

Texas Wildlife Association

“Working for tomorrow’s wildlife ... TODAY!”

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July 20, 2004

Richard Swenson, Director
Easement Division
Natural Resource Conservation Service
Washington, DC 20013-2890

Dear Richard:

The Texas Wildlife Association was formed in 1985 and represents 5,000 members with over 30 million acres in Texas that are interested in wildlife and habitat conservation of private lands. TWA supports the FY 2003, CCC intention to use GRP to protect grazing lands from conversion, supports efforts to maintain or enhance biodiversity, and supports incentives to protect grassland resources while enabling agricultural producers to use the forage in their agricultural operations. We also support program emphasis on participants having opportunity to use a wide range of management practices to maintain viable, high quality grasslands.

We support the objectives as set forth in 1415.1(b) – to emphasize “preservation” (although we suggest the use of “conservation” as a better word since it implies necessary management) of native grasslands and shrublands, protect these lands from the threat of conversion, support grazing operations, and maintain and improve plant and animal biodiversity.

We cannot support the use of GRP to enroll pastureland monocultures that require cultural amendments to maintain productivity, or at least feel USDA guidance should clearly reflect a lower priority as compared to native grasslands. Allowing monocultures of less desirable species is not consistent with the intent of the three major components of the Selected Option, that of the co-equal status of maintaining and improving biodiversity. We believe that participants should be required to manage their lands in a way that increases native plant diversity to the maximum extent possible, including range reseeding with native species where necessary. Such requirements should provide up to 75% restoration costs as allowed by program rules.

We do not think that “introduced forage species that are managed like rangeland” should be defined as rangeland. The use of introduced forage species for livestock management reduces biodiversity and is best defined as pastureland. These areas should be excluded from the easement.

We have a problem with the use of the term “natural grasslands” as it is being used throughout the document. The term “natural” elevates introduced plants and, in some cases, tame pasture and introduced monocultures, to the status of native grasslands while implying that they provide similar ecological and biodiversity functions to native plants.

We suggest that the term “natural” be deleted throughout most of this document or be replaced with the correct term “naturalized” wherever it must remain to meet legislative intent. We recognize that many grasslands in Texas have naturalized exotic grasses as a component, such as buffleggrass, KR bluestem, etc., but USDA should avoid planted monocultures.

We believe program emphasis should be on conservation of existing grasslands with high quality native plant communities. Only secondary consideration could be given to land supporting non-native plant communities, but only after careful evaluation of the land’s ability to support acceptable plant and animal diversity.

To secure maximum conservation benefits for the United States, land restoration should emphasize establishment of native plant communities with high plant and animal diversity and viable ecosystem function. States should be encouraged to develop ranking systems that consider tract size in relation to landscape scale conservation effectiveness.

TWA would oppose lands transferring from Conservation Reserve Program to GRP, or canceling CRP contracts to enroll in GRP. CRP is a separate program, and funds were allocated to remove highly erodible cropland out of production and reduce erosion. These lands have already received federal conservation benefits.

We strongly encourage USDA to allow states to establish criteria to evaluate and rank applications based on broad national guidelines while allocating funds to states for selection of projects at the state level. We believe it is very important for states, through their State Technical Committees, to have the opportunity to address statewide concerns and develop ranking systems that make sense for the conservation issues and landowners of each state.

We believe it is very important to require landowner authorization for any delegation of easement administration to a third party organization. This is critical to ensuring long-term support of the program by landowners and landowner organizations.

We understand that USDA should be allowed right of access to the easement and rental property, but we believe it is important that rules ensure that every effort has been made to contact the landowner prior to entry onto the property. Also, we see no need to access other property that outside of the easement, unless permission is granted to do so by the landowner.

We believe that programmatic appraisals should not be used in lieu of county averages for fair market value or grazing values. Using broad regional values will likely not benefit landowners.

We believe that it is absolutely critical that USDA policy requires that individual land appraisals are confidential information, although summary data that does not identify individual landowners may be made available to the public.

The issue of GRP subsurface resource concerns has been a contentious one in Texas. If the intent of the rule is to clarify that the “affected area” is only the site of the oil and gas rig and any equipment or holding tanks or ponds, then we are supportive. Barring oil and gas development on GRP lands or restricting applications from landowners who no longer hold full mineral rights would severely limit enrollment opportunities in Texas. Required offsite drilling would be impractical on large properties. Section 1238 O. (b) (3) of the 2002 Farm Bill on GRP allows the Secretary of Agriculture to “include such provisions as the Secretary determines are appropriate to carry out or facilitate the administration of this subchapter.” We suggest that the USDA follow WRP easement deed policy on this point.

We support Section 1415.11 Restoration Agreements Section (d)’s emphasis on giving priority to using native seed. We suggest eliminating the section below it outlining the use of naturalized species seed. Our experience has shown us that the use of nonnative seed in grassland situations is less beneficial to wildlife and ultimately more expensive in the long run on CRP fields. We would expect the same to be true on GRP.

Our final comment has to do with the “GRP Warranty Easement Deed.” We feel that the current version places unacceptable restrictions on landowner rights and does not actually follow the guidance of the rule itself. Please see the attached comments of TWA’s Vice President Emeritus David K. Langford, whose ranch has been selected for inclusion in GRP, and TWA member and real estate attorney James Barrow. The warranty deed easement referred to in the rules would prevent most landowners from actually participating in the end. We suggest that an easement document more closely resembling the well tested and accepted WRP easement document be adopted, and would be happy to discuss these issues with appropriate personnel.

Sincerely,

Kirby L. Brown
Executive Vice President