



Governor Makes Right Call on Returning Wetland Permitting to Feds

By Russ Harding

Summary

Gov. Jennifer Granholm's proposal to return oversight of the wetland permitting process to the federal government would be a step in the right direction for Michigan's economic recovery.

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Gov. Jennifer Granholm made the right policy call in announcing her decision to return wetland permitting to the federal government. The announcement was met with heavy applause as she delivered her State of the State address, but since that time there has been much criticism of the proposal from environmental groups and from members of both parties in the Legislature, including Sen. Patty Birkholz, R-Saugatuck Township, chair of the Senate Natural Resource and Environment Committee. Opponents claim that wetlands in the state will go unprotected, but estimates of potentially unprotected wetland acreage are unreliable as the state's wetland inventory is not accurate.

Michigan was the first state to take control of federal wetland permitting when it assumed the program in 1984 — New Jersey is the only other state that operates the federal program within its borders. The rationale for taking over the program was sound but much has changed since 1984. The expected benefits from operating the federal program never materialized:

- **Funding** — The feds promised funding, but Michigan currently spends more than \$2 million per year in tax dollars to operate the program.
- **Autonomy** — State officials reasoned that they would make better decisions than their federal counterparts. In reality federal officials continue to micromanage the program. Almost every state wetland permit decision is reviewed by the Environmental Protection Agency; the same level of scrutiny does not occur in the other 48 states.
- **Efficiency** — This may have been true at one time, but in responding to criticism from Congress, the Army Corps of Engineers has streamlined the process by adopting nationwide general permits. (While the EPA has review authority, the Corps does the actual permitting.) The Michigan Department of Environmental Quality, however, in the last few years has moved in the opposite direction, making wetland permits more difficult or impossible to obtain for many landowners and businesses in the state. The Legislature's attempt to mandate permit adjudication timelines has been less than successful. The DEQ bureaucracy has circumvented legislative intent by routinely declaring wetland permit applications incomplete, thereby resetting the permit time clock.



"Hart Enterprises: A Wetland Case Study" details the problems associated with Michigan's wetland statute and the negative effects it has on property owners. It can be read at www.mackinac.org/9504.

It is curious that state environmental groups are now lobbying to keep the state in the business of issuing federal wetland permits. The Michigan Environmental Council in 1997 petitioned the EPA to take the wetland delegation back from the state, claiming the Corps would do a better job.

The \$2 million that could be saved by returning the program is helpful, but the largest benefit is regulatory certainty for job providers in Michigan. Returning the program to the federal level will ensure wetland permit applicants will be subject to the same set of rules as the rest of the nation. The definition of wetlands used by the Corps is easier to understand than state law and provides more certainty for developers who are used to complying with federal requirements in the other states.

Currently in Michigan an area is a wetland if the DEQ considers it to be a wetland. The lack of regulatory certainty in Michigan is chasing jobs to other states. Hardly a week goes by when I do not receive a call from a frustrated landowner, farmer or business owner who has given up on investing in Michigan due to the state's overzealous regulation of wetlands. Relying on the Corps for wetland permitting is not a panacea, but it is a step in the right direction.

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