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## THE VALUE OF CONSERVATION COMPLIANCE TO HUNTERS AND ANGLERS

By R.J. Lehmann

In recent years, free-market groups and environmental activists have demonstrated they can work together effectively to root out wasteful federal subsidies that benefit environmentally destructive development.<sup>1</sup> As such efforts at collaboration expand and move forward, there is one natural constituency that shares significant political overlap with both groups: sportsmen and sportswomen. Long-known for their advocacy of certain causes associated with the political right, public polling demonstrates hunters and anglers also are among the most committed advocates of conservation, reflected in the high priority given to such issues by so-called “hook and bullet” groups.

With Congress preparing to resume work this month on a long-term Farm Bill, this constituency could prove instrumental in settling a key issue that divides the differing versions passed by the Democratic-controlled U.S. Senate

1. Eli Lehrer, “Strange Bedfellows: SmarterSafer.org and the Biggert-Waters Act of 2012,” *Duke Environmental Law and Policy Forum*, 351-361, Spring 2013. <http://scholarship.law.duke.edu/delpf/vol23/iss2/7/>

and the Republican-controlled U.S. House: whether to attach so-called “conservation compliance” requirements to federal subsidies for crop insurance. This brief argues that conservation compliance has proven crucial over the past three decades to maintaining various wildlife habitats of value to hunters and anglers. Transitioning to a new paradigm in which crop insurance programs – including new “shallow loss” programs – are the primary means of providing farm supports, as contemplated by the House bill, without enacting a corresponding expansion in conservation compliance, threatens grave harm to hunters and anglers’ priorities. Sportsmen’s support for conservation

According to the National Survey of Fishing, Hunting and Wildlife-Associated Recreation released by the U.S. Fish and Wildlife Service, there were 90.1 million U.S. adults – accounting for 38 percent of the population – who participated in wildlife-related recreational activities in 2011. Of these, there were 33.1 million anglers, 13.7 million hunters and 71.8 million wildlife watchers, with significant overlap between the groups.<sup>2</sup> The National Shooting Sports Foundation puts the number of “casual” hunters significantly higher, estimating that 21.8 million Americans have hunted at least once in the past five years.<sup>3</sup>

Moreover, spending by these wildlife recreationists serve as the single largest source of conservation funding in the United States. FWS estimates they combined to spend \$145 billion on their fishing, hunting and wildlife watching in 2011, a significant portion of which is redirected to conservation efforts.<sup>4</sup> The NSSF estimates hunters contribute more than \$1 billion annually to wildlife conservation via licenses and excise taxes.<sup>5</sup> For their part, anglers spent nearly \$560 million on fishing licenses in 2007, according to the American Sportfishing Association.<sup>6</sup> The ASA also notes that anglers spend hundreds of millions more in excise taxes on gear and motorboat fuel, \$350 million of which were directed to state fish and wildlife agencies.<sup>7</sup>

Given the size of those investments, it should not surprise that hunters and anglers are particularly keen to see their

2. U.S. Fish and Wildlife Service and U.S. Census Bureau, “2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation.” December 2012. <http://www.census.gov/prod/2012pubs/fhw11-nat.pdf>

3. National Shooting Sports Foundation, “A Portrait of Hunters and Hunting License Trends: National Report,” 2010. <http://www.nssf.org/PDF/HuntingLicTrends-NatRpt.pdf>

4. 2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation

5. A Portrait of Hunters and Hunting License Trends: National Report

6. Mary Jane Williamson, “Angling Retains its Mainstream Appeal and Broad Economic Impact,” American Sportfishing Association, September 26, 2007. <http://asafishing.org/newsroom/news-releases/angling-retains-its-mainstream-appeal-and-broad-economic-impact/>

7. Ibid.

conservation dollars are used wisely, and they vote accordingly. An August 2012 survey of 800 hunters and anglers conducted by Chesapeake Beach Consulting on behalf of the National Wildlife Federation found that 60 percent said they vote in every election, with an additional 21 percent who said they vote in nearly every election.<sup>8</sup> The sample had a notably conservative bent, with 42 percent identifying as Republicans, 32 percent as independents and just 18 percent as Democrats. Half of those surveyed said they considered themselves conservatives, with 22 percent saying they considered themselves “very conservative.”<sup>9</sup>

