

United States Department of Agriculture



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DATE: February 27, 2004

TO: David McKay, Conservation Planning Team Leader
NRCS - Conservation Operations Division

FROM: Donna Randall, Administrative Assistant
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Following are six oral testimonies that New Mexico received on the proposed rule that implements the CSP. These comments were received during the Listening Session held on February 19, 2004, at the USDA, 6200 Jefferson NE, Albuquerque, New Mexico.

You may have already received the comments directly from Chuck Caruso, Erica, Peters and Terry Riley.

Please call me if you have any questions. Thank you.

**Donna Randall
Administrative Assistant
505-761-4446**

CHUCK CARUSO
ORAL TESTIMONY GIVEN AT
CSP LISTENING SESSION
ALBUQUERQUE, NM
FEB. 19, 2004

Good Morning.

For those of you who don't know me, let me introduce myself.

My name is Chuck Caruso, and I am a retired NRCS engineer, having retired from the NRCS in December, 1997, after 33 years of service.

I am currently a certified Technical Service Provider for the NRCS in both New Mexico and Colorado, specializing in engineering and irrigation related practices.

I am also a member of the NRCS National Technical Advisory Group for the Conservation Security Program, CSP, which you have been discussing today.

With that said, I would like to share with you, in my allotted 5 minutes, some of the concerns that were expressed by me and others technical experts at last week's meeting of the National CSP Management Intensity Workshop in Dallas.

The members of our CSP Technical Advisory Group consist of a wide range of experts, including agricultural producers from across the US, environmental groups, university level researchers, agricultural equipment suppliers as well as certified Technical Service Providers. These members represent expertise in the numerous management intensities that will be emphasized in the upcoming CSP program, including Irrigation Water Management, Range Management, Nutrient Management, Water Quality and Wildlife Management.

The concerns of our group meeting in Dallas focused on 2 major subjects:

1. The content of each targeted Management Intensity identified under CSP.
2. The NRCS's concern about its current inability to deliver the high level of technical assistance necessary to service CSP contracts.

In regards to the last item, that is the current lack of a NRCS technical delivery system for the Management Intensities under CSP, some mid and upper level NRCS management officials present at the Dallas meeting thought that the Technical Service Provider (TSP) program could fill this technical delivery gap. It was quickly pointed out by the TSP folks present that the NRCS TSP Program is also currently ineffective, due to the abnormally low assistance costs that the NRCS is currently providing to TSPs.

For example, let's take Irrigation Water Management Assistance, which is one of the very highest western priorities of the Conservation Security Program. A 250 acre irrigated farm (2 center pivots) on the High Plains of Texas, is currently being funded under TSP at the ridiculous rate of \$1.13/acre. Folks that's a whole \$282, including travel, to be paid to the Technical Service Provider to provide the necessary assistance to a CSP producer to reach the pinnacle tier of Irrigation Water Management Technology. It gets even worse in eastern Colorado, where the IWM payment rate for the same 250 acre farm is \$.71/acre or \$178 to provide to the Technical Service Provider for providing intensified irrigation technology assistance.

For those of you that are ranchers here in New Mexico, guess what the TSP assistance rates are for getting someone to provide you Intensified Prescribed Grazing Assistance in eastern New Mexico? On a 6000 acre ranch, the TSP assistance rate is an overwhelming \$.05/ per acre or a mere \$300 for furnishing you state-of-the-art Grazing Management Assistance on the entire 6000 acre ranch. Do you wonder why the Technical Service Providers aren't breaking down your door to get in??

To say the least, the NRCS is never going to get any capable Technical Service Providers to provide the much needed assistance to the Conservation Security Program at these ridiculously low rates.

