July 20, 2004

Richard Swenson
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Dear Mr. Swenson:

Following are comments on **USDA – Grassland Reserve Program Interim Final Rule, as printed in the Federal Register, Volume 69, No. 99, pp. 29173-29187. May 21, 2004** from the American Society of Agronomy, Crop Science Society of America, and Soil Science Society of America (ASA/CSSA/SSSA).

Sincerely,

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The American Society of Agronomy, Crop Science Society of America, and Soil Science Society of America (ASA/CSSA/SSSA) appreciate the opportunity to provide comments in response to USDA-Commodity Credit Corporation's (CCC) **Grassland Reserve Program Interim Final Rule, as printed in the Federal Register, Volume 69, No. 99, pp. 29173-29187. May 21, 2004.** ASA/CSSA/SSSA applaud the efforts of USDA to address this important issue which is very relevant to the interests of our scientists. It is clear that a substantial amount of time was spent preparing the document. Our scientists have spent some time reading and reviewing the document above as requested by USDA. Our comments follow below.

Limiting the forage profile to species that are "native" versus "traditional" or "improved" grazing species may prohibit economic viability to the producer. The state technical committee should determine the incorporation of these "traditional" and/or "improved" grazing species into the forage profile.

The secretary should make clear that USDA would provide funding for rural areas, via this program, in states that have regions with heavy urban pressure.

The program should clearly indicate that payment for lands being disturbed by natural gas or petroleum exploration and transport will not receive payment until the lands are fully restored by either the program participant, the exploration/transport company, or owner of the subsurface resource rights.

The rule appears to be a mandate to county conservation districts to take care of a great deal of the local administration for this rule with no evidence of funding being transferred either directly to, or via the state conservation commission. This may cause this rule to be not well received by county governments who may ask for legislative intervention and possible reprieve. This particular funding issue should be more carefully delineated to avoid confusion.

The approach to allocating funds to States for selection of projects is probably most efficient. However, the total allocated to States must be based on national goals of the program, using a defensible formula such as the amount of "threatened" grassland that is critical to habitat within an ecosystem that is unique to each geographic area. As such, more flexibility as to acreage for contracts may be needed. For instance, a small tract in a highly urbanized area may provide habitat necessary for an ecosystem unique to that area. We think that "natural" units such as watersheds should be given priority.

The harvest of renewable energy, especially wind energy, should be fully supported. Otherwise, this rule is incongruent with the national objectives of both independence from foreign energy resources, renewable energy development and environmental protection. In any case, the word windmills should be stuck since windmills often pump water for grazing livestock. The phrase "wind turbines generating electrical power for sale over an electricity distribution grid" subsequently referred to, as "wind turbines" may suffice. Technology exists that will allow other persons or entities seeking to construct towers to utilize the main mast of a wind turbine with little soil disturbance. This activity can be monitored and remedial action taken as outlined in the rule. The rule should be modified to allow the use of wind turbine masts, active or inactive, as dual-purpose mast for transmitters and receivers as long as the actual antennae elements can be aesthetically incorporated into the turbine superstructure. We must also be careful of the treatment of those controversial industrial windmills. Construction on rental or especially easement property can be prohibited on the same grounds as the use of subsurface rights. However, once established, we believe that one must consider such property in the same light as land where mineral rights have been exercised, as dealt with in Section 1415(g). Such a structure may be deemed less intrusive to the ecosystem than a windmill placed for developing water resources, particularly if there is no use by migratory birds of the area.

1. pg. 29174, col. 1, par 2 **SUMMARY** References are made in the last two sentences. Questions arise. First, the one to "other established conservation programs" suggests… Which ones? Name some. And, "other similar programs" likewise prompts the question…Which ones? Some examples on each of these points would be helpful to readers of the Summary, several of whom will not read the entire document.

2. pg. 29174, col. 2, par 4, **SUPPLEMENTARY INFORMATION Regulatory Certifications** *Executive Order 12866* Discussion on the five options is difficult to understand.

What is meant by Selected Option(s)? Are the two Selected Options simply for FY 2003 and FY 2004? Say that. Why are the other three regarding “native grasses only” not covered more? It is unclear. We agree with what you have done about them, i.e., the “native grasses only”. Our understanding came only with later reading.

