

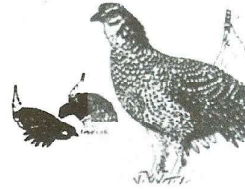
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North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



June 14, 1988

The Honorable Arland Stangeland
House Agriculture Committee
M-F Building
403 Center Avenue
Moorhead, Minnesota 56560

Dear Representative Stangeland:

The North Dakota Chapter of the Wildlife Society is an organization of nearly 400 natural resource professionals, including wildlife biologists, natural resource managers, administrators, educators, conservation law officers, and students. We have been involved in issues concerning North Dakota's natural resources for 25 years, with particular emphasis on protection, management and preservation of North Dakota's prairie wetlands.

On June 24, 1988 the House Agriculture Committee will be holding a hearing on general agriculture issues and the swampbuster and sod-buster provisions of the 1985 Food Security Act (FSA). While we will be unable to attend the hearing, I request that the following comments which are specific to Swampbuster provisions of the FSA be included in the record.

1. Wetland Determinations - The definition of wetlands under the FSA is appropriate and proven to be applicable to the glaciated pot-hole area of the United States. Administratively it is critical that the present definition remain as written. No further exemptions other than those already allowed should be developed. The use of "normal circumstances" should not be used to eliminate protection for wetlands because of their cropping history. Temporary wetlands are extremely important for their biologic and hydrologic values. Any change in the wetland definition, the exemptions, or "normal circumstances" will eliminate protection to a critical portion of the nation's wetlands. We support and encourage wetland determinations to be completed as soon as possible. Uncertainty and confusion may at least be partially reduced when a producer has a wetland determination completed on his farm. To make any changes in wetland exemptions, definitions, or in "normal circumstances" would be premature considering that wetland determinations have been completed on only a few farms.
2. Compliance - There has been virtually no enforcement of the compliance provisions of the FSA. Unfortunately, wetlands are continually being converted and farm subsidies continue to be paid to these same producers. Three changes would be appropriate to deal with

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this issue. First, the Agricultural Stabilization and Conservation Service (ASCS) must take over administrative responsibility for compliance. This must occur at the ASCS County Executive Director or State Administrator level. The present use of ASCS county committees has proven to be an ineffective means to address compliance. Second, the penalty provision allows no flexibility for varying degrees or circumstances of non-compliance. If adherence to the compliance provisions can be addressed through an administrative directive or change in organization, then changes in penalty provisions should be reviewed. Third, ASCS will be conducting a 10-15 percent spot check for compliance of Swampbuster provisions as they do with other programs. However, ASCS does not have the tools or expertise to be able to identify non-compliance of converted wetlands. This issue needs to be addressed through Soil Conservation Service or Fish and Wildlife Service involvement, it will not be adequately addressed through ASCS procedures. Compliance is a major requirement of this legislation and adjustments are needed to carry out a responsible program.

3. Wetland Conversion - The present process of planting in a converted or drained wetland is required for a producer to be in non-compliance needs to be corrected. Presently, wetlands are being converted and either not planted or planted to a non-agricultural commodity. In either situation, Swampbuster has not deterred the conversion of valuable wetlands. Wetland conversion only, not planting, should constitute producer non-compliance. Any wetland conversion that creates the potential for crop production should be a violation of Swampbuster.
4. Maintenance of Existing Drains - Presently a producer who has previously converted wetlands is allowed to maintain drainage ditches, continuing a practice of drainage that is inconsistent with the Congressional intent of Swampbuster. If new wetland conversion eliminates farm subsidies to producers, allowing wetland conversion to continue through maintenance on previously converted wetland is inconsistent with legislative intent. Maintenance should not be allowed to continue and previously drained wetlands should be allowed to revert back to wetlands. This change would also lessen the inadequacies that presently exist between producers who have been good land stewards and protected their wetlands and those who have destroyed wetlands through previous wetland conversion activities.
5. Compensation - Producers that have not converted wetlands or who would possibly have wetlands that could be restored should receive some form of financial compensation. Similar to a Conservation Reserve Program where producers can bid in highly erodible lands, wetlands should be included in some form of a wetland reserve program. Funding through the federal Water Bank program or other wetland programs would also be beneficial.

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Changes in Swampbuster are necessary in order for the Congressional intent to protect wetlands to be fulfilled. Presently this is not occurring and wetlands are being converted while producers continue to receive farm subsidies. The changes suggested within this testimony would aid in making Swampbuster the legislation it was intended to be. Thank you for the opportunity to provide these comments.

Sincerely,



William J. Berg
President