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

RE: Comments on Interim Final Rule for Wetland Reserve Program (WRP)

After reviewing the Interim Final Rule published in the **Federal Register/Vol.74, No. 10** on January 15, 2009, I would like to provide the following observations, concerns, and recommendations for consideration:

The old saying of "The one hand giveth and the other hand taketh away" comes to mind when reviewing the Interim Final Rule provided in the **Federal Register** for comment. On the one hand, Congress, USDA, and the agency(s) responsible are to be commended for: a) increasing the overall funding for WRP, b) increasing the overall acreage that can be enrolled in WRP, c) addressing the long-standing issues with easement appraisals from the former farm bill by clarifying the easement compensation process, d) the inclusion of floodable agricultural lands from closed basins/potholes within the Prairie Pothole Region, e) inclusion of maintenance as a cost-share eligible activity, and f) the inclusion of the Wetland Reserve Enhancement Program (WREP) for states, non-governmental organizations (NGOs), and Indian Tribes. All of these are positive attributes to the 2008 Farm Bill WRP program.

BUT, on the other hand, language in the 2008 Farm Bill and the resulting proposed major changes in the implementation rules and regulations will eliminate most landowners from participation. These changes include: a) changing the ownership requirement from 12 months to seven years, b) limiting the yearly restoration cost-share payment to \$50,000, c) limiting the easement or 30-year contract payments to \$500,000 annually, thereby initiating an annual payment installment program, d) eliminating 30-year easements and replacing with contracts only available for Indian Tribes' acreage, and e) not allowing states at any governmental level to participate in the program.

WRP, along with other natural resource restoration programs such as CRP, EQUIP, etc. were designed in general terms to restore natural habitat on highly erodeable land, riparian areas and wetlands with the objective of retiring these marginal cropland acres from production and resulting subsidy programs and thereby, resulting in significant long-term cost savings to the USDA and the taxpayer. WRP has been highly successful, particularly within the lower Mississippi River system with the states of Louisiana and Arkansas being #1 and #2 respectively in the national enrollment. WRP remains highly

popular with landowners and many had made their intentions known to NRCS that they wanted to enter the program prior to passage of the 2008 Farm Bill. These landowners were accepted into the program but required to wait until passage of the 2008 Farm Bill and the new WRP program, which was retroactive to these landowners. The new WRP program and resulting interim rules eliminated the majority of these landowners. In Arkansas, some USDA officials estimate that 80% of the landowners who had been approved for the program and were caught in the interim period between farm bills were eliminated by the single new requirement of land ownership for a minimum of seven years. This is appalling and will result in a similar reduction in eligibility for other landowners who would have signed up in the future during the five year period covered by the 2008 Farm Bill.

My personal observation is that whoever is responsible for inclusion of this seven year ownership requirement and the limitations on restoration cost share (\$50,000) and easement compensation (\$500,000) annually included these requirements with the objective of making it impossible for land speculators, NGOs, or others to purchase property and enroll it in the program and thus, to benefit primarily the family farmer. The seven year ownership requirement and these annual limitations on restoration cost share and easement compensation definitely eliminated those just mentioned from participation in the program; BUT a majority of all current landowners were also eliminated as witnessed by the exclusion of the estimated 80% of those previously approved for WRP by the retroactive 2008 Farm Bill WRP eligibility requirements.

It appears that whoever was responsible for these requirements lost sight of the objective of the program -- i.e. to retire wetland acreage from production with resultant long-term cost savings to USDA and the taxpayer and instead tried to legislate who would potentially profit from the program. In truth, NGOs, speculators and other land buyers play an important role in the success of the program and provide an important service to landowners in financial difficulty. Many landowners continue to crop marginal wetland acreage not suited to agricultural production until they face foreclosure and/or bankruptcy. At this stage, the WRP program is of no value to these landowners due to the time involved (estimated at 2 years for the 2008 program) in acceptance and receiving the first easement payment installment. NGOs, and other buyers have the means and many times purchase this acreage quickly, thereby allowing the former landowner to become financially solvent and in many cases continue to farm their productive non-wetland acreage. NGOs and other buyers will no longer be able to do this and even if the seven year ownership requirement was removed, the annual limits on restoration cost-share and easement compensation would keep them from doing so where large land tracts are involved because they could not be paid in total for easements and restoration cost-share and would not be able to reduce interest payments on loans for their investments. I foresee these requirements having a major detrimental impact on WRP, its success, and current landowners including the few remaining family farmers.

I have been involved in one capacity or another with WRP since the 1985 Farm Bill. I have retired after a 36-year career with the U.S. Fish and Wildlife Service (FWS) and continue to work in the environmental field as a consultant. I continue to interact with

USDA personnel who implement the program and have clients who have been eliminated from enrollment in the program based on the new interim final rules. Without changes in the requirements, I (and others involved in the program) believe that the WRP program will only be a skeleton of its past success due to the stringent requirements for participation and limitations on annual payments which eliminate many current landowners and all future landowners during the 2008 Farm Bill's five year duration.

As a minimum for the WRP program to be successful, it is my recommendations that Congress or whoever has the authority:

1. Amend to 12-months or eliminate the seven-year ownership, or make waivers readily available and easily obtainable.
2. Eliminate the restoration cost-share annual limit of \$50,000, making all cost-share available at the same time and thus allowing all restoration to be completed in one year rather than over many years on large tracts. If not eliminated, then make waivers readily available and easily obtainable.
3. Eliminate the annual easement compensation limitation of \$500,000. This is a deterrent to large tracts being entered in the program. If not eliminated, make waivers readily available and easily obtainable.
4. Further define Private Land which currently "means land that is not owned by a governmental entity ..." I would recommend this should be clarified to specify the federal government and state governments. Counties, school districts, levee boards, etc. throughout the US own many acres that would qualify for the program and should not be eliminated.

Thank you for the opportunity to comment on this interim final rule. From my many years of working in and with the farming community and USDA agencies, I believe my concerns are very valid and my recommendations worthy of serious consideration.

Sincerely,



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