CALIFORNIA WATERFOWL

Hunting for a Better California

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To:	NRCS, Easements Programs Division	**Fax:**	(202) 720-9689
From:	Greg Yarris, Director of Conservation Policy	**Date:**	3/16/2009
Re:	Wetlands Reserve Program Comments	**Pages:**	4 page(s) & Cover Sheet

CC:

Urgent **X For Review** **Please Approve** **Please Reply** **Please Process**

Notes:

Please see attached.

CALIFORNIA WATERFOWL

March 12, 2009

Easements Programs Division
Natural Resources Conservation Service
Wetlands Reserve Program Comments
P O Box 2890, Room 6819-S
Washington, D.C. 20013

Re: Comments on the Interim Final Rule of the Wetlands Reserve Program

Dear Sir or Madame:

Over 5 million waterfowl rely on wetlands of California, roughly half of the Pacific Flyway population. In addition, millions of shorebirds and many other wetland-dependent water birds pass within our borders during different times of the year. Wetland loss in California, similar to many other states, is an environmental catastrophe; only 5% of the California's original wetlands remain due to urbanization, flood control projects, and conversion to agriculture. California's human population will grow from 37 million to 50 million people over the next 20 years, and it will continue to be a challenge to conserve and restore wetland habitat in a state with competing demands for limited land resources.

The Wetlands Reserve Program (WRP) has done more to protect and restore privately-owned wetlands in California than any other program. California landowners have voluntarily enrolled over 100,000 acres in the WRP, permanently protecting these areas for waterfowl and wetland-dependent flora and fauna. The program's reauthorization in the 2008 Farm Bill will continue to serve fish and wildlife resources in California and the Nation.

We are pleased that the program will increase the acreage cap to 3,041,200 acres through the year 2012. In addition, the increased flexibility in easement acquisition valuations that allow for appraisals, market analyses, geographic caps, or landowner offers should provide greater program efficiency and address a key bottleneck to program implementation. However, there are several aspects of the Interim Rule that are of considerable concern.

Statutory change that extends land ownership eligibility requirements from 12 months to seven years.

The requirement that applicants are ineligible if they have not owned the land for at least seven years could severely reduce enrollment in California. It is critical that the State Conservationist be given as much latitude as possible to determine that such lands were

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not acquired solely for the purpose of enrolling the property into the WRP. We recommend that the State Conservationist be given authority to grant a waiver when it can be determined that the property was not purchased solely for enrollment in WRP or in special circumstances where restoration activities on marginal or flood prone farmland will clearly have substantial agronomic, ecological, or biological benefits. Special consideration should also be given to projects that help conserve at-risk, candidate and listed species, or will help preclude the listing of a species.

Limiting restoration payments to $50,000/year on 10-year restoration cost-share agreements.
From past experience, the average 10-year restoration agreement in California costs $160,000. A $50,000 payment cap will result in fewer acres of wetlands restored and will increase the time and expense for restoration on larger acreages. Larger projects reduce the need to piecemeal restoration, thereby increasing the cost effectiveness of the program. We recommend the State Conservationist be given the authority to grant a waiver to projects with high biological value in areas where restoration is expensive and exceeds the average national restoration cost, or to projects that can demonstrate cost efficiency through the implementation of a large scale project.

Land Transfer Requirements.
When a parcel of land has been accepted for enrollment, but then changes ownership before the easement is completed, the rule states that the purchase will be canceled and the acres removed from enrollment. We recommend the new landowner be checked for eligibility and, if eligible and wishes to continue the enrollment process, the application should be transferred and not canceled.

If land is sold to an ineligible party, the rule states that the participant with the contractual obligation (the previous owner) is still responsible for any remaining items in the Wetland Restoration Plan of Operations (WRPO). If the new (and ineligible) landowner does not agree with the WRPO, NRCS would be forced to pursue the previous landowner and require them to complete the WRPO or refund the easement cost and restoration payments. This arrangement will deter potential applicants, could lead to increased enforcement and legal activity, and is subject to changing conditions and rules of eligibility. We suggest that the NRCS be allowed the flexibility and expressed right to "perform" restoration and maintenance activities on WRP lands as necessary (note the need to reinstate the language "perform" in rule section 1467.11(a)(2) rather than "ensure").

Recreation.
Fully two-thirds of the wetlands in California are privately owned and managed as waterfowl habitat to provide hunting opportunities. In order to restore additional private wetlands, we strongly encourage the NRCS to protect these hunting opportunities to improve landowner participation. Maintaining hunting on WRP lands as a reserved right is critical to the success of the program. Hunting (and fishing) should be reserved rights that are regulated by the State Wildlife Agency and the US Fish and Wildlife Service. We request that hunting and fishing be removed from this paragraph and that the Interim

Final Rule indicates that hunting and fishing is a reserved right. We also strongly encourage the establishment of the Voluntary Public Access and Incentive Program, which seeks to provide additional needed hunting opportunity to the general public. Such a program will provide further incentive for participating in WRP, while potentially garnering regional public support for the program.

Easement Compensation.
In critical wetland areas of California, even for marginal farmland, WRP easement payments can easily exceed $500,000. We encourage the NRCS to be as flexible as possible in determining when easement payments of more than $500,000 can be paid in lump sums instead of annual payments. This could best be facilitated by allowing this decision to be made by the State Conservationist, not the Chief of NRCS.

Enrollment of Riparian Areas.
The 2008 Farm Bill statute continues to allow riparian areas to be included within the Wetlands Reserve Program when they link protected wetlands. This is an important tool because riparian areas are critical to many species of wildlife. In addition, these areas provide corridors for the movement of plants and animals through often otherwise uninhabitable landscapes. However, the WRP Interim Rule has placed greater restriction on the enrollment of riparian areas than either the law or past NRCS policy. Specifically, Section 1467.4 relegates riparian area enrollment to only be included when other lands as specified in Section 1467.4 are included (e.g., farmed wetland or converted wetlands, farmed under natural conditions) This discretionary change by NRCS will make it extremely difficult to enroll important riparian areas into WRP. Therefore, we request that riparian area be eligible for enrollment as a stand alone land eligibility that only has to meet the statutory criteria of linking protected areas. In addition, latitude should be provided to the State Conservationist to waiver this requirement when special circumstances support doing otherwise.

WREP Pilot Program.
The statute and Interim Rule provides for the pilot of a Wetlands Reserve Enhancement Program that allows grazing rights to be reserved to the landowner with a reduction in easement payment. This will be an important tool in the West to protect and restore areas critical to wetland dependent wildlife. The existing program only allows for grazing to be provided as a compatible use at the discretion of NRCS. This has deterred many traditional ranching operations from participating in the program because they would not give up their right to graze and meet their economic goals for the lands. Therefore, many important wetland landscapes are unprotected. Reserved grazing rights have the potential to greatly extend the opportunities for program enrollment in the west. We recommend that NRCS issue a Request for Proposal in the near future and work to make this a successful tool for the conservation of wetlands and important wildlife habitat in the western United States. The WREP pilot program with reserved grazing rights is a long needed tool to further the conservation of wetlands in the western U.S.

Thank you for the opportunity to provide these comments on this vitally important program.

Sincerely,

Gregory S. Yarris
Director of Conservation Policy