In addition to the low rates, many NRCS State Offices, including New Mexico, have made the decision to transfer the majority of the allocated TSP funds to local SWCDs, with the assumption that the SWCDs will provide some much needed relief to the NRCS in meeting its mandates under the EQUIP Program. From what I have seen here in New Mexico, the majority of personnel hires that the SWCDs have made with these TSP funds are for administrative type folks, but not for trained, certified technical assistance experts. This decision may help fill some administrative needs under EQUIP, but it will definitely not be effective in providing the high level of Management Intensity Assistance targeted under the Conservation Security Program.

Therefore, I and other Technical Providers would hope that the NRCS and the New Mexico State Technical Committee would not only re-evaluate the NRCS assistance rates currently provided to private Technical Service Providers but also rethink the decision to transfer the majority of TSP funds to SWCDs in New Mexico. We all need to look at the big picture and make sure that Conservation Security Program participants will not be left adrift when seeking the high level of System Management Intensities that will be necessary for producer compliance under the various tiers of the Conservation Security Program, so that the NRCS can truly "Reward the Best and Motivate the Rest"

Thank you for your attention.

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New Mexico Organic Commodity Commission

Bill Richardson, *Governor*

Erica Peters, *Agency Director*

Date: January 28, 2004

To: David McKay
Conservation Operations
NRCS, PO Box 2890
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*For the rule to meet the letter of
the law it must be fully funded as
CSP
this is an entitlement program.*

From: Erica Peters
New Mexico Organic Commodity Commission Director
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Subject: CSP

A revised proposed rule is necessary for the Conservation Security Program. I urge the NRCS to quickly issue a revised proposed rule that is congruent with the requirements of the CSP section of the 2002 Farm Bill.

The current proposed rule is too limited and should provide a nationwide program available to all farmers and ranchers in the country who are practicing effective conservation. The new proposed rule should not limit eligibility to farmers and ranchers with a small number of watersheds or to certain classes of farmers and ranchers.

The proposed rule sets the entry point far too high and is not consistent with the law. The proposed rule denies access those transitioning to sustainable agriculture. Farmers and ranchers should be able to achieve high environmental standards through the CSP program. CSP contracts should specify that all applicable conservation standards should be met by the end of the third year.

The payment rates proposed are far too low. The payment structure should be revamped to be consistent with CSP law.

The rule should include and define participation with the National Organic Program and the CSP, make all conservation practices eligible, restore a comprehensive, locally-driven approach to conservation, provide ongoing, not one-time support, not penalize cash renters, provide continuous sign up.

*Additionally, it is my opinion that organic certification of
a farm or ranch should constitute eligibility for CSP since
required organic production ^{includes} directly and positively impacts soil + water quality.*

Conservation Security Program Draft Rule
Critical Summary
Terry Riley
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The NRCS proposes to limit enrollment in the CSP, because of funding limitations, by conducting periodic enrollments (similar to those for the CRP), developing rigorous enrollment criteria and payments to ensure the highest level of environmental stewardship for the most important environmental (Nationally Significant Resource) concerns, and imposing eligibility requirements based on selected priority watersheds.

Prior to enrollment at the lowest level of the CSP (Tier I), applicants would be required to address specific nationally significant soil and water quality concerns on part of their operation. Prior to enrollment at the Tier II level, applicants would be required to address specific nationally significant soil and water quality concerns on their entire operation. Prior to enrollment at the Tier III level, applicants would be required to address all resource concerns listed in the NRCS Field Office Technical Guide on their entire operation. Applicants would be authorized to use other conservation programs (USDA or otherwise) to address meet the requirements prior to application for the CSP.

Issue 1. Subsection 1470.3. Definitions.—The NRCS proposes to authorize the State Technical Committees to determine which plant or animal species needs direct intervention to halt its population decline (at-risk species).

Concern—State fish and wildlife agencies and the US Fish and Wildlife Service share trust responsibilities for the management and protection of our fish and wildlife resource. Although personnel from these government agencies may serve as members of State Technical Committees, there is no guarantee that the State Technical Committee will seek or consider their advice.

