



MINNESOTA CHAPTER THE WILDLIFE SOCIETY

June 21, 1988

Honorable E. (Kika) de la Garza, Chairman
Committee on Agriculture
Room 1301
Longworth House Office Building
Washington, D.C. 20515

Dear Representative de la Garza:

The Minnesota Chapter of The Wildlife Society is an organization of nearly 200 natural resources professionals, including wildlife biologists, natural resources managers, administrators, educators, conservation law officers and students who have been involved in issues concerning Minnesota's natural resources for the last 40 years.

On June 24, 1988, the Committee on Agriculture will be holding hearings on the Swampbuster and Sodbuster provisions of the 1985 Food Security Act (FSA). Mr. Daniel Svedarsky who is testifying on behalf of the National Audubon Society has agreed to represent the Minnesota Chapter of The Wildlife Society with a few brief comments. We are requesting that in addition to Mr. Svedarsky's general comments, the following specific comments 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 pothole area of the United States. Administratively it is critical that the present definition remain as written. In reviewing Congressional Intent the record shows wetlands that have been farmed at various times to be covered by the Swampbuster provisions. 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.

It appears the Soil and Conservation Service is consistently coming up with interpretations of the legislation that allows for more wetland drainage. Examples of this can be found in SCS Chief Wilson Scaling's videotape to the field on Swampbuster where he directs wider use of the "minimal effect" determination to allow for more drainage. Another example can be found on County Ditch #18 in Yellow Medicine County where the Soil Conservation Service has set up a "Zone of Influence" where wetland up to 425 feet from the main ditch may be drained into the ditch. This "Zone of Influence" is not part of the published rules and regulations but appears to be a SCS concept put forth where drainage justifies further drainage.

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2. Commenced Determinations - Evidence indicates that the commenced conversion regulations are being loosely interpreted. Items such as a ditch viewers' reports and preliminary engineering reports are being construed as adequate for a commenced conversion determination. Approval of numerous commenced conversion determinations related to the County Ditch #18 project in Yellow Medicine County were based on this type of evidence.

Another example of inadequate evidence was found in Pipestone County where the County ASCS committee approved a commenced conversion based on payment of tax assessments. We feel these are improper interpretations of Swampbuster regulations and in direct conflict with the Congressional Intent of the Legislation.

3. Maintenance and Abandonment versus Commenced Conversion - In several cases we have noted that what was considered a maintenance or abandonment situation under the regulations is being referred to the local ASCS committee for a commenced conversion determination. Commenced conversion was designed to protect only those landowners who had a substantial investment in a project and had moved dirt at the time the legislation was passed (December 23, 1985). It now appears that the sympathetic ears of the local ASCS committees are being used to facilitate drainage of wetlands far beyond the scope of commenced conversion. We found an example in Mahanomen county where the individual has drained and planted a wetland in violation of Swampbuster and was able to get a commenced conversion ruling from the county ASCS committee legalizing his activity.

Changes in the way Swampbuster is being implemented are needed for this legislation to satisfy the Congressional Intent to protect wetlands. Presently this is not occurring and wetlands are being converted while producers continue to receive farm subsidies. We would ask that your committee take whatever steps necessary to correct the inadequacies in the Swampbuster program. Thank you for the opportunity to provide these comments.

Sincerely,



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cc: N.D. Chapter TWS