Decker, Denise - Washington, DC

From: Dustin Van Liew [dvanliew@beef.org]
Sent: Monday, March 23, 2009 12:29 PM
To: Decker, Denise - Washington, DC
Subject: EQIP Comments - Re: Docket Number NRCS-IFR-08005
Attachments: NRCS-IFR-08005--Comments-final pdf

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TO: Financial Assistance Program
U S Department of Agriculture
Natural Resources Conservation Service
1400 Independence Avenue, S.W
Room 5237S
Washington, D.C. 20250-2890
Re: Docket Number NRCS-IFR-08005

RECEIVED MAR 23 2009

FROM: Dustin Van Liew
Public Lands Council/National Cattlemen's Beef Association
1301 Pennsylvania Ave. NW, Ste. 300
Washington, DC 20004-1701
202-347-0228

RE: Comments; Docket Number NRCS-IFR-08005

Denise,

Please find attached, comments on the NRCS-IFR regarding EQIP.

<<NRCS-IFR-08005--Comments-final.pdf>>

Thank you
Dustin Van Liew

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1400 Independence Avenue, S.W.
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Re: Docket Number NRCS-IFR-08005

Dear Sir or Madam:

These comments are being submitted on behalf of the undersigned organizations. These groups represent a significant portion of all livestock and conservation interests in the Western United States. We fully appreciate that EQIP is principally intended to serve production agriculture on private lands. In many Western states, production agriculture to a large extent is that which occurs on state and federal lands. It is incumbent on NRCS to make Farm Bill programs work for production agriculture in its many forms throughout the United States.

From an environmental point of view, public and private lands in the West cannot be distinguished. Federal permittees control more than 110 million acres of the most biologically diverse lands in the West. State lessees control another significant amount. If operations on federal or state lands are allowed to fail because of unaddressed resource concerns, natural resources on private lands will be put at risk. First, cattle could be moved off public to private land, putting more pressure on the resources on private

Second, failed operations on public lands is often the trigger for selling private land to developers. NRCS involvement with public land ranching throughout the West has been an important reason many operations have been able to stay in business during recent droughts and other resource challenges. Sale of ranches often leads to habitat fragmentation which is the single most significant threat to biodiversity in the country. The ecological health of resources on private land can frequently turn on the viability of public land ranches. NRCS has important incentives to help public land ranchers meet their resource concerns on public lands in order to maintain the ecological integrity of private lands.

Comment:

We are commenting only on the provision that affects the eligibility of a producer to enroll public lands in EQIP. In the interim-final rule, § 1466.8(c)(2) provides in relevant part:

> "Eligible land includes . . . [p]ublicly owned land where:
> (i) . . .
> (ii) . . .
> (iii) . . . The conservation practices to be implemented on the public land are necessary and will contribute to an improvement in the identified resource concern that is on private land;"

As written, this language will foreclose the possibility of enrolling public land in EQIP that is currently enrolled in the program. Agriculture production and conservation in the West will be harmed as a result.

Example: The resource concern is noxious weeds on grazing allotments used by a ranch on public land in Arizona. If this land is made unusable by weed encroachment, the permittee may have no choice but to find private land for stocking the displaced livestock. Alternative federal forage is virtually impossible to arrange because of the requirement that allotments have NEPA completed before they are grazed. Because of the relative shortage of private land in the West, either alternative private forage will have heavier than ideal grazing placed on it, or the operator will conclude that he or she is not able to stay in business without a place to run their livestock. It is in the interest of NRCS, ranchers, and conservationists to help the operator in question take care of the noxious weed problem on public land.

Perhaps an even more important example of a public land concern affecting the ability of an operator to stay in business is riparian protection to meet requirements imposed under the Endangered Species Act. Unless EQIP is available to help pay for practices designed to protect riparian corridors, the operator may not be able to maintain his public land operation. The private land will suffer as a result as will the interests of NRCS, ranchers, and conservationists.

However, the interim-final rule requires the resource of concern to be <u>on private land</u>. In both examples, the operators would not be eligible to enroll in the program.

Fix:

Fortunately, a relatively simple fix exists for this problem that respects NRCS' interest in maintaining the private land focus of the EQIP program. Instead of the current language which requires the resource concern to be <u>on private land</u>, the language below could be used:

> The conservation practices to be implemented on the public land are necessary to improve the condition of resources on the public land and will benefit the private land.

With this language both the noxious weed and riparian corridor issues could be enrolled in the program because of the unique relationship between public and private lands in the West. Both the public and private lands and ranchers and conservationists benefit by making sure these kinds of resource issues can be addressed

Thank you for your attention to this important concern.

American Sheep Industry
Environmental Defense Fund
National Cattlemen's Beef Association
National Association of Conservation Districts
Partnership of Rangeland Trusts (California Rangeland Trust, Colorado Cattlemen's Agricultural Land Trust, Ranchland Trust of Kansas, Texas Agricultural Land Trust, Oregon Rangeland Trust, Wyoming Stock Growers Agricultural Land Trust)
Public Lands Council
The Nature Conservancy
World Wildlife Fund

Arizona Cattle Growers' Association
Colorado Cattlemen's Association
Nevada Cattlemen's Association
Oregon Cattlemen's Association
South Dakota Cattlemen's Association
Utah Cattlemen's Association
Washington Cattlemen's Association
Wyoming Stock Grower's Association

Decker, Denise - Washington, DC

To: Dustin Van Liew

Cc: Christensen, Thomas - Washington, DC; Rhodes, Maggie - Washington, DC; Deavers, Leslie - Washington, DC; Brzostek, Edward - Washington, DC; Johnson, Gregory - Washington, DC; Beard, Tim - Washington, DC

Subject: RE: EQIP Comments - Re: Docket Number NRCS-IFR-08005

Dear Dustin Van Liew:

Thank you for your e-mail of March 23, 2009, in regard to Docket Number NRCS-IFR-08005, the Environmental Quality Incemtives Program (EQIP) Interim Final Rule, as published in the *Federal Register*. The conservation provisions of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) and the Administrative Procedures Act offer the public the opportunity to submit official comments on Agency regulations and other documents published in the *Federal Register* during the official public comment period indicated with each published regulatory document Please note that the EQIP public comment period has been extended to April 17, 2009

Regulatory changes generally are being published as interim final rules, enabling full implementation of the programs while public comment is assessed NRCS acknowledges your recommendation. Your comments will be analyzed and given full consideration in the process of moving to final program rules. The preamble for final rules will include our analysis of public comments and their disposition with regard to the final rules.

Again, thank you for your official comment If we can be of further assistance, please do not hesitate to contact us.

Sincerely,

/S/

THOMAS W. CHRISTENSEN
Deputy Chief for Programs
USDA/NRCS

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