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EXHIBIT C
United States Department of the Interior
FISH AND WILDLIFE SERVICE
 1500 CAPITOL AVENUE
 BISMARCK, NORTH DAKOTA 58501



MEMORANDUM

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To: Farm Bill Coordinator, Region 6
 Denver, CO MAIL STOP 60130

From: Supervisor, ND Wetland Habitat Office
 Bismarck, North Dakota

NWF WILDLIFE TEAM

Subject: Comments on Director's Memo of 2-23-88 - Requesting Information on
 Swampbuster

1. What consultation opportunities are actually available to Service field personnel? Is Service participation making a difference? How should it be improved?

Response

To this point, the Service has provided continuous consultation with SCS on wetland determinations. The guidelines, and training in which the Service was involved provided a better understanding of wetland identification and ultimately a better wetland determination product. We are continuing to consult with SCS on wetland determinations and there will be a need to continue to do so for the duration of the wetland determination process. We are also in the process of developing an MOU identifying the process by which a producer can get back into compliance by restoration through a minimal effect determination. Presently we are continuing to consult with SCS on all minimal effect determinations and will continue to do so in the future. We expect a need for additional MOU's dealing with other aspects of minimal effect determinations, such as with state enacted no-net-loss wetland legislation. We have a very positive and productive working relationship with SCS and, yes, it is making a difference in proper implementation of Swampbuster. The only area where our input could be improved is at the county SCS level where in certain counties there still exists a negative attitude towards Swampbuster and Service involvement.

The work with ASCS also has a positive aspect. We have consulted at the state and county level on commencement requests with the state office accepting our recommendation of a commencement filing form. Certain ASCS county committees welcome Service involvement at commencement hearings and we expect the involvement to continue. We are continuing to provide information on potential Swampbuster violations to county offices and in some cases this has resulted in wetlands restored. Overall Service involvement with ASCS has resulted in better Swampbuster implementation than would have occurred without us. There is, however, room for improvement. As with SCS, certain county ASCS offices have an attitude problem with Swampbuster and Service involvement and implementation will continue to be a problem there. Clearer direction to both ASCS and SCS county offices on their responsibility under Swampbuster and the Service's consulting role would help.

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reportedly the highest in 10 years.

3. How many potential violations have been observed and reported by Service personnel? What has been the response of the Agricultural Stabilization and Conservation Service to these reported activities? Is the response adequate? Attached is a form being utilized by Region 3 to report observed wetland modifications. Each Region should utilize this or something similar.

Response

In 1986 the Service reported 150 potential violations to county ASCS offices in North Dakota. Several hundred more were recorded but never provided to ASCS offices. 1987 figures are not yet tallied but approximately 50 have been reported with several hundred more recorded. ASCS response has been that it is not the responsibility of the Service to report potentials, they do not want the information and they have reacted by going to the press accusing the Service of being "Spies in the Sky". There have been several county ASCS offices, however, that expressed appreciation for the information and considered the Service information very helpful in resolving potential conflicts with producers. In most cases ASCS took no action on reported potentials and their response has not been adequate.

4. What would be the impact of an exemption from Swampbuster protection of Type I Wetland, both in terms of acres and lost wetland values?

Response

There is no way to administratively omit protection of Type I wetlands. The reference of cropping history would be inclusive of not only Type I but a

large portion of the Type III's and limited portion of Type IV due to cropping during dry periods. If cropping history were used, we estimate 20-30 percent of existing wetlands in North Dakota would have no protection encompassing approximately 200,000 to 300,000 acres. Another very important consideration is that any change made in the Swampbuster wetland definition will bring new direct drainage pressure on deleted wetlands resulting in an increased drainage rate over what previously or presently exists. If any wetlands presently considered to be covered by Swampbuster are deleted, they will be drained immediately.

Although we know of no administrative procedure to eliminate just Type I's, if it were possible there would be tremendous loss in wetland values. Biologically and hydrologically temporary wetlands are extremely valuable. For waterfowl importance, Type I's represent the backbone of waterfowl production locally and for migration provide critical habitat for all birds travelling further north. Considering the serious loss of wetland habitat that has already occurred, no additional loss of any type can occur without serious impacts.

5. If minimal effect determination were routinely granted to conversions affecting wetland of less than one-quarter acre, that would be the impact, both in terms of acres and wetland values.

Response

First, determining wetland size on such a dynamic ecosystem as prairie wetlands is virtually impossible. High runoff, low runoff and normal are ever changing and would be an administrative nightmare. Secondly, a significant amount of the most valuable and productive wetlands are less than one-quarter acre. The facts against such action are similar to those on the Type I issue. With less than one-half of the original wetland base remaining, any additional loss is increasingly significant. And again, omitting at this stage any previously included wetlands will bring new and direct drainage pressure on these omissions. We estimated 10-20 percent or 100,000 to 200,000 acres would lose protection and have new drainage pressure directed to them.

Hopefully these comments have provided background on Swampbuster in North Dakota. So far Swampbuster has probably resulted in more drainage than would have occurred without it. However, if compliance can be addressed, the loopholes closed such as exist with cropping required for a violation and no relaxing of the wetland definition occurs, the long range benefit to wetlands could be positive. Call if you have any questions on these comments.



cc: ND Refuge Supervisor