3. pg. 29175, col. 2, par 2 **SUPPLEMENTARY INFORMATION Background**
There can be confusion in sentence and later. **Definitions 1415.3** “grassland” and “shrubland” are defined individually, yet on pg. 29283 “shrubland” is included within “grassland”. Within the definition of “forbs” fall the legumes since they are not grasses, yet the overwhelming importance of perennial forage, natural (introduced), e.g., prostrate, persistent grazing type alfalfa’s in working grasslands, and they therefore go into shrublands. We think the importance of shrubland for this program is over emphasized, whereas pastureland and rangeland and are left to stand as one reads. There is a catch in there that may result in capitalization in some contracts allowing receipt of payments for low value tracts, with restoration literally impossible.

4. pg. 29175, col. 2, par 3 **SUPPLEMENTARY INFORMATION Background** Actual loss through conversion occurs is lessened acreage, as opposed to loss via degradation, e.g., from "invasion of woody and or and non-native species”. It should not be inferred that non-native (introduced) species represent loss via degradation, although forbs (weeds to many) fit that description. Non-native species (introduced) much more often represent gain, not loss.

5. pg. 29175, col. 3, par 2 **SUPPLEMENTARY INFORMATION Background** We see some problem with the direct statement that the “… are designed for working agricultural lands.” Later, “enabling agricultural producers to use the forage in their agricultural operations.” It leaves the impression that non-working agricultural grasslands exist (and they do), are of lesser or no concern in the GRP program. How about the situation of a producer who has voluntarily set aside land into “non-working” category, i.e., creating as a devoted citizen and conservationist a personal grassland reserve program? It looks as if he/she would get qualify for benefits with difficulty. Yet, it would be easy for he/she to degrade it overnight with a disking, whatever, and thus it is a “working land” that qualifies. Is there a loophole there? As written, you may encourage manipulators for the benefits. We say, make it perfectly clear that benefits to those with conservation-friendly history, outlook, and commitment are the target.

6. pg. 29175, col. 3, par 3 **SUPPLEMENTARY INFORMATION Background** There is difficulty in the interpretation of the statement “Although the GRP rental agreements are for working lands, the rental agreements are for the working lands modeled after the CRP long term rental contracts.” With CRP, working lands went to rest. There were all kinds of dandy records emerging to prove that indeed the land had been hard working and was worthy of rest. In reality, this program goes another way, i.e., working to working. What history do many producers of working degraded grasslands have to put on the table? The CRP program for working to non-working should not be over emphasized for a program that goes in the opposite direction. New rules of the game will evolve. What is meant “…viability of the grassland”? Grassland in that sentence would include shrubland by definition. There are countless differences in worth, value, etc. of a well managed thriving non-native or native forage producing grassland, as compared to many shrublands. Sticking with the definitions, as we see it, you could have “shrublands” where

close growing, rhizomatous alfalfa has continued growth and value in grazing, a long shot away from a “shrubland” with spotty trees, etc. and hardly enough shade for livestock to seek out.

7. pg. 29175, col. 3, par 4 **SUPPLEMENTARY INFORMATION Background** Good point and decision!!

8. pg. 29175, col. 3, par 5 **SUPPLEMENTARY INFORMATION Background** How are you defining “most critical grassland resources”?

9. pg. 29175, col. 3, par 5 **SUPPLEMENTARY INFORMATION Background** “…broad land eligibility criteria regarding the type of grassland that can be enrolled in the program.” suggests to me that this will need tuning with time and change, given the working land criteria.

10. pg. 29176, col. 1, par 2 **SUPPLEMENTARY INFORMATION Discussion of the Program** If we read correctly what is laid out for working within statutory limitations of 2 million acres, the following prevails. You have lands already restored and some not restored. Some successful applicants will have already restored or improved grasslands to varying degrees, not perfectly, obviously. They will now be able to "double dip”, i.e., get a bump to add to already received cost sharing. We think they should be placed in line behind those that have not had cost sharing previously. Are the latter not the ones where there is most urgency? They’re out unless there is the funding. We say, concentrate on the new ones because the conservation ethic needs spreading out.

11. pg. 29176, col. 1, par 3 **SUPPLEMENTARY INFORMATION Discussion of the Program** There is a speculative sentence to explain complexity. What are the desired outcomes? Additional documentary information at the research /technical assistance interface is much needed. There are strong differences in thinking/evaluation/ operative assistance and support around the country, not the least being those about grasslands east and west of the 100th meridian. A national concurrence is in order.

12. pg. 29176, col. 1, par 2 **SUPPLEMENTARY INFORMATION Discussion of the Program** First mention of “pastureland” in the text, other than the definitions.

13. pg. 29177, col. 1, at bottom **SUPPLEMENTARY INFORMATION Discussion of the Program** *Easements* General comments. The privileges being given to those with the longer easements is dicey. To give them too much up front could be counter productive. Lump sum leaves little leverage on compliance.

