

INTERIM AGRICULTURE COMMITTEE**January 14, 2014****Roughrider Room****North Dakota Department of Transportation****David Dewald**

Mr. Chairman and members of the committee, I am David Dewald, Wetland Mitigation Specialist, of the Environmental and Transportation Services Division at the North Dakota Department of Transportation (NDDOT).

Thank you for the opportunity to provide testimony today regarding Chapter 43-36 of the state Century Code, relative to Professional Soil Classifiers.

In order to meet NDDOT's mission, we build and maintain roads across the state. During that process, we review road projects to determine possible environmental impacts. In this case, specifically to wetlands under the jurisdiction, ownership or easement of the following agencies:

- United States Army Corps of Engineers.
- Federal Highway Administration policy relative to Presidential Executive Order 11990.
- United States Fish and Wildlife Service.
- To avoid, minimize or compensate for wetland impacts, as required by these laws or policies, NDDOT is required to delineate wetlands that may be impacted by transportation projects. Wetland delineations require a three parameter approach through the determination of predominance of hydrophytic plants, hydrology and hydric soils. The determination of hydric soils is relative to the current law regarding professional soil classifiers.

In order to conform to the North Dakota professional soil classifiers law, NDDOT requires consultants making hydric soil determinations for all wetland delineations to have professional soil classifiers.

- Wetland delineations are completed for road projects that include new roadways, truck bypasses and reliever routes; widening of existing roads; and culvert or bridge replacements.
- NDDOT also requires professional soils classifiers when consultants complete wetland delineations for proposed wetland mitigation sites and for monitoring completed wetland mitigation sites and banks.
- NDDOT has also enlisted the expertise of professional soil classifiers where soil properties have limited the successful establishment to grass or tree plantings.
- NDDOT outsources over 75% of the work relative to road construction. That means that the majority of wetland delineations completed for road projects will require a professional soil classifier.

The professional soil classifiers law exempts the use of classifiers under Century Code 43-36-24.4 which states "...providing the soil classifying performed is in the connection with the property, products or services of that person's employer." In accordance with the exemption, NDDOT does not require professional soil classifiers for wetland delineations completed by Department staff.

The professional soil classifiers law does not require professional soil classifiers for soil engineering properties relative to the building of roads or bridges. These types of soil determinations are exempt within in the definition of "Practice of soil classifying and the practice of professional soil classifying" under Century Code 43-36-01.3.

Additionally, we thought it would be good to share how some other agencies follow the law. Our understanding is that:

- The United States Army Corps of Engineers wetland classification protocol does not require hydric soil determinations to be completed by professional soil classifiers.
- The Natural Resources Conservation Service (NRCS) does not require professional soil classifiers for hydric soils determinations. However, when NRCS contracted wetland delineations with private consulting firms, they required professional soil classifiers to comply with the state law.

Thank you, Mr. Chairman, this concludes my testimony.