Recommendation—Require concurrence with the US Fish and Wildlife Service and the respective state fish and wildlife agency for determination of at-risk species.

Issue 2. Subsection 1470.4. Significant Resource Concerns.—The NRCS proposes to identify only soil quality and water quality as nationally significant resource concerns.

Concern—By law, soil, water, air and wildlife resources carry equal priority in the Conservation Title of the Farm Bill. Focusing only on soil and water quality is not consistent with the conservation purposes of the Farm Bill.

Recommendation—Include habitat protection, restoration and enhancement for at-risk fish and wildlife species as a nationally significant resource concern.

Issue 3. Subsection 1470.5(a)(4)(i). Eligibility requirements and selection and funding of priority watersheds.—The NRCS proposes to require CSP applicants to address nationally significant soil and water quality concerns on part of their agricultural

operation before they are eligible to apply for Tier I conservation security contracts.

Concern—By law, soil, water, air, and wildlife resources carry equal priority in the Conservation Title of the Farm Bill. Focusing only on soil and water quality is not consistent with the conservation purposes of the Farm Bill. By law, an applicant for a Tier I conservation security contract must address only one significant resource of concern on part of the agricultural operation. Requiring an applicant to address two significant resources of concern is not consistent with the law.

Recommendation—Require applicants for a Tier I conservation security contracts to address one nationally significant resource (soil, water, air or wildlife) concern on part of their agricultural operation.

Issue 4. Subsection 1470.5(a)(4)(ii). Eligibility requirements and selection and funding of priority watersheds.—The NRCS proposes to require CSP applicants to address nationally significant soil and water quality concerns on their entire agricultural operation before they are eligible to apply for Tier II conservation security contracts.

Concern—By law, soil, water, air, and wildlife resources carry equal priority in the Conservation Title of the Farm Bill. Focusing only on soil and water quality is not consistent with the conservation purposes of the Farm Bill. By law, an applicant for a Tier II conservation security contract must address only one significant resource of concern on their entire agricultural operation. Requiring the applicant to address two significant resources of concern is not consistent with the law.

Recommendation—Require applicants for a Tier II conservation security contracts to address one nationally significant resource (soil, water, air or wildlife) concern on their entire agricultural operation.

Issue 5. Subsection 1470.5(b). Eligibility requirements and selection and funding of priority watersheds.—The NRCS proposes five categories of land that is eligible for enrollment in the CSP.

Concern—Federal and other public lands (such as those administered by the Forest Service, the Bureau of Land Management, and the States) that are part of a private agricultural operation are not specifically included as eligible for enrollment in the CSP. Many private agricultural operations include leased or permitted use of federal or other public lands, and these operations would not be viable without the resources available through those leases or permits. The leased or permitted use of the resources on those federal or other public lands are integral to the agricultural operation and must be considered as part of the entire agricultural operation.

Recommendation—Authorize a sixth category of land that is eligible for enrollment in the CSP. This category should include federal or other public land that is leased or under permit by the operator and is considered integral to the entire agricultural operation of the applicant.

Issue 6. Subsection 1470.5(c)(4). Eligibility requirements and selection and funding of priority watersheds.—The NRCS proposes that public land not be eligible for enrollment in the CSP.

Concern—Federal and other public lands (such as those administered by the Forest Service, the Bureau of Land Management and the States) that are part of a

private agricultural operation are not eligible for enrollment in the CSP. Many private agricultural operations include leased or permitted use of federal or other public land, and these operations would not be viable without the resources available through those leases or permits. The leased or permitted use of those federal or public resources are integral to the agricultural operation and must be considered as part of the entire agricultural operation.

Recommendation—Modify Subsection 1470.5(c)(4) to make public land ineligible for enrollment into the CSP, except when it is determined to be considered integral to the entire agricultural operation of the applicant.

