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Executive Director

March 16, 2009

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

Dear Sirs:

Texas Parks and Wildlife Department (TPWD) appreciates the opportunity to submit comments to the Natural Resources Conservation Service in response to the request for public comments regarding the Grasslands Reserve Program in the January 21, 2009 Federal Register (7 CFR Part 1415).

As the primary state fish and wildlife resource agency in Texas, TPWD recognizes the fact that the Grassland Reserve Program (GRP) assists eligible landowners restore and protect essential grassland habitat from conversion to other uses. Well managed, high quality native grassland is critically important in preventing the precipitous decline of many grassland species. Texans have shown a great interest in the program, submitting applications on 5.4 million acres of grassland. Due to unacceptable wording in the easement agreement, only 109,286 acres were actually enrolled. In addition to improving the easement deed wording, TPWD is concerned about the lack of guidance in these rules for managing biodiversity and the lack of emphasis on the protection and restoration of native grass and shrubland habitat. Attached are our suggested rule modifications to address these concerns.

Please do not hesitate to contact Chuck Kowaleski, TPWD's Farm Bill Coordinator, at 254-742-9874, or Chuck.Kowaleski@tpwd.state.tx.us if you have any questions or need additional information. Thank you again for the opportunity to submit our comments.

Sincerely,

Carter Smith
Executive Director

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Attachment

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Texas Parks & Wildlife Department's GRP Interim Final Rule Comments

TPWD suggests adding the word "native" in the following sections:

Page 3870 § 1415.1(a)(3) in Purpose Protecting native grasslands

Page 3871 § 1415.3 Definitions

Conservation values ...native grassland- and shrubland dependent plants and animals

Functions and values of grasslands and shrublands ... native plant and animal richness

Plant and animal biodiversity ... wide variety of native plant and animal species

Rangeland ... replace "introduced hardy" with native

Restoration ... restore functions and values of native grasslands and shrublands

Shrubland ... dominant plant species is native shrubs

Page 3874 § 1415.5(b)(2)(i) in Land eligibility Could provide habitat for native animal and plant populations...

The addition of the word "native" in all of these places would be keeping with the programs purpose of maintaining and improving plant and animal biodiversity and have the additional benefit of potentially decreasing the future regulatory burden on landowners that would be caused by the listing of additional grassland species of wildlife due to lack of native habitat.

Page 3871 § 1415.3 Definitions

Biodiversity is mentioned numerous times throughout this rule but not defined. TPWD recommends adding the following definition of biodiversity under the definitions section of this rule:

Biodiversity means the variety and variability among living organisms native to the local ecological sub-region and ecological complex.

TPWD also recommends adding the term biodiversity to the *Common grazing practices* definition. The new definition would read:

Common grazing practices means those grazing practices, including those related to forage and seed production, common to the area of the subject ranching or farming operation. Included are routine management activities necessary to maintain and improve the biodiversity and viability of forage and browse resources that are common to the locale of the subject ranching or farming operation.

On page 3872 TPWD recommends rewording the definition of *Grazing management plan* such that a conservation plan is emphasized as being part of any grazing

management plan and any easement holder other than NRCS is also included. The new definition starting at the second sentence would read:

The grazing management plan will include a description of the grazing management system, permissible and prohibited activities, an associated conservation plan, any associated restoration plan if applicable and a description of USDA's or other easement holder's right of ingress and egress.

TPWD applauds NRCS's current definition of Native in this rule to mean a species that is indigenous and is part of the original fauna or flora of the area

On page 3873 TPWD recommends deleting that portion of the *Rangeland* definition that includes introduced forage species that are managed like rangeland. Introduced species tend toward aggressive monocultures, lack biological diversity and directly conflict with the earlier portion of the definition of rangeland. As mentioned earlier TPWD also recommends replacing the term "introduced" with the term "native" in the third sentence of this definition.

TPWD recommends deleting this portion of the Shrubland definition: "and generally produces several basal shoots instead of a single bole." as there are a number of shrubland species that are single boled and such a distinction is not necessary to include in this definition.

Page 3874 § 1415.4 Program Requirements

(h)(2) TPWD recommends that the words, "and other animals" be added after "birds" to be consistent with this rule's definition of nesting season. The corrected statement would read Haying ... during the nesting season for birds and other animals in the local area that are in significant decline, or are conserved in accordance with Federal or State law;

(h)(6) TPWD recommends the addition of this phrase asking for consultation in the section related to granting infrastructure development along existing right of ways: ...when it is determined by NRCS, in consultation with FWS and state fish and wildlife agencies, that granting such right-of-way are in the public interest and that grassland resources and related conservation values will not be adversely impacted.

Recent studies show that power transmission corridors may negatively impact many species of grassland wildlife. Requesting consultation with FWS and state fish and game agencies responsible for these species can reduce unintended consequences.

On page 3875 in §1415.8 (i) Establishing priority for enrollment of properties

TPWD suggests that the phrase "with advice from the STC" be added after (2) USDA so that the statement now reads (2) USDA, with advice from the STC, must ...

TPWD suggests that the term "national" be added before enrollment in (4) so that the statement now reads (4) Expired CRP land enrolled under this priority shall not exceed 10 percent of the total number of acres accepted for national enrollment in GRP in any year; and.

This allows NRCS to have the greater flexibility in enrolling expiring CRP than would happen if a 10% state by state cap were implemented

TPWD suggests that the two phrases "no more than" in (j) of this section be deleted. They are unnecessary, not found in bill language and if strictly enforced would require that USDA have an exact 60/40 split in easement vs rental contracts which may cause program management problems.

Page 3875 §1415.9 Enrollment of easements and rental contracts

TPWD suggests that "or" be replaced by "and" in (e) such that the corrected statement reads: .. NRCS will proceed with the development of the grazing management and conservation plans and restoration plan if applicable,...

Under GRP its very unlikely that NRCS would develop a conservation or restoration plan without also developing a grazing management plan. The use of "or" suggests that only one of these plans would be written.

On page 3876 §1415.11 Restoration agreements

(g) seems to contain two conflicting statements. The first two sentences talk about combining program moneys and the third sentence says that program moneys cannot be combined. TPWD suggests that the end of the first sentence be changed so that the sentence now reads: "If the participant is receiving cost-share for the same conservation practice or activity from another federal source, USDA will adjust the GRP cost-share rate proportionately so that the amount received by the participant does not exceed 100 percent of the costs of restoration "

It's important to define that extra money as coming from a federal source so that states and NGO's can continue to co-fund restoration costs for practices that go above and beyond normal USDA recommended levels and the overall project benefits from this synergistic relationship.

On Page 3877 § 1415.14(2) and (3) TPWD recommends that the phrase "or easement holder" be added after NRCS to allow GRP easements that have been transferred to other entities to be monitored for violations.