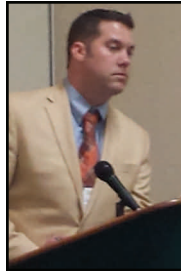


The MLICA Scoop



Spring 2014

From the Lead Plow, Mike Pennington, President MLICA



I hope everyone is having a safe and productive spring work season.

MLICA has had a productive last couple of months, we had members representing the organization out at Con-Expo and had an excellent turn out taking a motor coach down to Paulding Ohio touring the Baughman tile factory, And, of course keeping an eye on what the government is proposing to do to us.

Two big issues, road funding and proposed increases in oversize vehicle permit fees and a big one, new EPA proposed rules expanding federal jurisdiction of waterways. Looking to the future, it is more important than ever that we can be sure to grow as a group and continue to stay proactively involved in all areas of our industry.

I also would like to thank all of you who have attended or worked to put together these events to give us as a group more exposure and knowledge.

Lets all go out and be stewards of our industry to protect the foundation that has been laid out by our forefathers, and to nurture it for future.



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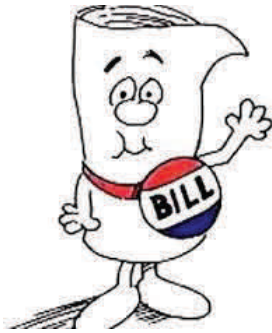
EPA Proposed New Rule

The U.S. Environmental Protection Agency and U.S. Army Corps of Engineers jointly released a proposed rule to "clarify" protection under the Clean Water Act for streams and wetlands. "Clarify" apparently means EPA & USACE want jurisdiction on most all tributaries leading to "navigatable waters."

EPA Claims that determining Clean Water Act protection for streams and wetlands became confusing and complex following Supreme Court decisions in 2001 and 2006.

The proposed rule was published in the Federal Register on Monday, April 21, 2014. The public comment period will be open for 91 days and will close on Monday, July 21, 2014.

Here we go again Wetland, Drains, EPA & DEQ, Scott Everett, MLICA Legislative Consultant



What a mess.

Last year the Michigan Legislature passed SB 163/PA 98 that changed both Michigan's Wetland Law and the Inland Lakes and Steams Act.

At the time, the Michigan DEQ claimed that Michigan had to change it's law because we were not in compliance with Federal Law.

MLICA opposed this legislation because we didn't believe (*and still don't*) that Michigan Law has anything to do with federal law or federal rules. Michigan law only applies to "Waters of the State."

Be that as it may, the Michigan DEQ and other groups disagreed and thought it best to amend Michigan law by removing and dramatically changing long stand exemptions for agriculture and agricultural drainage in hopes that EPA would be satisfied.

To our knowledge, almost a year later, the EPA still has not indicated whether or not Michigan is now in compliance with Federal law.

But . . . the law is on the books, PA 98, it is in effect, there are private drains that require a permit from the DEQ to clean and certain things you can't do in a wetland anymore. But, no word from the EPA.

Now, here we go again. EPA now wants to change the rules for the whole game.

Historically the struggle between local/states and the federal government specific to both wetlands and streams/drains, is— who has the jurisdiction. It's a long standing

debate which revolves around whether or not a stream is "navigatable" or not. And, whether a Wetland is associated with a "navigatable" water way or not

If the stream/waterway is



navigatable, it is governed by federal law. If it's not, it's under state law. The same for a Wetlands

Over the years this debate has never been totally resolved but at least you could argue it. I think I know what a navigatable waterway is when I see it. Like, any of the Great Lakes, navigatable?

Yep. Or, the Grand River here in Lansing, navigatable?

Yep. Those waters clearly governed by the Federal Government and the Clean Water Act.

The Smith Drain in my township? or most any County Drain OR a Private Drain built in this state. Navigatable? NO, under Federal Jurisdiction? NO. Just my unscientific opinion.

But that may change. EPA's proposed new rule expands the definition of navigatable to include tributaries. And, in a state like Michigan, that

could mean just about everything. Every drain, every stream and every wetland potentially governed by the Federal Clean Water Act.