Issue 7. Subsection 1470.5(e)(1). Eligibility requirements and selection and funding of priority watersheds. Selection and funding of priority watersheds.—The NRCS proposes to nationally prioritize watersheds based on a score derived from a composite index of existing natural resource, environmental quality, and agricultural activity data.

Concern—If NRCS prioritizes watersheds nationally, there may be no eligible priority watersheds in some states during specific enrollment periods. This process would not distribute payments among states very well. Producers in some states may rarely be eligible to apply for the CSP.

Recommendation—Prioritize watersheds by state based on a score derived from a composite index of existing natural resource, environmental quality, and agricultural activity data.

Issue 8. Subsection 1470.5(e)(1). Eligibility requirements and selection and funding of priority watersheds. Selection and funding of priority watersheds.—The NRCS proposes to consider several factors to prioritize and identify priority watersheds, three of which have been listed specifically relating to surface and ground water, excessive soil quality degradation, and condition of grazing land.

Concern—By law, soil, water, air and wildlife resources carry equal priority in the Conservation Title of the Farm Bill. Focusing only on soil and water quality and condition of grazing land is not consistent with the conservation purposes of the Farm Bill.

Recommendation—Add a fourth factor that will be used to prioritize and identify priority watersheds by considering the habitat needs of at-risk fish and wildlife species in the watershed.

Dale Jones,
Valencia County SWCD

Oral Testimony
CSP Listening Session
2/19/04

I'm Dale Jones. I don't have written comments to hand to you, but I took some notes this morning when we were talking that I would like to address. This first one I think you were after some ideas on how to reduce some costs of this program. I guess one suggestion that I don't know if it's even legally possible, but it seems to me to reduce costs there would be a possibility of allowing the participants to get credit in EQIP and WHIP and some of the other programs rather than take dollars from the CSP program. I don't know if that's possible, but it occurs to me that it is a legitimate way to spread better resource management to the land. I want to make a comment on paying folks for as the way I see it as a problem that is happening to their own land. I would like to see you use CSP funding only for lands that have been corrected. If you have a real big problem on that land I would rather see us go to the other programs that are already available to try to improve the land. I think it is going to be a nightmare for the people that go out and inspect these things on whether they're qualifying to have someone start a new program. They're starting from scratch. I wanted to ask about the payment to producers who add resource areas to their accomplishment. I know there is legislation right now going through the mill on this, but it seems to me that an additional resource benefit might be where a landowner would allow access to his land, hunting, fishing or whatever the other resources might be. I think that he should get credit for that if he would allow that.

It wasn't mentioned this morning, but I was reading in the questions and answers of the handout. Will I have to complete? This was one of the questions and answer was "No." I had a hard time believing it that there wasn't any competition when there was only a few things being done and just a little bit of money. That's when I think the answer was really kind of wrong.

Thank you

Richard Becker
New Mexico Riparian Council

Oral Testimony
CSP Listening Session
2/19/04

I'm Richard Becker. I'm the past president of the New Mexico Riparian Council. I can say for myself personally that I've always liked the philosophy behind these programs. My comments are more in terms of questions that I think result all of us in the public and New Mexico and throughout the country understand where this program is and where we want to take it.

I basically have four questions:

1. Is there any perceived allocation between the tiers. This really needs to be spelled out better because I am not understanding the rationale for how it would be proposed versus that.
2. You referred to identifying 10-15 practices that would be limited to this program for reimbursement. I really think this needs to be very spelled out.
3. Contracts, my questions is, there needs to be some regional variation in that because when you consider the southwest versus the northwest versus the south versus New England. What may be very appropriate in Vermont is not going to be appropriate in New Mexico. We really need to know how these priority watersheds are going to be determined. We have 87 or 82 hydrologic units in New Mexico and I'm concerned that as a citizen and a taxpayer that NRCS does not somehow factor in the work that EPA has already done. When you look at the long-term hall of what we are trying to do in terms of watershed health there needs to be better coordination between government programs.