Yet, while 37 percent of those surveyed said they considered gun rights the most important issue facing sportsmen and sportswomen, 47 percent said conservation was equally important and another 13 percent said conservation was even more important than gun rights.<sup>10</sup>

A more recent survey of 800 hunters conducted in March 2013 by Public Opinion Strategies and Global Strategy Group on behalf of the Bull Moose Sportsmen’s Alliance found similar attitudes about a broad range of conservation topics, with 91 percent characterizing “public lands like our national parks, forests, monuments and wildlife areas (as) an essential part of our economy” and a similar margin indicating support for “the federal government dedicating a small portion of fees already...paid by oil and gas companies for offshore drilling to the Land and Water Conservation Fund, which was created by Congress so that those fees could be used for conservation, wildlife, and clean water and providing access to outdoor recreation throughout the country.”<sup>11</sup>

However, the Bull Moose survey also revealed concerns about how effective hunters have been in communicating these conservation values to their elected federal representatives. According to the survey, 88 percent said it was a problem that “not enough sportsmen (are) making their voices heard on decisions made by Congress affecting sportsmen interests.” Only 33 percent felt the ideas and points of view of sportsmen and sportswomen are taken into account when decisions are made in Congress.<sup>12</sup>

These concerns are particularly interesting, given that one of the priorities highlighted by the survey was strong support for conservation programs within the Farm Bill. Roughly 84

percent of those surveyed said they favored “the federal government providing financial incentives for farmers and ranchers to conserve land for wildlife habitat, allow for public access, and practice sustainable farming and ranching methods.”<sup>13</sup>

## A SHORT HISTORY OF CONSERVATION COMPLIANCE

After an extensive history of largely voluntary programs to encourage agricultural producers to conserve natural resources on private land, Congress in 1985 made significant changes to the approach it took to awarding a host of subsidies, incentives and supports to farmers. As part of the Food Security Act of 1985, USDA was charged with monitoring two new conservation programs aimed at preserving wetlands (swampbuster) and ensuring responsible cultivation of highly erodible land (sodbuster).<sup>14</sup>

Under the sodbuster program, producers who farm highly erodible land that was not in cultivation between 1980 and 1985, or any highly erodible land in production after 1990, must agree to use an approved conservation plan, or risk losing a host of USDA benefits.<sup>15</sup> Temporary variances are sometimes granted due weather or crop disease, and exceptions may also be sought due to economic hardship or a good faith effort to comply.

Under the swampbuster program, producers can lose benefits for planting crops on wetlands that were converted after December 23, 1985, or for converting wetlands to agricultural use (draining, dredging, filling or leveling, regardless of whether any crops are ultimately planted) after November 28, 1990.<sup>16</sup> Exemptions are granted for wetlands created by irrigation systems or incidentally as a result of adjacent development, as well as for artificial lakes and ponds. Since their inception, the sodbuster and swampbuster requirements have been attached to commodity support payments, disaster payments, farm loans and conservation program payments. But while federal subsidies to purchase crop insurance subsidies – which currently run about 60 percent of the cost of the premium – initially were included as a benefit that triggered conservation compliance requirements, that was changed by Federal Agricultural Improvement and Reform Act of 1996, which also created the direct payments program.

In part because of the prevalence of direct payments, more than 80 percent of commodity producers today must com-

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8. Bob Carpenter, “National Wildlife Federation: National Survey of Hunters & Anglers National Survey of Hunters & Anglers,” August 2012. <https://www.nwf.org/pdf/Sportsmen/2012PollSlides.pdf>

9. Ibid.

10. Ibid.

11. Bull Moose Sportsmen’s Alliance, “Key Findings from a Survey of U.S. Hunters,” March 2013. <http://www.bullmoosesportsmen.org/Hunters%20Survey.pdf>

12. Ibid.

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13. Ibid.

14. Megan Stubbs, “CRS Report for Congress Prepared for Members and Committees of Congress: Conservation Compliance and U.S. Farm Policy,” Congressional Research Service, April 2, 2012. <http://www.fas.org/sgp/crs/misc/R42459.pdf>

15. Ibid.

16. Ibid.

ply with conservation compliance. However, differing versions of a five-year Farm Bill passed by the House and Senate in 2013 each propose eliminating direct payments, while expanding crop insurance and creating several new “shallow loss” programs that function similarly to insurance to guarantee a producer’s revenue does not fall significantly due either to catastrophe or market price fluctuations. Because the bills would transition from direct payments to insurance as the primary form of farm support, the Senate version of the legislation would re-attach conservation compliance as a requirement for receiving premium subsidies. The House legislation does not include that expansion.

