

RE: Watershed, Wetlands, Drainage Discussion Paper  
TO: South Dakota Watershed Task Force  
PL: Ramada Inn  
Mitchell, SD  
FR: Moody County Farm Bureau  
Dan VonEye, President  
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Moody County Farm Bureau thanks the Watershed Task Force for considering our comments pertaining to watersheds, wetlands, drainage, and other water issues.

It is our understanding that the Task Force was charged with conducting studies and evaluations on matters relating to drainage, erosion, flood control, reclamation, environmental protection, and improvement of lands, soils, waters, and all other authorized purposes and may advise any new or existing special purpose district or government entity on such issues. In addition, the task force shall consider potential alternative organizational structures and entities appropriate to address such issues. Once this is accomplished, the task force may offer recommendations for potential legislation to clear up conflict and fill in gaps if any are identified. In order to recommend suitable new legislation, knowledge of existing legislation – both what works and what doesn't – is necessary.

Moody County is located in east central South Dakota on the Minnesota border and usually receives more rainfall than counties further west. Therefore our concerns and issues are likely different than western counties

Moody County Farm Bureau strongly supports several key principles relating to watershed, wetlands, drainage and related issues. Among them are:

**No system is perfect.**

Moody County has a drainage ordinance based on the blue lines found on FEMA maps. In most instances this has worked very well, however there is room for improvement.

For example, the assumption that all blue lines eventually connect to a flowing stream does not always hold true. Sometimes the surface water in a blue line disperses into an alluvial fan and does not reach a flowing water way. Placing a drainage outlet below the alluvial fan would help with this problem. But this may involve landowners that may not have a drainage issue prior to the installation of drainage structures by upstream landowners. In such situations some sort of local control board should be able to propose a solution for all involved parties.

In spite of limitations such as the above, we believe that the Moody County drainage ordinance is a valuable, working model that others may wish to consider based on our successful experience. In addition, we also believe that no alternative structural proposals or potential legislative changes are without weaknesses.

### **Local control is important.**

Until about 2000, South Dakota producers were held (by the Natural Resources Conservation Service [NRCS]) to much more restrictive drainage standards than our neighbors in Minnesota. Much of this situation has since been rectified by the Natural Resources Conservation Service (NRCS). This lag left many South Dakota landowners playing catch-up. The relatively rapid pace of building or installing surface and subsurface drainage has remedied many cropping problems but has also led to some clashes between upstream and downstream landowners. Much of the time these situations are worked out amicably among the involved landowners. To try to address situations where the involved landowners remain at odds the legislature passed a series of drainage laws which can be found in Chapter 46A-10A "County Drainage." This solution put drainage in the hands of "local control" – a good thing – and we believe this is where it belongs.

We believe that the best long term decisions are made by those closest to the situation. Again, our experience with the Moody County drainage ordinance supports our belief.

### **Benefits and liabilities ultimately reside with property owners.**

We are aware that some counties have eliminated or discontinued their drainage ordinances. Some may have made this decision based on the impression that they will be able to avoid potential liability issues by relying on legislation requiring professional engineer involvement in drainage plans. Professional engineers are a valuable resource; however, like most professionals their contracts and cover letters clearly remove themselves from accepting liability.

Farmers, landowners and tenants are the ultimate beneficiaries of their land and water related decisions and are therefore primarily responsible for accepting the risk and liability associated with those decisions. This philosophy also requires a demonstration of respect for the rights of neighbors. Professional advice, legislation or regional authorities will not change liability and only tends to remove decision making from those most impacted and add cost to the process.

### **Conclusions.**

In summary, we believe the success demonstrated by the Moody County drainage ordinance, even though it has weaknesses, provides a model for others who support the ideals of local control and property owner responsibility.

Improved drainage and water management practices have contributed much to South Dakota communities in recent years. Increased crop revenues due to improved yields, greater production flexibility, reduced salinity and reduced soil compaction have grown local business opportunities and provided more tax dollars for local community use. South Dakota farms and towns are better able to compete in a changing world.

The Task Force may also consider investigation of wetland mitigation banks as a potential future watershed tool. It may also be worth reviewing urban drainage to determine if, like fertilizer and chemical use, residential drain tile used to avoid flooded basements is more concentrated on a per acre basis than agricultural use.

Again, the Moody County Farm Bureau members thank the Watershed Task Force for taking time to consider our concerns.