



April 5, 2019

TO: NARD Board, NRD Managers and Conservation Partners  
FROM: Dean E. Edson, NARD Executive Director  
RE: April 5 NARD Update

### National News

#### NARD 2018 Washington DC Conference

**2019 NARD Washington DC Conference** – Fifty-three NARD members, representing fourteen NRDs, were in Washington DC this week attending the annual NARD Washington DC Conference. After participating in the two-day sessions to learn more about ag and natural resources issues at the national level, the NARD members spent a day on the hill visiting Nebraska US Senators and Congressional Representatives. Members of the NRD delegation met personally with Senator Deb Fisher, Senator Ben Sasse, Congressman Don Bacon, Congressman Jeff Fortenberry and Congressman Adrian Smith at the Nebraska Breakfast and followed up with sessions with them and their staff. The following is a summary of the conference sessions.

**Water Strategies, LLC, and the National Water Resources Association (NWRA)** -- Kris Polly, President of Water Strategies, Steve Stockton, Senior Policy Advisor for NWRA, and Ian Lyle, Executive Vice President of NWRA, provided the opening address at the NARD DC Conference. Polly summarized the work of Water Strategies to promote and protect water use throughout the nation. Stockton provided an overview of the eight purposes of the Army Corp of Engineers Missouri River projects and the legal issues that surround them. Lyle provided an update of elections and resulting changes in leadership positions with the 100 new members of Congress.

**NACD Update** -- Rich Dueterhaus and Director of Government Affairs Coleman Garrison joined Nebraska's district representatives to discuss the 2018 Farm Bill and what to expect moving forward as the U.S. Department of Agriculture (USDA) begins implementing the new law. Garrison also prepared the attendees for meetings with their Members of Congress, including NACD's priorities in the Fiscal Year 2020 federal appropriations cycle. Dueterhaus provided updates on NACD's second round of technical assistance grants, the Urban Agriculture Conservation Grant Initiative and Conservation Planning Boot Camp, noting funds are available from NACD for districts employees to attend.

**EPA WaterSense** -- Beth Livingston, Brand Manager of WaterSense, provided an overview of the voluntary partnership program sponsored by the U.S. Environmental Protection Agency (EPA). The program is both a label for water-efficient products and a resource for helping individuals and companies save water. The WaterSense label makes it simple to find water-efficient products, new homes, and programs that meet EPA's criteria for efficiency and performance. WaterSense-labeled products and services are certified to use at least 20 percent less water, save energy, and perform as well as or better than regular models.

WaterSense partners with manufacturers, retailers and distributors, homebuilders, irrigation professionals, utilities and local governments to promote indoor and outdoor water efficiency and WaterSense-labeled

products and programs. Partners also participate in national outreach campaigns, such as Fix a Leak Week, Sprinkler Spruce-Up, and quarterly partner-only webinars. To learn more about partnership opportunities, go to: <https://www.epa.gov/watersense/watersense-partnerships>,

**Environmental Protection Agency 404 Permits** – Russell Kaiser, Chief of the CWA 404 Program, provided an overview of the process for states to take over the 404-permitting process. Two states have the program (New Jersey & Michigan) and Florida is currently going through the process. Nine other states have expressed interest. Kaiser stressed the importance of developing efficient processes and developing a good working relationship between the EPA and the Army Corp of Engineers. Kaiser also reviewed the process for the WOTUS rule.

**American Soybean Association** -- Hanna Abou-El-Seoud, Government Affairs Representative from Gordley Associates, provided an overview of trade agreements, disputes and negotiations. Hanna noted that trade is one of the most prioritized topics for the agriculture groups in DC currently, not just for the American Soybean Association. She reported that current areas of focus are with China, the former NAFTA agreement with Mexico and Canada, as well as with Japan, UK and the EU. China is the #1 market for US soybeans, as 60% of US soybeans are exported and 1/3<sup>rd</sup> of those exports go to China.

More information on trade agreements can be found at: <https://soygrowers.com/key-issues-initiatives/key-issues/trade/>.

