



TULARE BASIN WILDLIFE PARTNERS
Creating Opportunities for Nature and People

79

March 3, 2009

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

RECEIVED MAR 10 2009

Re: Docket Number NRCS-IFR-08013, Rule Effective January 15, 2009, Comment due March 16, 2009

To Whom It May Concern:

The Tulare Basin Wildlife Partners (TBWP) is an IRS 501 (c) 3 organization incorporated in the State of California. Its mission is to protect, enhance, and restore wildlife and their habitats in the Tulare Lake Basin. The TBWP operates in the Tulare Lake Basin hydrological unit in portions of Fresno, Tulare, Kings and Kern counties. Please consider the following comments in response to the January 15, 2009 rule published in the Federal Register (pp. 2317 ff), Vol. 74, No. 10, Thursday, January 15, 2009. We will address changes that we are certain will be detrimental to the success of the Wetland Reserve Program in California if these rule changes do not take into consideration our comments and recommendations.

- Re: Land transfer to "ineligible participants", *Sec. 1467.7 (c) (1) Easement* : To date, NRCS owns the rights to conduct and is ultimately responsible for restoration once an easement has been acquired. We recommend that this capability be retained. If land is transferred to an "ineligible party" prior to implementation of restoration, there can be serious potential liabilities to buyer and/or seller.
- Re: *Sec. 1467.11 (a) (2)*, "... In addition, the easement shall grant to the United States, through the NRCS . . . (iv) . . . the right to ensure restoration, protection, enhancement, maintenance, and management activities on the easement area The *previous rule Sec. 1467.10 (b) (4)* stated that NRCS had the right to perform these listed activities. We recommend the reinstatement of this language.
- Re: *Part V. Rights of the United States: "The rights of the United States include A: Management Activities. The United States shall have the right to enter unto the easement area to undertake, at its own expense or on a cost-share basis with the Landowner or other entity, any activities to restore, protect, manage maintain, enhance, and monitor the wetland and other natural values of the easement area."* The *previous, existing WRP Warranty Easement Deed language states that "it is the intent of CCC to give the Landowner the opportunity to participate in the restoration and management activities on the easement area."* We recommend clarification of who is ultimately responsible for the restoration. If the language in the new rule is left intact, it should at least be clarified that it is NRCS's financial assistance that may not be available, although technical assistance would be available. This change may significantly affect enrollment in the program. Further, if NRCS abdicates its responsibility to implement and maintain the restoration, then incentive for partnering may be impacted as well.
- *Sec. 1467.11 (a)(5): For all lands enrolled in the WRP, NRCS shall develop a WRPO. The WRPO and any subsequent revisions will be signed by the NRCS and the participant*

- *to acknowledge discussion and receipt of WRPO* We recommend that NRCS's ability to obligate funds to complete restoration should not be dependent upon the date of transfer to a public entity but rather the date of enrollment. If the date of enrollment and easement closure occurred prior to October 1, 2008, there should be no limitations on NRCS's ability to obligate funds to complete the restoration, other than those that existed at the time of enrollment. The authority of NRCS to determine when it is appropriate to cost-share should be consistently applied, i.e. the statute should clearly and consistently authorize NRCS to cost-share to the extent the Agency determines it to be appropriate and in the public interest.

Thank you for your consideration of these comments.

Sincerely,



Robert B. Hansen
President

cc: Senator Diane Feinstein
Senator Barbara Boxer
Congressman Jim Costa

Contact: Carole K. Combs, Executive Director, Tulare Basin Wildlife Partners, P.O. Box 1180, Three Rivers, CA 93271, phone 559/799-7204, fax 559/561-1921, ccombs@thegrid.net