

## EXHIBIT B



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
 FEDERAL BUILDING, FORT SNELLING  
 TWIN CITIES, MINNESOTA 55111



IN REPLY REFER TO:  
 FWS/ARW-WSS

JAN 14 1988

Dr. Keith W. Harmon  
 Western Field Representative  
 Wildlife Management Institute  
 421 Pioneer Court  
 Hickman, Nebraska 68372

Dear Keith:

Your letter of December 18, 1987 reaches the conclusion that U. S. Department of Agriculture is accommodating drainage and not policing the Swampbuster Program. You also stated there was increased drainage activity in the fall of 1987 due to lack of fear by landowners of enforcement by U. S. Department of Agriculture.

I know from the reports of regional staff that Swampbuster implementation may not be in a manner that is fully consistent with the purposes, intent, and letter of either the Food Security Act or the step-down regulations. However, I should add that many individuals in the Soil Conservation Service and some in the Agricultural Stabilization and Conservation Service are attempting to implement the law and regulations faithfully. In recognition of this we are fully committed to developing working relationships with both of these agencies.

Service field personnel have noted a greatly increased level of drainage activity in the summer and fall of 1987. In Minnesota we have been advised by the Soil Conservation Service that approximately 15,000 wetland determinations were requested by landowners through the AD-1026 form. The disturbing thing is they estimate another 15,000 landowners should have requested the wetland determination and did not. They estimate further that approximately 20 percent, or 3,000 landowners, are now out of compliance with Swampbuster provisions. Despite this, the Agricultural Stabilization and Conservation Service has advised us that only one landowner in the United States has lost his program benefits due to non-compliance with Swampbuster provisions. That landowner is in Todd County, Minnesota.

Our experience, in our consultation role with U. S. Department of Agriculture agencies, has been continual hair-splitting that accommodates more drainage. Whether the issue is maintenance in prairie potholes or determination of commenced drainage, the result seems to be more drainage. We want to see the Agricultural Stabilization and Conservation Service and the Soil Conservation Service fully implement their new, more regulatory, role under this law so that on-the-ground benefits to wetlands will result.

Dr. Keith W. Harmon

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Our concerns over this issue are expressed in the enclosed memorandum to the Director. We would like to see this issue elevated to the investigation level so that corrective measures are implemented through the appropriate oversight channels. We feel this would most effectively assure thorough resolution of the problem. The Service role would then be to provide information and assistance for the investigation, while still encouraging cooperation among agencies at the field level.

Your letter focuses on a key point, enforcement, and discusses the Service role in it. The Service fully accepts the consultation roles provided for in the Swampbuster provisions but as you know enforcement is the responsibility of the Agricultural Stabilization and Conservation Service. Of course the Service has a vital interest in the quality of enforcement so we have directed field personnel to observe potential violations while conducting routine business and to report them to County offices of the Agricultural Stabilization and Conservation Service. We have requested that Agricultural Stabilization and Conservation Service and Soil Conservation Service investigate potential violations and provide the Service the results of these investigations. Enclosed for your reference is the Wetland Impacts Report we are distributing to our field stations to monitor Swampbuster problems this year.

We accept your suggestion that the Service commit more resources to identification of potential violations. Also, we intend to do a better job of researching and follow-up of observed drainage activity in the field and with Soil Conservation Service and Agricultural Stabilization and Conservation Service offices. We will do our best to document specific Swampbuster problems on specific properties in each state of Region 3. We feel that following up our observations of potential violations, which we have noted in the course of conducting normal field activities, is consistent with provisions of the Swampbuster law and does not constitute a policing role. We would be happy to provide this information to the Wildlife Management Institute or other conservation organizations upon request.

Finally, I am pleased that the Wildlife Management Institute is tracking the implementation of Swampbuster. We welcome your interest and your suggestions. We recognize our common interest in wetland protection.

Sincerely,

/s/ James C. Gritman

Regional Director

Enclosures

Dr. Keith W. Barnes

cc: Galea Esterhazy, Regional Director, Region 6, USFWS  
Regional Farm Bill Coordinator, Region 3, USFWS  
State Coordinators, Region 3, USFWS  
Jack Berryman, International Association of Fish and Wildlife Agencies  
Larry Jean, Wildlife Management Institute  
Skip Baron, National Wildlife Federation  
✓Jan Goldman-Carter, National Wildlife Federation