulatory programs being in place, hot future arguments over whether the Initiative has been effective enough can be anticipated. But perhaps not in an election year? When there are other targets more easily sought?

A number of states have experimented with adding regulatory features to their soil and water conservation efforts in the name of water quality. Iowa may be the best known where it gave neighbors a way to call attention to a non-cooperating land user who then had to adopt conservation practices if cost sharing was available. Iowa has more recently added an innovative groundwater protection program that taxes fertilizer sales to fund programs that are intended to reduce the risk of contamination. The largely state-administered Coastal Zone Management Program has developed some innovative regulations for nonpoint control. State innovations like the water quality potential under the Arizona Ground Water Law or "Proposition 65" in California are well worth watching. Another source of innovations is apt to be the state-administered Wellhead Protection Program and other activity stimulated in part by the 1986 amend-

ments to the Federal Safe Drinking Water Act, but with a significant local life of its own in many states.

New York City's Catskill system provides an example that may be seminal. The requirement of either slow sand filters or of equivalent protection by regulatory means has the potential, along with growing concern over the risk from all kinds of toxic chemicals, of revitalizing New York's program of watershed rules. This approach to water supply protection predates chlorine but in the late 1800's responded to the then new understanding of disease vectors. The price tag for the cash-strapped city will be \$4 to \$6 billion for the filters — enough incentive to fuel some innovation in watershed management. Even here a largely voluntary program has been worked out for farmers and may be for septic systems, etc., with what many hope will be liberal cost sharing by "The City." But the back-stopping of regulatory authority in place or as a potential provides the context for these negotiations. What is a coercive authority anyway, but an opportunity for bargaining for compliance? Isn't the creditable threat of a rule enough?