

Docket Number: FWS-R6-ES-2026-2641
7, 2026

August

Brian Nesvik, Director
U.S. Fish and Wildlife Service
1849 C Street NW
Washington, D.C. 20240

Director Nesvik:

On behalf of the North Dakota Chapter of The Wildlife Society (NDCTWS), thank you for the opportunity to comment on the proposed rule change regarding the 2024 Drain Tile Setbacks Rule. This rule regards U.S. Fish and Wildlife Service (FWS) perpetual wetland easements in the Prairie Pothole Region of North and South Dakota, Minnesota, Iowa and Montana.

The NDCTWS, established in 1963 has supported the FWS Small Wetland Acquisition Program for over 60 years, through wetland controversies like the Starkweather-Edmore Watershed Project, the Garrison Diversion Unit, and the 1986 U.S. Supreme Court case between North Dakota and the FWS over wetland easements. The Small Wetlands Acquisition Program has been called one of the most successful habitat protection and management program in the world.

In North Dakota, the FWS has purchased over 20,000 wetland easements from willing seller farmers and landowners protecting over 1 million acres of prairie wetlands, vital not only for waterfowl and water bird production and habitat, but for countless other species of prairie wildlife. These wetlands also provide a measure of flood control, restrict soil erosion and promote water quality.

The current 2024 Drain Tile Setback Rule is based on site-specific evaluations of soil type, hydrology, topography and engineering data to protect these easement wetlands and provide landowners the ability to manage their land. The vast majority of North Dakota farmers and landowners have few problems with maintaining the wetlands protected by easements of their lands.

Wetland easements prohibit the drainage, filling (with soil), leveling and burning of protected wetlands. Drainage whether by an open ditch dug through a wetland, a buried drain tile through and under the wetland bottom, or a drain tile system that

prevents natural ground water or water table from reaching the wetland are all in violation of the drainage prohibition in the easement.

Weakening or eliminating the 2024 Drain Tile Setback Rule has the potential to destroy almost all wetlands on privately-owned agricultural land in the five-state Prairie Pothole Region. Iowa has already lost over 90 percent of its wetlands base. Minnesota has drained probably over 50-60 percent of its historic pothole wetlands. North and South Dakota have likely destroyed over 50 percent of their prairie wetlands. Weakening or eliminating the 2024 Rule threatens most of the remaining privately-owned wetlands in these five states.

Waterfowl hunters, bird watchers, and other conservationists have supported the acquisition of these wetland easements through the purchase of U.S. Migratory Bird Hunting stamps (Duck Stamps) for over 60 years. The total investment paid for entirely by these dollars amounts to several billion dollars. Weakening the rules that protect these vital prairie wetlands would violate a trust between the FWS and hunters, sportsmen and women, conservation organizations, and Congress in passing the Small Wetland Acquisition Program legislation in 1959. Such action would also likely affect Canada, Mexico, and Japan, all signatories to the Migratory Bird Treaty Act.

For all these reasons, the North Dakota Chapter of the Wildlife Society respectfully requests that the U.S. Fish and Wildlife Service not change, weaken, or eliminate the 2024 Drain Tile Setback Rule.

Thank you again for the opportunity to provide input on this most important wildlife conservation issue.

Sincerely,

A handwritten signature in black ink, appearing to be 'Mandy J. Guinn', with a long horizontal flourish extending to the right.

Mandy J. Guinn, President

North Dakota Chapter of The Wildlife Society