14. pg. 29177, col. 1 **SUPPLEMENTARY INFORMATION Discussion of the Program** *Easements* It is not clear about easements payments, and how often “current” market values of the land (minus) the grazing value of the land are re-adjusted.

15. pg. 29177, col. 3, par 2 **SUPPLEMENTARY INFORMATION Rental Agreements** Is the CRP methodology helping for taking into account the soil types, elevation and precipitation? These are very essential factors for this program and unique ones for grasslands in all their shapes and forms.

16. pg. 29177, col. 3, last par **SUPPLEMENTARY INFORMATION Provisions that Apply to both Easements and rental Agreements** In relation to the 2.5 million acres and the procedures are discussed, it sounds as if "small operators" are out of luck. Small farmers are needed to bring in viability and vitality. Shoot for more participants.

17. pg. 29178, col. 2, par 1 **SUPPLEMENTARY INFORMATION Provisions That Apply to Both Easements and Rental Agreements** Why 90% vs. 75%?

18. pg. 29178, col. 2, at the bottom **SUPPLEMENTARY INFORMATION Summary of Provisions and Request for Comment**, *Section 1415.1 Purpose* The rationale in the two paragraphs following from the beginning with "The Secretary…." has two sentences that prompt many questions. One main one is the following. Why not think of the economic impact of grasslands, along with the "focus the program on those grasslands and shrublands that are at the greatest risk of being lost. Therefore, the overall program emphasis will be on conserving native and natural species." And, will the natural species get the help needed or will the native species, with all of the drumming by groups skew the GRP program, etc., to be "unfair" to the countless numbers of grassland farmers that know and use "natural" species? Can the program help in keeping grasslanders on the land, having been encouraged by technical assistance, cost sharing, and easement payment for their "working" grasslands?

19. pg. 29178, col. 3, par 2 and continuing to the next page **SUPPLEMENTARY INFORMATION Summary of Provisions and Request for Comment**, *Section 1415.1 Purpose* The first paragraph mentions the Farm and Ranch Land Protection Program (FRPP) acts against urban conversion pressures. We say, as the document suggests, use that and other programs in fighting off the urban expansions, or all of the money will be spent there. Concentrate on the land further out, the small farms, the grasslanders that must be encouraged to hang on.

20. pg. 29179, col. 1, bottom **SUPPLEMENTARY INFORMATION Summary of Provisions and Request for Comment**, *Section 1415.4 Program Requirements* What is the meaning of "certain natural resource conditions"? It seems that is an oxymoron as natural conditions are not certain, there is constant change and thus, returning to the original is also a dream. How can a modern switchgrass fit in the original? It will not be the same as it was.

21. pg. 29179, col. 2, par 3 **SUPPLEMENTARY INFORMATION Summary of Provisions and Request for Comment** *Section 1415 Land Eligibility* The 40 acres minimum is not fair, nor workable, against intent of legislation, plus favors the West and large ranchers along with other large landholders. Perhaps 10 acres would be realistic for east of the 100th. One alternative is to set this at the discretion and wisdom of the state authorities (in other words, set the exception as much as possible in the east.) If states in the west want the larger acreage minimum, O.K., but let those in the east set theirs.

22. pg. 29179, col. 2, bottom **SUPPLEMENTARY INFORMATION Summary of Provisions and Request for Comment**, *Section 1415.5 Land Eligibility* What is the relevance of paying so much attention to the fact that there is "strong interest in very large blocks of

grassland", why should they take any precedence over smaller grassland fields? We object, and suggest that many others should feel the same way, i.e., to having such circular reasoning occurring in a federal agency such as presented on page 29179 , cool 3, at the top. Rather, the smaller operators not having had opportunities the past on cost sharing related to common grasslands, being put at the beginning of the eligibility and so stated at the beginning of the discussion about it. Why should there have been an assumption that the larger tracts have more power? They already have benefited the programs and should benefit all of those that are intent on grassland conservation in all of its ramifications.

23. pg. 29180, col. 1-2 **SUPPLEMENTARY INFORMATION Summary of Provisions and Request for Comment**, *Section 1415.8 Establishing Priority for Enrollment of Properties* How is "threat of conversion" determined? Why does it merit being one of the main factors in program participation? How far back are you going in the "historically dominated grassland, shrubland, or forb community?" Is an alfalfa field a "forb plant community?"

Thank you for providing us the opportunity to provide scientific, public comment. Should you require additional information or have questions, please do not hesitate to contact me.

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