



To: Mr. Brian R. Nesvik
Director, U.S. Fish and Wildlife Service

Re: Docket No. FWS-R6-ES-2026-2641

Date: August 3, 2026

Dear Director Nesvik:

Thank you for the opportunity to provide information on a topic of significant importance to waterfowl hunters across our country. At the outset, the Congressional Sportsmen's Foundation (CSF) would like to express our strong opposition to any changes to drain tile setbacks that threaten to undermine the integrity of U.S. Fish and Wildlife Service held wetland easements. More specifically, CSF offers the following comments on the U.S. Fish and Wildlife Service's (Service) Request for Information (RFI) regarding the implementation of drain tile setbacks on Service wetland easements.

Perpetual wetland easements are voluntary legal agreements between willing landowners and the Service that perpetually protect wetlands in the Prairie Pothole Region (PPR) of the United States (eastern MT, portions of ND, SD, MN, and IA). These legal agreements financially compensate landowners for selling certain usage "rights" on their land. In turn, the Service has a legal responsibility to ensure those investments (i.e. wetlands) are maintained in perpetuity. Sportsmen and women who purchase Federal Duck Stamps have a vested interest in the perpetual function of those wetlands since funding from the sale of duck stamps are largely used to purchase both wetland and grassland easements in the PPR, one of the primary nesting regions for many of America's beloved waterfowl species. Sportsmen and women expect their investments to be maintained in perpetuity, consistent with the legal agreement entered into by the private landowner and the Service.

Through easement agreements, landowners convey specific land use rights for the sake of conservation while retaining all rights that are not expressly acquired by the Service. For instance, landowners cannot drain, fill, level, or burn, a wetland where they place an easement. However, the landowner may conduct normal farming, grazing, or haying if the eased wetlands dry naturally (i.e. lack of moisture). The long-term success of these voluntary conservation easements depends on consistent administration that protects the conservation interests acquired by the Service while providing clear and scientifically justifiable management criteria to the applicable private landowner(s).

Your Inside Connection to Outdoor Legislation

While wetland easements establish restrictions on activities within the easement boundary, the Service may also place restrictions on activities occurring outside the easement when necessary to avoid adverse impacts to protected wetlands. Determining how drain tile setbacks should be calculated to protect those conservation interests while respecting private property rights is an action the Service has already taken, most recently in a 2024 rule. Drain tile has existed for centuries, however it wasn't until the 1960's that perforated plastic tiles made their appearance. The rapid expansion and effectiveness of these perforated plastic tiles have dramatically changed the hydrology of the Prairie Pothole Region, along with the continued loss of Prairie Pothole wetlands. Consequently, the Service considered this rapid expansion and used science and a fundamental understanding of hydrology to arrive at its 2024 rule. This rule has proven effective and ensured that sportsmen's and women's investment in conservation is secure through legally acquired wetland easements.

Drain tile setback determinations should protect the conservation interests acquired through the easement while respecting the property rights retained by participating landowners. Because these perpetual agreements are entered into voluntarily by willing landowners, drain tile setback determinations should be calculated in a manner that protects the objectives of the wetland conservation values conveyed to the Service without placing additional burdens on the landowner. The integrity of the easement program is essential to maintaining confidence in voluntary and financially compensated easements, while upholding decades of legal contracts.

The applicable standard for calculating drain tile setbacks should reflect the unique purpose of Service wetland easements. Unlike the Natural Resources Conservation Service's (NRCS) "minimal effect" standard, Service wetland easements are intended to ensure that protected wetlands remain unaffected by activities occurring outside the easement boundary. Accordingly, drain tile setback determinations should be calculated to ensure proposed activities have no effect on wetlands protected by the easement.

Finally, drain tile setback determinations should rely on the best available science and site-specific hydrologic analyses rather than categorical setback distances. Wetland function, soils, groundwater movement, and drainage patterns vary considerably across landscapes, making individualized technical evaluations the most effective means of determining whether a proposed activity would adversely affect a protected wetland. A science-based, site-specific approach provides the flexibility necessary to protect the conservation interests secured through each easement while avoiding unnecessary restrictions on land use opportunities outside the easement boundary.

These principles are critical to sustaining one of the nation's most successful voluntary conservation programs. Wetlands protected through Service easements are absolutely vital to waterfowl conservation in the U.S. Notably, these same easements provide vital habitat to numerous waterbird and shorebird species. The 2025 State of The Birds Report notes that shorebirds show a 33% decline since 1980, with 19 of 28 shorebird species showing definitive negative population declines. In fact, shorebirds have the most Tipping Point species of any group of birds in North America.

According to the Report, the latest U.S. Fish and Wildlife Service Wetlands Status and Trends report shows that the annual rate of wetlands loss increased by more than 50% over past decades, with a staggering 670,000 acres of net loss. If wetlands continued to be lost, and if actions are taken that weaken or further threaten the existence, functionality, or persistence of wetlands, the Service could very well be faced with a slew of migratory birds in critical state.

For nearly ninety years, sportsmen and women have invested in migratory bird conservation through the purchase of Federal Duck Stamps. Those investments have helped secure and sustain wetlands that support North America's migratory birds while demonstrating the sporting community's longstanding commitment to voluntary, science-based conservation. Administering Service wetland easements in a manner that protects the conservation interests conveyed through those agreements ensures those investments continue delivering the habitat benefits they were intended to provide.

CSF encourages the Service to calculate drain tile setbacks in a manner that protects the conservation interests acquired through perpetual wetland easements, ensures proposed activities have no effect on protected wetlands, relies on the best available science and site-specific hydrologic analyses, and respects the property rights retained by participating landowners. Such an approach will preserve the integrity of these voluntary agreements while ensuring the habitat values they protect endure for future generations.

Thank you for the opportunity to provide these comments.

Respectfully,

A handwritten signature in black ink, appearing to read "Jeff Crane", with a long horizontal flourish extending to the right.

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