On May 1st more than 200 Members of Congress, including 9 from Michigan sent a letter to the EPA and the Army Corp of Engineer expressing serious concerns with the proposed rule re-defining the scope of federal power under the Clean Water Act asking them to return the rule to their agencies to address the legal, economic and scientific deficiencies of the proposed rule.

And, so what does this all mean? In all honesty your guess is as good as mine. We have a total mess on our hands between the Michigan DEQ, the Michigan Legislature, EPA and Army Corp.

After the Michigan Legislature passed SB 163 last July removing critically important language for agriculture and drainage, combined with EPA's new rule change, all indications point toward this quickly becoming a who's is in charge? of what? By who? When? and where? Situation.

And, if you ask questions attempting to do the right thing, you will end up in a who's on first discussion with some bureaucrat somewhere that is definitely not your elected drain commissioner.

More to come on this for sure.

A handwritten signature in black ink, appearing to read "Scott Everett".

Scott Everett

The VP UPDATE, Mike Cook, SWMS, Westphalia, MI

To fellow Michigan LICA partners: What a long winter and delayed spring! I Hope all are getting going now, but for me today, middle of May, its raining . . . hard. It's gotta rain hard every now and then to make sure our customers appreciate us you know.

The winter weight restrictions delayed many. Ours did not come off until April 21, and I even heard Russ Talasiki over in Huron County couldn't move until May 5th.

With the snow or frost this was one for the books . . . many old timers (**which ain't me!**) can't remember delays in work this long. Keep your thoughts for fellow contractors in the Illinois, Indiana & Iowa areas who also were not able to work at all. For them, winter is like our fall...the main portion of their workload is done December to early March.

This past March, Will Word, Dave Kemp, Jon Kraak, and myself along with Nate & Adam and families, attended the National LICA meeting in Las Vegas, NV. Will Word, and to my surprise we "conned" Dave Kemp into representing Michigan at the LICA business session and they both survived. The good news was on a national LICA level, there were not any conflicting issues needing a vote!

As most of you may have heard, I was elected to be the National Region 3 LICA Vice President. I look forward to representing Michigan, Indiana, & Ohio for National LICA. Overall, nationwide, LICA gained nearly 500 members last year, and Michigan contributed 6. Which, is ok, new members are new members, but it's not what it nearly needs to be. If MLCIA is going to continue to effectively serve the Michigan Drainage industry, we are going to need to grow faster.

PLEASE forward Scott any info for potential members to get on our mailing list. My thoughts are "if you can't beat'em" make'em join MLICA to learn. We all learn something every time we meet!

I will keep you all updated on National LICA happenings as I will be attending the summer meeting in Indianapolis, I hope some of you will consider attending.



Michael A Cook



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The minimum wage issue has been a very hot issue in Lansing. Here is an update and recommendation to contact your State Representative.

As you may know, a group called "Raise Michigan" has gathered enough signatures to go to the ballot proposing the minimum wage go to \$10.10 an hour by 2017 and is indexed to the rate of inflation.

All polling information indicates that this ballot proposal would pass and pass easily in the State of Michigan.

Meanwhile, legislation was introduced designed to pre-empt the ballot proposal, SB 934 as introduced would repeal the current minimum wage law and put a new one in at \$8.15 per hour. This sounded very attractive especially compared to what the ballot proposal would do.

However, when SB 934 was voted out of the Senate (on 5/15/14) the bill ended up increasing the minimum wage to \$9.20 an hour by 2017 (\$8.15 by Sept 1, 2014) and is indexed it to the rate of inflation of not more than 4% a year. Also important to note, teenagers 17 and under, could still be hired for 85% of the minimum wage rate which would be \$7.82 in 2017.

The political situation within the Michigan Senate was that there were so many Republican Senators not willing to vote for this bill, they had to get most of the Democrats on board with it and \$9.20 an hour is what it took to do that.

The legislation now goes to the House of Representatives.

MLICA members need to contact their Representatives on this issue. There are several different ways to go on this, but one of them is **NOT opposing the legislation**. Remember, the alternative is the ballot proposal.

We recommend you communicate the following:

You cannot support a 24% increase in the minimum wage to \$9.20 an hour by 2017 along with indexing it to inflation.