My forth and final point is:

4. In our respective first speakers comments about the involvement of the Technical Service Providers, one of the on-going concerns about government programs is when you think over a lifetime the amount of money that we have invested through our government programs and we always ask ourselves the question at election time did we solve the problem. I've gotten more conservative in my old age, but I keep trying to find where did we ever solve a problem with government funding. What I'm getting to is the gentleman's point about on the front end you are being very niggardly I think on what you're paying to Technical Service Provider. That obviously needs to change. The real question I'm getting at is what are we going to do in terms of developing monitoring plans and programs that your boss can go back to the senate and house of representatives and to the president and say that after 3 years we demonstrated because we monitored the progress on these programs and this what we accomplished. That's need to be built into this program and all of the programs. I understand and sympathize with NRCS personnel problem with budget cuts and not enough staff. I recognize this. Maybe the department and congress need to rethink how they spend their money. The monitoring is always left out and that should be the number one priority.

Thank you.

TOM DELEHANTY
FARMER

CSP LISTENING SESSION
FEBRUARY 19, 2004

A Dozen Reasons to Support and Pass the Conservation Security Program

1. **Developed by Farmers** – the basic principles of the Conservation Security Program were developed by farmers in workshops and meetings across the country during a multiyear effort to solicit their views of key ingredients for a new farm bill stewardship incentives program.
2. **Comprehensive, One Stop Shop Approach to Conservation** – producers must integrate a wide variety of resource concerns on their operations, yet face a 'balkanized' set of programs, each with separate resource goals, rules, and eligibility requirements; CSP provides a comprehensive approach covering the full range of conservation and environmental issues related to working lands, and enables participation based on one unified, site-specific conservation plan
3. **Rebalancing** – conservation funding has shifted dramatically in recent years toward land and farm retirement; CSP helps restore a better balance in support of incentives for working lands so that producers don't have to stop farming in order to benefit
4. **All Farms/All Ranches/All Regions** – CSP promotes participation in a comprehensive, voluntary conservation incentives program in all regions of the country, on all types of agricultural land, for all types of operations
5. **Complete Planting and Enterprise Flexibility** – crop and enterprise choices are based on the market, family goals, and conservation objectives, not prescription
6. **Rewards for Stewardship** – CSP pays producers in recognition of the public natural resource and environmental benefits provided on working farms and ranches, including maintenance payments for active management of already adopted practices – the focus is on long-term benefits through conservation planning – there are no perverse incentives (common to other programs) to penalize good stewardship or reward only previous poor practice
7. **Annual Income Support** – not to be confused with a traditional cost share program, CSP incorporates, in addition to cost-share assistance, a substantial potential for income enhancement and does so on an ongoing basis, not as a one-shot deal for help installing a particular practice
8. **Graduated Enrollment** – CSP allows the producer to decide what level or tier to participate in – a basic set of conservation practices for some or all of an operation, a conservation system for the whole operation that includes some more far-reaching practices, or a total resource management approach
9. **Fostering Innovation** – producers may elect to participate in on-farm research and demonstration of conservation innovations, pilot testing, or on-site monitoring, making the conservation delivery system more of a participatory effort that encourages innovation
10. **Improved Competitiveness** – CSP helps level the playing field for US producers now that EC countries have instituted a variety of new stewardship incentive programs for their producers
11. **WTO Compatible** – CSP payments are not based on type or volume of production or on prices, and instead are based on fulfillment of clearly defined conservation conditions and compensation for environmental performance
12. **Complements Existing Programs** – CSP can work in tandem with partial field land retirement programs like CCRP and WRP and contains specific rules for dual or merged participation for those already enrolled in other working lands conservation programs

(by Jeff Schahczenski, published in Captial Press, February 6, 2004, p.7.)

CSP-Cheat the Best and Ignore the Rest

In legislation President Bush will sign into law this week, Congress has restored full, uncapped funding for 2005 and beyond to the Conservation Security Program (CSP), the landmark 'green payments' initiative from the 2002 Farm Bill to provide stewardship payments in support of excellence in private working farmland conservation.

