Grassroots anger pushes Congress into action

"I think it's terrific," Landscapes Unlimited's William Kubly said of proposed changes to the system. Kubly, whose company is headquartered in Lincoln, Neb., builds golf courses around the country, added: "It's been ridiculous. We've had a 10-by 30-foot piece of land in the middle of a fairway on top of a hill declared a wetland.

"I'm all for wetlands preservation but not in those small pieces. I'd say that's revisionism.

 Jabby said the regulatory system "has really been handcrafting us out in the field. And the costs to the owners are getting so high that it is not cost-effective to build golf courses any more in certain parts of the country due to wetlands and erosion control."

Tom Clark of Wheaton, Md., president of the American Society of Golf Course Architects, said: "I'm encouraged to hear a lot of congressmen are starting to hear from their voters. People are starting to take steps in the right direction."

Rhod Shaw, an aide to Rep. Jimmy Hayes of Louisiana, who drafted the leading wetlands bill, said the move is "gaining support in Congress. By early July, 149 co-sponsors from 38 states and Guam had lined up behind the Hayes bill. Shaw said, "because it's a grassroots issue. Everybody's (congressmen) getting an incredible amount of reaction from home."

"The system's wrong. The system's broken. People should get involved and let their legislators know. Reality is the greatest check for where we need to head on this."

WETLANDS DISAPPEARING

At the center of the problem is the need to preserve the nation's wetlands and to balance that with responsible management and development. Experts say the United States is losing 500,000 acres of wetlands a year, a portion simply becoming open water.

Swamps, marshes and bogs were once considered wasteland. The government encouraged draining them for farming or development. The Clean Water Act of 1972 changed that, requiring the owner of wetlands to obtain government permission to build. There was little controversy until the 1989/1990 economic collapse.

All agree nobody wants "true" wetlands destroyed. Yet the issue has been clouded by lack of consistency in interpreting the wetlands maps and scale of years in some cases.

"We all want to preserve wetlands. The problem is the time it takes to get a permit," Clark said.

"I'm sensitive to wetlands issues myself," Kubly said, adding that the EPA and Corps

149 congressmen co-sponsor 'sweeping' new legislation...

By Mark Leslie

Louisiana Rep. Jimmy Hayes has introduced legislation that he says will provide protection of wetlands while "providing a legal system for balancing the competing interests of wetlands protection, essential community growth and infrastructure, and private property rights."

Hayes' HR 1330 would "revamp the whole (Clean Water Act Section) 404 program," according to environmental consultant Mike Shaw. He noted that 60 to 70 percent of the American population lives within 50 miles of the coast. He added: "We have people living there, moving there. How do we co-exist with those areas?"

"We have to start making some pretty tough decisions. That's where HR 1330 really comes about."

HAYES' 'FIXES'

A key element of Hayes' HR 1330 is classification of wetlands according to their values "because not all wetlands are created equal," according to environmental consultant Mike Shaw. Shaw called it "narrowing the jurisdictional scope of the program to functional wetlands."

It also aims to measurably speed up the approval process; unify the program in the Corps; provide that preventing development of a highest-classified wetland is considered a "taking" for which the landowner must be compensated; and encourage states to establish programs meeting Corps approval.

Under HR 1330, wetlands would be classified under three types. The first would be regulated on a limited approval process; the second would be regulated at the same level. The third would be regulated on a limited basis.

Shaw said: "Current 404 law is not a management program. It does not get at how you can actively manage, conserve and handle the property. And it does not recognize that you have to have some kind of balancing mechanism to allow central community growth to co-exist with environmental protection."

Noting that 60 to 70 percent of the American population lives within 50 miles of the coast, he added: "We have people living there, the fed to deal with. We have the state to deal with. We've got a water management district to deal with — and even the county government, which may be more stringent than all three."

"The key to this whole issue is to try to get some consistency in wetlands definition that serves all four interests; right down to the local government.

The "subjective" issue is another that will bring debate. Kelley said: "I will give lawyers work. The Hayes bill sets up more lawsuits if you do have wetlands classified as high value on your property. It sets up compensation if you can't develop."

STRICT SEQUENCING

Another point of debate will likely be what legislation terms "strict sequencing."

"Here we clearly diverged with the environmental community," Shaw said. "In 1989 the EPA and Corps signed a memorandum of agreement on strict sequencing. When you get an application for a permit today, the very first thing we look at is, can this person avoid doing the project in a wetland? So you're told you do something on your property even if you don't have the financial wherewithal to buy another property or use another alternative."

MAPPING

Consequently, the EPA or Corps have become planners, not regulators, he said.

The Hayes bill also proposes national mapping to determine wetland areas. This would help prospective land buyers by letting them know before they buy if a property contains wetlands.

But it would be a project of massive expense and, Shaw said: "I don't expect it to be passed. We just wanted to give people the idea to discuss.

"A lot of arguing needs to be done to it. Current law isn't working. We're losing 500,000 acres of wetlands a year, anyway. The environment clearly isn't benefiting under the current system and even if you don't have the financial wherewithal to buy another property or use another alternative."

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