**National Corn Growers Association** -- Jon Doggett, Chief Executive Officer of the National Corn Growers Association (NCGA), provided an over-view of NCGA involvement in the response to the Bud Light Super Bowl ad that attacked the use of corn syrup. NCGA avoided the debate about corn syrup, instead responded by asking why Budweiser was attacking American family corn farmers. The negative ad has helped corn growers build relationships and promote discussions about family farmers. The Budweiser ad has generated 3.3 thousand news stories, 3.7 billion people reached, and provided an estimated \$4.5 million in free publicity. Since running the ad during the super bowl, Budweiser has lost 8.8% market share to Miller/Coors, America's corn farmers have gained free advertising, and the NCGA have new partners in promotions about what American family corn farmers provide to the economy.

For more information, go to: <https://www.millercoorsblog.com/category/news/> and <https://www.ncga.com/home>.

**American Farm Bureau Federation** -- Don Parrish, Senior Director of Regulatory Relations for American Farm Bureau Federation, provided an update on the proposed 2018 Waters of the United States (WOTUS) rule that would reverse the over-reaching 2015 WOTUS rule. In 2015, EPA adopted a WOTUS rule that grants the federal government regulatory control over virtually any waters – and many land areas that only temporarily hold water – assuming a scope of authority Congress never authorized. It effectively eliminated any constraints the term “navigable” previously imposed on the agencies’ Clean Water Act jurisdiction and expanded the federal authority and jurisdiction to regulate all water, including groundwater.

The 2015 WOTUS rule provided the agencies almost unlimited authority to regulate, at their discretion, any low spot where rainwater collects, including common farm ditches, ephemeral drainages, agricultural ponds and isolated wetlands found in and near farms and ranches across the nation, no matter how small or seemingly unconnected they may be to true “navigable waters.”

At the end of 2018, after years of litigation and controversy, the agencies proposed a new rule that provides farmers and ranchers with “Clean Water and Clear Rules”. Parrish provided the following highlights of the proposed 2018WOTUS rule:

- The proposed new rule provides clarity, regulatory certainty and protects water resources, while respecting the federal-state balance that Congress struck in the Clean Water Act. It alleviates

unpredictable and inconsistent case-by-case determinations of which waters fall under the agencies' jurisdiction. It also brings an end to the decades-long trend of persistent federal government overreach that cannot be reconciled with either congressional intent or judicial precedent.

- The proposed rule eliminates much of the uncertainty, ambiguity and inconsistency that characterized previous definitions related to the scope of EPA and the Corps' jurisdiction. The proposal also appropriately places the burden on the government, not landowners, to show jurisdiction in cases where historic evidence is needed.
- The proposal reaffirms the "prior converted cropland" exclusion, which grandfathered in many acres of cropland and exempted them from federal jurisdiction.

For more information and a link to provide comments on the 2018 rule, go to:

<https://www.fb.org/issues/regulatory-reform/clean-water-act>

**NRCS Program Update** -- Kevin Norton, Acting Associate Chief NRCS, and Kevin Wickey, NRCS Regional Conservationist, provided an update on the conservation programs under the new farm bill. Norton outlined that the late passage of the Farm Bill and recent government shutdown has caused some delays. Norton reported NRCS is within a couple of weeks of starting to release regulations for the 19 programs. According to NRCS, there are no foreseen reasons seen why all regulations won't be in place and ready to implement by October 1<sup>st</sup>.

Kevin Wickey reported on staffing issues. The NRCS is working with the Under-Secretary of Agriculture to revise workload requirements and collecting data on how long it takes to complete a task. Any extra staff would be distributed based on workload. Wickey reported there are 47 positions vacant in Nebraska, and NRCS is poised to add 16 in the next quarter.

**USDA-FSA Disaster Aid programs** -- Martin Bomar, Deputy Director, FSA Conservation Division, provided an update on FSA Disaster relief programs. Provided an overview of how FSA can help producers through the Emergency Conservation Program (ECP). ECP works with individual ranchers and producers to provide 75% cost share for debris removal, grading and shaping of damaged land, livestock and wildlife exclusion fences, Rehab of terraces, waterways, and other conservation structures and restore wildlife and ecological benefits.