Support increasing the minimum wage to \$8.15 an hour .

Indexing inflation beginning with \$8.15 an hour is positive or negative. The positive part is by doing this, it should keep the legislature out of increasing the minimum wage from here on out. The negative is, the minimum wage will probably go up every year.

Again, please contact your State Representative and provide your input.

Limited Liability Agreement Available

We are going to continually remind MLICA members about this because it is very important.

SB 163/PA 98 that changed Michigan Wetland/Steams Law and now more proposed EPA changes, makes it critical that MLICA contractors proceed with caution when asked to do work with in private drains or wetlands as many are no longer exempt from a permit.

We have a Liability Agreement available designed to limit your exposure. One of those things that absolutely cannot hurt, and may be of great benefit if you end up doing something at the direction of your customer that was suppose to have a permit and didn't

Please e-mail severett@fraserlawfirm.com to get a copy of the agreement.



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Spring 2014



Many MLICA members had to be pretty much feeling like this squirrel did at some point during the last couple of months.

Between the snow, frost, and weight limits, landowners had to be looking at you guys like these dogs. Probably not saying much, but just waiting, and wondering when you were finally going to make your move.

In this case, 200 lbs worth of German Shepherd between the walnut tree and the fence. It took a few days, but he he apparently made it out in one piece.

The key was being patient.

Something all MLICA members have needed during the spring of 2014.



MLICA Baughman Tour 2014

In March MLICA organized a field trip to Paulding, Ohio home to Baughman Tile Company. 50 MLICA Members and guests traveled by motor coach into Buckeye country where the red carpet was rolled out by the Baughman Family with lunch and a 1st class tour of their operation.

The Baughman Tile Company was established in 1883 and began production of 20,000 feet of clay tile per week. Five generations of the Baughman family have operated the business and met the demands of the drainage industry by continually expanding and improving their product line. Today the company employs approximately 75 people and can produce 3,500,000 feet of polyethylene tile per week.

Special thanks to Will Word, Word Construction and Baughman's James Proffer for organizing the trip.



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Unemployment Rate Falls Slightly In April

Michigan's unemployment rate continued its recent downward trend, falling 0.1 percentage points in April to 7.4 percent.

The Department of Technology, Management and Budget reported today that employment rose by 14,000 for the month while the labor force also rose by 11,000.

It is the eighth consecutive monthly decline in the unemployment rate.

House Reports Bills To Phase Out Driver Responsibility Fees

Two bills that will phase out what have become some of the most hated fines in the state were sent to the full House today when the House Appropriations Committee reported HB 5414 and HB 5501 to end the state's driver responsibility fees.

The fees were enacted more than a decade ago in part to promote greater traffic safety by hitting bad drivers in the pocketbook – and to help give the state's budget a needed revenue boost – but the fees were quickly denounced as double jeopardy punishments and actually making it more likely unsafe drivers would be on the road. Unable to pay their fees, drivers with suspended licenses stay on the road to keep working to pay the fees, the panel was told.

The bills would phase out the fees by, in part, ending requirements that some fees be paid over a two-year period and instead requiring they only be paid in one year.

Then the fees would be ended in the 2017-18 fiscal year.

The committee also reported legislation passed by the Senate, SB 893 and SB 913, to help close the deficit in the state's health insurance claims assessment.

Road Funding

In May the House approved a \$450-million road-funding plan which is being called a "first step" toward a comprehensive solution for repairing the state's crumbling roadways.



The 10-bill package, backed by House Speaker Jase Bolger (R-Marshall), includes bills to allocate some \$370 million in future General Fund dollars to roads and to convert the state's flat gas tax to a percentage-based tax. The bills passed in the house received more than 25 "no" votes, (of 109 present)

Various estimates in Lansing say a comprehensive solution would bring an annual price tag of at least \$1.3 billion.

Governor Snyder was quick to applaud Bolger and the House for "being responsive to the concerns expressed statewide by motorists and job providers.

"It's important to keep this momentum alive and the effort of our House partners do just that," Snyder said.



The debate on the House floor today was whether the \$450-million plan was enough. Some lawmakers spoke out against the plan, saying the Legislature needed to do more and do it now.

