

Subcommittee Chairman Holden, Ranking Member Goodlatte, and members of the Subcommittee, I am pleased to testify before you today about the review of two federal conservation programs that was performed this past year.

This review entailed an examination of more than 100 Wetlands Reserve Program (WRP) and Wildlife Habitat Incentives Program (WHIP) project files from twenty states, along with interviews of senior program managers in Washington, D.C., and St. Paul, Minnesota.

These projects spanned a time frame of ten years, from 1998 to 2008, and were focused primarily on the larger easements and restoration agreements in the program, both in dollar amount and acreage. The files that were examined represented easement payments and restoration costs totaling over \$150 million.

The primary focus of the review was to examine program eligibility requirements – whether the land as well as the landowners met the basic requirements for participation in WRP and WHIP. Briefly stated, the results of the review disclosed that the Natural Resources Conservation Service (NRCS) was very careful to demonstrate the eligibility of the land with various wetlands requirements, as well as establishing the ownership of the land as a legal possession. However, the agency was often in poor compliance with the adjusted gross income (AGI) requirements set in the 2002 Farm Bill. NRCS also routinely ignored, or excused its non-compliance with, the twelve month ownership requirement of earlier legislation.

The file review also demonstrated problems with the timely attention to restoration activities once an easement had been filed or a restoration plan had been agreed to. Both the actual startup work and the subsequent submission of billings or invoices by participants and contractors were often delayed. Finally, the files were frequently lacking documentation of the annual monitoring of the easements and restoration projects required by both programs.

With respect to AGI compliance, the files demonstrated a general failure of agency personnel, either to request the required financial checks, or to adequately document that such checks had been performed. The initial set of state files that were reviewed contained sixty-three easements or long-term agreements executed between 2003 and 2008. Of these sixty-three files, only eight contained either signed certifications or SCIMS database printouts documenting program eligibility. A second set of files, comprising thirty-five Minnesota contracts, contained just three examples of AGI eligibility documentation. Both the national office in Washington and the Minnesota state office in St. Paul sought additional certifications and printouts for some of the missing documents. But in many instances, the certifications had not been requested by NRCS at the time of application. The certifications were not only missing from agency files but never entered into the FSA program database.

The program management also calls into question the effectiveness of the twelve month ownership requirement. A number of conservation and wildlife protection partner

organizations, both governmental and non-governmental, worked out mutual understandings with landowners and NRCS to acquire private land along with WRP easements. These agreements were made sometimes with and sometimes without waivers of the twelve month ownership requirement by the state conservationists. The partners purchased properties from the private landowners at the same time as NRCS placed easements on the land or shortly before the easements were filed. Legal agreements among the parties in many instances made clear that the easement funds from NRCS were part and parcel of down payments for the land acquisitions by the partners without which the agreements would be voided.

Irrespective of the waivers, the acquisitions appeared to be an end run around the twelve month waiting requirement. In many of these cases, the conservation partner was enrolling the land in a pre-existing refuge, water storage area, or wildlife district. NRCS, in these instances, simply became a cash cow enabling partner organizations to acquire private lands at discount prices.

Additional program management issues, such as project implementation, billing, and regular project oversight, were also raised during this review. While NRCS was generally quick to schedule and pay for the costs of appraisals, land surveys, and title work of projects, it appeared somewhat sluggish in beginning the actual restoration work. Some WRP projects had anywhere from an 18 month to two year lag between the date of easement or long term agreement and the start of restoration work. A few projects, according to the file documentation, underwent no restoration work whatsoever.

In a few instances, the agency wholly deferred the management and oversight of restoration work and easement sites to certain partner organizations, such as the U.S. Fish & Wildlife Service, state conservation agencies, and others. In these cases, it was impossible to tell if any restoration work had been done at all. If NRCS has no intention of overseeing a WRP conservation easement to ensure compliance with program requirements, then it should not be filing one.

Billings for restoration work were also at times severely delayed. This happened often in large contracts with partner organizations, but in some cases applied to contracts with individual landowners. Some of these billings and payments reached into six figures and were submitted up to a year or more after the restoration work in question had begun. Such delays defeat any kind of real oversight over the performance of the restoration work and the accuracy of the amounts being billed.

The monitoring of restoration projects was uneven and appeared to follow no set plan. The regulations required annual reviews with at least one actual site visit every three years until the conservation practices were established. Some states completed annual status reviews, both during and after restoration. Other states did little, if anything, to evaluate program compliance once the easements were filed and restoration work had begun.

The program files were also uneven in terms of documentation. Only a handful of agency offices noted the completion of restoration work in the project files. A few states did an excellent job in documenting the files, most notably Indiana, Nebraska, and Louisiana. Many other states, however, did not. Absent from many of the state files were documentation of financial eligibility, highly erodible land determinations; site monitoring; and the cultural and historical site reviews.

Occasionally absent were other required forms such as the program applications, conservation plans, schedules of operation, cost estimates, certificates of ownership and possession, hazardous substance and environmental reviews, or compatible use agreements. Some files lacked even the basic contractual agreements between the landowners and the government, the easements, or the long term restoration contracts.

I appreciate the opportunity to discuss the results of the review of these conservation programs and look forward to answering any of your questions.

Thank you.

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