Unfortunately, less than a month earlier, the Administration issued a "proposed rule" to guide implementation of the CSP that assumed the program would be limited to a capped, very low spending level each year. In fact, the proposed rule is so restrictive and proposes such low levels of financial assistance it is doubtful whether many farmers could qualify or if any would bother trying.

The Conservation Security Program can offer one of the best opportunities in United States history to build a sustainable western agriculture on working lands. With so much potential at stake, it is truly amazing that the United States Department of Agriculture can now propose rules for this innovative conservation program that are so completely out of touch with the intent of Congress.

In announcing the proposed rules for this innovative conservation program last month the Secretary of Agriculture, Ann Veneman stated that the proposed rules for the Conservation Security Program "will reward the best and motivate the rest". However by any reading of these rules, what we really have is a program gutted of all its potential to be a truly new way to support conservation in agriculture. What these proposed rules offer is a program that will cheat the best and ignore the rest. With Congress fully funding the CSP, three major items must be addressed quickly:

First, the USDA must immediately write a supplemental rule to this program that recognizes that this program is an *uncapped entitlement program*. The current proposed rules must reflect the reality that this program was created to last at least seven years. The NRCS and USDA should not be wasting time creating a narrow set of rules that worry too much about the unfortunate fact that Congress has appropriated only \$41 million dollars for this program in the current fiscal year (which is almost half over already anyway). Given the incredible foot dragging of this administration in implementing this program, it is unlikely that there will be final rules ready to spend much of the \$41 million dollars appropriated this fiscal year anyway and it would seem prudent to at least "trial run" a few CSP contracts under rules that reflect its true entitlement status.

Remember entitlement means that "all who are eligible" have the opportunity to participate and that the cost of the program should NOT be the critical issue addressed in the implementation of this program. As an example, the commodity programs are also an entitlement program, and all those who grow the commodity crops that the federal government supports are eligible for that support. When the commodity title of the 2002 Farm Security and Rural Investment Act was passed, it was "*estimated*" that these commodity entitlement programs would cost some \$133 plus billion dollars over the life of the Act. Of course the actual expenditures will be more or less depending on many factors not controllable by the federal government. The Conservation Security Program is also "*estimated*" to cost \$7.2 billion dollars over the life of the Act that authorized it. We need to make the same commitment to this entitlement program as we do to the commodity programs and we need rules that reflect that commitment; the current proposed rules do not.

Second, the proposed rules set a series of eligibility criteria that are so out of step with the legislation that if one could effectively sue the USDA for violating the intent of Congress it is

very likely that the plaintiffs would easily win a settlement. For instance the proposed rules set incredibly high standards of eligibility, limit support to un-named priority watersheds, set two resources of concern as the only resources of importance, have limited program sign-up periods, and wish to limit support to an again un-named set of restricted conservation practices.

Finally, the benefits of the program outlined in the rule are so limited that even if one can become eligible for the program it is doubtful that it would be worth applying. As one major example, the cost-share rates proposed under the rule are only 5% of the estimated conservation practice costs. This is unreal considering that other conservation programs (like the Environmental Quality Incentive Payment Program) that try to bring farmers and ranchers in compliance with federal environmental laws will get up to 75% cost-share! Thus a program supposedly rewarding proven conservation farmers only provides 5% cost share from the USDA while another government program provides 75% cost share with no assurance of positive environmental outcomes.

These proposed rules highjack one of the most important new conservation programs in our nations history. As Senator Gorden Smith, one of the original sponsors of the CSP relates in recent comments, "this is too good a program to shortchange. We have the opportunity to help farmers in their efforts to protect the environment, and we should be doing all we can to realize its' full potential". While this administration gives the impression of wanting to make new serious efforts for conservation in agriculture, when rhetoric meets reality we are left with a monumental failure of delivery.