Some opponents to the package are saying the House should be debating a road funding that was in the billions not in the millions.

The package includes the following:

HB 5460, expands requirements for warranties on state and local road projects, passed 109-0.

HB 4251 townships that contribute more than 50 percent of the cost of a road project to require the county road commission to competitively bid the project. The bill passed, 92-17.

HB 5167, allows the state to contract for road maintenance services, passed, 108-1.

HB 5453, increases fines for overweight vehicles, passed, 104-5.

HB 5452, increases fees for vehicles that exceed the state's current size restrictions, passed, 98-11.

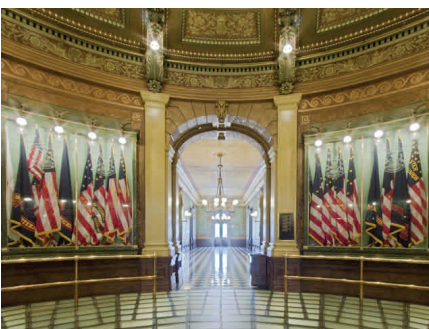
HB 4630, reforms state registration fees, passed, 90-19.

MLICA has \$ concerns with HB 5453. The movement permit for a season for oversized loads is currently allows counties to charge up to \$100.

HB 5453 as introduced provided for up to \$200.

An amendment in House Committee and passed by the House provides for an up to \$500 to be charged for a seasonal moving permits. Which, in MLICA's opinion is a bit excessive.

MLICA would support \$200 rather than \$500.



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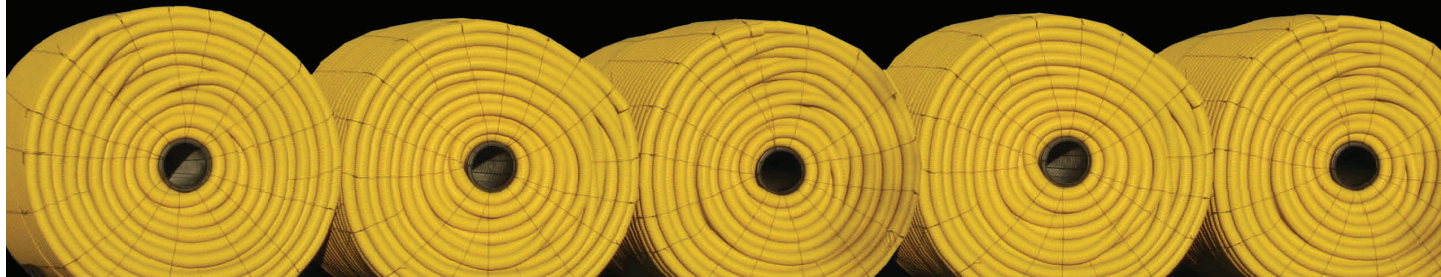
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SFA Scales Back Projected Revenues By Combined \$665.4M

The Senate Fiscal Agency (SFA) is suggesting that state revenues be scaled back for Fiscal Year(FY) '14 and FY '15 a combined \$665.4 million.

The House Fiscal Agency (HFA) reported it was suggesting that state legislators should count on a combined \$873.2 million less than what state officials agreed upon in January.

The SFA reported that an expected slower growth in the Michigan economy this year as opposed to last year, combined with a collection of one-time tax reporting events in FY '13 caused by the "fiscal cliff" events of December 2012 is creating slower state revenue growth. Tax collections in the first half FY '14 appear to be "depressed" by the federal government shutdown in the first quarter and the "usually severe winter weather."

SFA is suggesting that General Fund (GF) revenue estimates for the current FY '14 be scaled back \$221.8 million from January. School Aid Fund (SAF) revenues should be reduced \$65.9 million for a combined \$377.8 million. The HFA projected a combined \$422 million less (\$300.3 million General Fund, \$121.8 million SAF) at its disposal than previously estimated. The General Fund is expected to end FY 2014 with a \$311.4 million balance, the SAF with a \$235.8 million balance and the Budget Stabilization Fund with \$588.7 million, according to the HFA. The SFA believes General Fund revenues for FY '15 will come in \$289.4 million less than expected.