The process for individuals with damage is to reach out to their local USDA farm service agency or state office and report damage. This can be a phone call. Producers need to follow-up and provide documentation of damages to be eligible for reimbursement under the programs. After the report is filed documented, disaster damage payments would be made. He also noted local and state offices are gathering information locally to estimate total resource needs. That estimate will be sent by the State FSA office to DC and they will take the estimate to congress to work on receiving funding.

Bomar also noted that under the new Farm Bill, the individual payment limitation will be increased from \$200,000 to \$500,000.

Information about disaster aid from USDA-FSA in Nebraska can be found at:

<https://www.fsa.usda.gov/state-offices/Nebraska/index>

**USDA-NRCS Disaster Aid** -- Kevin Farmer, Branch Chief for Watershed Programs with NRCS, provided an update on EWP programs for recovery and floodplain easements which is a 75/25 cost-share. For emergency situations, when there is imminent threat to life or property, estimates are done locally working with the State NRCS Office. The goal is to complete the repair within 10 days. For non-emergency, they have 60 days to report to NRCS and 220 days to finish the projects.

Farmer also reviewed the watershed rehab and operations programs. There are three remedial projects currently in Nebraska. The watershed rehab program has updated standards with cost share rate of 65/35.

More information can be found at: <https://www.nrcs.usda.gov/wps/portal/nrcs/site/ne/home/>

**E15 Rule** -- Bob Dinneen, former CEO of the Renewable Fuels Association (RFA), provided an update on the proposed EPA rule allowing for the year-round sale of E15 (15% Ethanol blend fuel). The RFA, along with others, have petitioned the U.S. Environmental Protection Agency (EPA) to change its regulations to account for lost volumes of renewable fuel resulting from the unprecedented number of retroactive small refinery exemptions from Renewable Fuel Standard (RFS) obligations granted by the EPA. The RFS was created to preserve our environment, protect America's energy independence, and give Americans more affordable options at the pump.

Dinneen noted there has always been a small refinery exemption to the rules and waivers have increased over the last 2 years. These waivers have had a huge impact on the ethanol industry and there is an estimated \$2.6 billion in lost demand because of the exemptions. If waivers continue to be granted the ethanol industry will continue to struggle.

A Renewable Identification Credit (RIN) is a numbered credit assigned to each gallon of renewable fuel produced for the purpose of tracking its production and use under the RFS. Petroleum refiners and importers turn in RINs to the EPA to demonstrate that they fulfilled their annual renewable fuel blending obligations. Refiners and importers who do not wish to blend renewable fuels may instead purchase RINs from other parties who blended more than their obligated volume. The system was designed so that as RFS volume requirements escalate, RIN supplies tighten, and RIN prices rise. This creates greater incentive to blend more renewable fuels, helping to lower vehicle emissions while making gas more affordable.

Ethanol helps reduce greenhouse gas emissions by 40-50% compared to traditional gas. By displacing hydrocarbon substances like aromatics in gasoline, ethanol significantly reduces emissions of air toxics, particulate matter, carbon monoxide, nitrous oxides, and exhaust hydrocarbons.

More information on the E15 rule can be found at: <https://ethanolrfa.org/e15cleanfuel/>.

### **Disaster Aid Update**

**Nebraska disaster update** – This week, the US Department of Transportation released \$25 million to Nebraska as a down-payment to fix roads and bridges. On Thursday, state and federal officials provided these estimates on the damage:

- 81 of Nebraska's 93 counties are included in the disaster area.
- 15 counties and the Santee Sioux Reservation approved for individual aid and 12 more counties are under review for qualification.
- \$100 million in state road and bridge infrastructure damage.
- \$60 million in city and county road and bridge damage.
- Over 2,600 homes damaged or lost.
- Over 2,500 referrals for Small Business Administration home repair loans and 419 business loan referrals
- \$1 billion in livestock losses, which includes losses from the blizzard in western Nebraska, and crop losses, which includes land that cannot be planted this year or will see delayed planting.
- About 103 miles of state highways are still closed, requiring repairs or rebuilding which is down from the original 3,300 miles initially closed.
- 27 state bridges are damaged.

There are many options for donating and/or volunteering to provide relief. Please consider donations to the entities of your choice.

