

May 25, 2017

Summer Study Update – Flooded Private Property

As we've previously reported, a legislative summer study committee has been moving quickly to tackle the issue of flooded private property which has plagued stakeholders and the Legislature for well over two decades. They are seeking to address the ambiguity that currently exists regarding the public's right to public water over private property, specifically nonmeandered water bodies (lakes that didn't meet the criteria to be "meandered" during the original survey of the state).

The interim committee met for a third time on May 24 to discuss draft legislation which has been referred to as the "Five Open Compromise". A group of landowners has engaged with representatives from the Governor's office and SD Game Fish and Parks to draft the legislation that would restore some level of private property rights to landowners with flooded land, with some exceptions. The draft bill can be found on the Legislative Research Council's (LRC) website here: <http://sdlegislature.gov/docs/interim/2017/documents/DNMW05242017.pdf>.

Following committee questions and public testimony on May 24, the interim study committee postponed action on the draft legislation until June 2, when a fourth and final meeting of the summer study group will be scheduled (check the LRC website for details as they will be posted in the coming days). Representative Lee Qualm, who is chairing the committee, asked committee members to have their proposed amendments to the LRC staff by no later than Monday, May 29 so they can be distributed to the committee members in advance of next Friday's meeting.

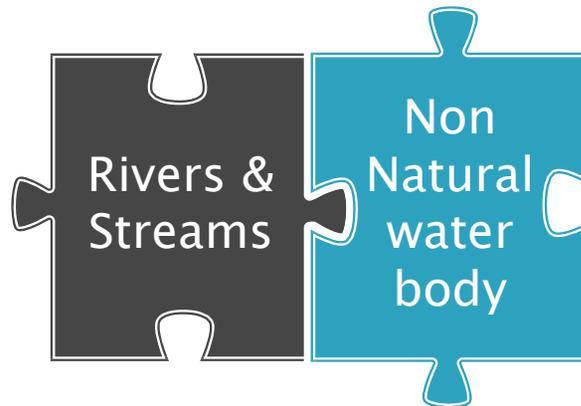
SDCA policy regarding flooded private property indicates support for private property rights, and, while we recognize it may not go as far as some would hope in protecting our private property rights, we are inclined to support the proposed legislation as it appears to be a step in the right direction to manage the tension that exists between private property rights and the public's right to utilize the water. As might be expected, some sportsmen and sportsmen organizations have expressed opposition to the proposal as it will provide some limitations regarding recreational access to flooded private property. However, if legislation could be passed during a special Legislative Session in June, that would allow waters that have been closed to be re-opened and would provide relief to those small businesses and communities in northeastern SD who are suffering from decreased revenues due to the absence of fishermen.

Keeping in mind that whatever action might be taken during a special legislative session could be changed during the 2018 Session that begins in January, we believe the proposal is likely a good compromise since it appears no one group of stakeholders is completely happy with what is included in the draft bill. SDCA members are encouraged to review the draft bill and provide your feedback by next Wednesday, May 31 for incorporation into comments that will be provided to the interim legislative committee on behalf of SDCA. Feedback should include your name and location (for SDCA's records) and be emailed to Jodie at executive@sd cattlemen.org; text to 605.280.9190 or call the office at 605.945.2333.



5 Open Compromise

Recreation and Respect = Sound Public Policy

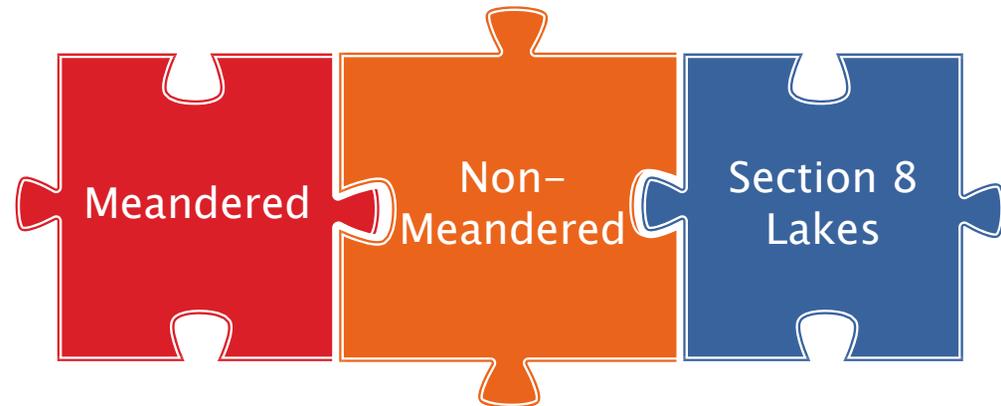


Excluded by definition of Meandered lake in Section 2

Addressed in existing law

Excluded by definitions in Section 2

Examples: stock dams and swimming pools



3. Open

4. Open by agreement with GFP

5. Open by permission

6. Open by default

(if the land owner does not mark under Sections 12 & 13 – marking is subject to transportation lane under Sections 16 & 17)

7. Open by historical use

Note: A land owner may petition the GFP Commission for relief under Section 9