The local NRDs are working with other local, state and federal agencies to help rebuild from the historic flood damages. All the NRDs are aiding landowners that need help with water quality sampling and other natural resources contamination issues. Please contact your local NRD if you need assistance. If the specific assistance needed is not at the local NRD office, they can direct individuals to the correct agency.

The Pappio-Missouri River NRD, Lower Platte South NRD and Midwest Laboratories, in cooperation with the Douglas County Health Department and Sarpy/Cass Health Department, will offer a limited number of well water quality tests to private homeowners affected by flooding, at no expense to the homeowners. Midwest Laboratories has offered to cover 50% of the laboratory testing costs, and the NRDs will cover the remaining 50%.

The University of Nebraska Extension has information on flood recovery, treatment of contaminated wells, and flooded grain storage issues. This information can be found at <https://flood.unl.edu/>.

Other links for assistance can be found at:

**Free Water Testing:** <https://www.papionrd.org/>

**Clearinghouse for ag and livestock assistance -** <http://www.nda.nebraska.gov/resources/index.html>.

**Find your NRD:** <https://www.nrdnet.org/nrds/find-your-nrd>

**Nebraska Department of Transportation Flood Recovery Projects:** <https://dot.nebraska.gov/news-media/nebraska-flood-2019/>

**Nebraska Department of Transportation 511:** <http://511.nebraska.gov/>

**Nebraska Department of Natural Resources Stream Gauges:** <https://nednr.nebraska.gov/RealTime/>

**Nebraska Emergency Management:** <https://nema.nebraska.gov/>

### **Floor Action**

**Small crack repaired on Rural-Urban Divide, another appears** – Last week, legislative debate on a constitutional amendment, LR 14 CA, to make changes on funding blighted areas in Nebraska lead to a small crack near the Rural-Urban Divide.

The constitutional amendment proposed for the November 2020 election, introduced by Sen. Justin Wayne of Omaha, would authorize the Legislature to extend the maximum repayment period for TIF indebtedness from 15 to 20 years if more than half of the property in a project area was designated as extremely blighted. Wayne said that many Nebraska cities struggle to attract developers to revitalize neighborhoods that are designated substandard and blighted, a challenge that becomes even more difficult in areas that are extremely blighted—those with high poverty levels and high unemployment rates.

Senator Groene and other rural senators lead an effort to filibuster the proposal. After debate spanning two days, the proposal stalled on General File March 26. The Legislature moved on to the next item on the agenda before voting on LR 14 CA or the pending amendment.

In response, Senator Wayne filed amendments and motions to Senator Groene's legislation and several other rural senator's bills. A compromise was reached this week to advance LR 14 CA was advanced to Select File by a 40-0 vote. During debate on the measure this week, Senator Jim Scheer of Norfolk said an exception made by the Legislature decades ago to extend repayment to 20 years on a bond for Norfolk to build a more robust flood control system likely saved the city from devastation during Nebraska's recent flooding.

However, on Thursday, debate on Senator Erdman's legislation to tax ag land on earning capacity rather than market value (LB 483), created another crack on the divide. Debate on the bill ran the full three hours and no vote was taken and the bill moved off the agenda. On Friday, Senator Groene accused the urban senators of filibustering the LB 483 and things came to a standstill again on Friday morning.

### **LB 243 - Create the Healthy Soils Task Force. Gragert. Gragert Priority Bill.**

The Nebraska Legislature advanced LB 243 to Final Reading on a 46-1-2 vote after adopting a clarifying amendment by Senator Hughes (AM 937) and defeating several motions and amendments offered by Senator Chambers. Senator Gragert's motion to invoke cloture and end debate was successful by a 46-1-2 vote (33 votes required).

Senators advanced the bill from General File on a 39-1-9 vote on March 21<sup>st</sup> after adopting the Committee Amendment (AM 640) and AM 789 offered by Senator Gragert. The bill proposes to establish a Healthy Soils Task Force within the Ag Department. Senator Gragert declared the bill as his personal priority bill for the session.

The committee amendment inserts the emergency clause to enable the appointment and initial meeting of the task force to occur by timelines specified in the amendment. The General File amendment offered by Senator Gragert (AM 789) clarified that there is only one report, not annual reports, and the \$10,000 funding is one time, not annual.

Although the Committee Amendment (AM 640) strikes all provisions of the original bill and replaces it with new language, it is very similar in concept. The amendment adds one additional agricultural producer representative to the task force (six total) and provides that at least two are producers using healthy soil practices. The amendment also adds one additional environmental group representative. Under the amendment, the task force make-up is as follows:

**Appointed Voting Members:** The Director of Agriculture or his or her designee; Two representatives of natural resources districts in Nebraska; Two academic experts in agriculture and natural resources in Nebraska; Six representatives from production agriculture, including at least two producers that are using healthy soil practices; Two representatives from agribusiness; Two representatives from environmental organizations in Nebraska.

**Non-Voting Members:** The chairpersons of the Natural Resources Committee and Agriculture Committee. Senators adopted an amendment (AM 937) offered by Senator Hughes on Select File to allow for the committee chair or their designee to serve on the task force.

The appointment of voting members would be made by the Governor. The amendment further adds guidance that in making appointments, the Governor should seek to appoint persons to provide the task force with expertise in incorporating soil stewardship practices in working operations and optimizing environmental services.

The amendment inserts a process for organizing the task force, including: 1) that appointments be completed within 60 days of the effective date; 2) expressly provides that task force members be reimbursed for actual and necessary expenses; 3) that the task force shall hold its first meeting by September 1, 2019; 4) select a chairperson; and 5) that the task force shall meet as necessary at the call of the chairperson. The task force may request support from state and federal agencies, the University of Nebraska and other organizations to facilitate the work of the task force.



The Healthy Soils Task Force would be required to do the following (the Committee Amendment, AM 640, added items # 3 & 4):

- 1) Develop a comprehensive healthy soils initiative for the State of Nebraska; and
- 2) Develop a comprehensive action plan to coordinate efforts to carry out such healthy soils initiative using standards for organic matter, biological activity, biological diversity, and soil structure as measures to assess improved soil health.
- 3) Identify realistic goals and timelines through voluntary partnerships among growers and relevant state, local and private entities.
- 4) Review the provisions of the 2018 Farm Bill and identify funding opportunities for the purpose of soil health.

The required action plan would include:

1. Issues related to providing farmers and ranchers with research, education, technical assistance, and demonstration projects;
2. Options for financial incentives to improve soil health; and
3. The contribution of livestock to soil health.

The committee amendment provides up to \$10,000 in funding from the Fertilizers and Soil Conditioners Act to cover the costs of the task force. The Task Force would be required to file a report electronically to the Governor and Agriculture Committee by January 1, 2021. The task force would terminate on that date as well.

On January 29<sup>th</sup>, the Agriculture Committee held the public hearing on LB 243. The committee advanced the bill on March 15, 2019 with Committee Amendment AM 640.

### **Hearing Notes**

During his opening Sen. Gragert told the committee the purpose of LB 243 is to promote soil health to improve health, profitability of soil, and to increase carbon sequestration. He noted the task force would investigate why more widespread usage of health soil practices aren't being used and will research ways to increase use. He expressed that the intent isn't to create new mandates to the ag sector; it's to make more resources available, noting this bill would benefit producers, consumers, and the environment.

Proponents included Annette Sudbeck, General Manager of the Lewis & Clark NRD. Sudbeck provided examples of the many programs and projects being implemented by NRDs to promote soil health. She also highlighted the benefits that improved soil health has on water quality.

Dave Potter, Assistant Manager of the Lower Platte South NRD also testified in support. Potter provided examples of partnerships between NRDs and producers to implement soil health practices. He expressed that his district feels an action plan is critical to long-term protection of soils.

There were several other proponents, including representatives from the League of Conservation Voters, Ward Laboratories, Nebraska Wildlife Federation, Nebraska Grazing Lands Coalition, Isaac Walton League, Nebraska Pork Producers, Nebraska Game and Parks Commission, Nebraska Catholic Conference and Nebraska Farmers Union. Several letters of support were also submitted for the record.

There were no opponents. Neutral testimony was provided by Steve Ebke, Nebraska Corn Growers Association. Ebke questioned whether a state task force is necessary, noting there are already multiple agencies dedicated toward soil health. Aaron Hird, NRCS, also testified in a neutral capacity telling the committee that NRCS will support efforts from conservation partners.