A failure to re-attach conservation compliance requirements to crop insurance benefits could have dire consequences for hunters and anglers, as the conversion of wetlands and grasslands threatens sensitive wildlife habitats. According to Ducks Unlimited, at stake in the conservation compliance debate is between 7 million and 14 million acres of highly erodible lands and between 1.5 million and 3.3 million acres of wetlands across the country that currently aren’t farmed.<sup>17</sup>

### THE PRAIRIE POTHOLE REGION: A CASE STUDY IN CONSERVATION

There is probably no area where agricultural conservation compliance is of greater importance to hunters, or the environment as a whole, than in the 118 million-acre Prairie Pothole Region. Encompassing parts of northern Montana and Iowa, northern and eastern North Dakota, eastern South Dakota and western Minnesota, the region’s rolling prairies also include unique depressional wetlands (“prairie potholes”) created by glaciers that retreated at the end of the last Ice Age. It also happens to be prime habitat for up to 67 percent of North America’s breeding waterfowl and other migratory birds.

The region’s grasslands and wetlands long have been threatened by a variety of factors, including expanded development of both renewable (wind turbine) and fossil fuel (oil and natural gas) forms of energy. But research published earlier this year cited conversion to agricultural land as the single greatest source of wetlands loss in the region, as demand for corn ethanol, expiration of agricultural conservation contracts and rising commodity prices all have stimulated conversion of wetlands for row crop production.<sup>18</sup> Comparisons of FWS’ National Wetlands Inventory from the 1980s and the U.S. Geological Survey’s National Land Cover Database of 2001 with 2011’s National Agricultural Statistics Service’s Cropland Data Layer shows annual wetlands loss rate of

between 0.28 percent and 0.35 percent, or between 5,203 and 6,223 hectares per year in North and South Dakota alone.<sup>19</sup>

A separate report from FWS researchers pegged wetland loss rates in the region at between 0.05 to 0.57 percent per year and grassland loss rates at between 0.4 to 1.3 percent.<sup>20</sup> Given those pressures, the researchers concluded, it is unlikely that the Prairie Pothole Joint Venture – created in 1987 as partnership among federal and state agencies, conservation groups, private landowners, scientists, universities, corporations, tribes, resource conservation districts and land trusts to implement the North American Waterfowl Management Plan – will ever meet its stated goal of permanently protecting 10.4 million acres of grasslands and 1.4 million acres of high-risk wetlands beyond what has already been protected. But what is most astonishing about these developments is the degree to which they result not just from an insufficient commitment to conservation, nor from growth of some unregulated sector of the economy. Rather, they are the direct result of government policy to subsidize both ethanol and risky agricultural behavior.

According to the U.S. Department of Agriculture, the United States lost 25 million acres of privately owned grassland between 1982 and 2003, and the Government Accountability Office has determined that the “leading type of conversion has been to cropland.”<sup>21</sup> Moreover, a GAO survey of crop insurance payments in South Dakota between 1997 and 2006 found the average annual net payment per acre for the 16 counties with the highest rates of conversion was double that for all other counties in the state, showing a distinct trend of rewarding producers who convert prairies.

Indeed, while North Dakota and South Dakota are, respectively, the third and fifth least populous states in the union, data compiled by the Environmental Working Group shows that, between 1995 and 2012, they received, respectively, \$5.28 billion and \$3.81 billion in federal crop insurance subsidies, the second and fourth highest tallies among any states.<sup>22</sup>

Given the region’s reputation as the “duck factory” of North America, and its importance to waterfowl populations throughout the Mississippi Flyway and beyond, conservation of the Prairie Pothole Region’s grasslands and wetlands is

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19. Ibid.

20. Kevin Doherty, et al, “Conservation Planning in an Era of Change: State of the U.S. Prairie Pothole Region,” *Wildlife Society Bulletin*, May 14, 2013. <http://onlinelibrary.wiley.com/doi/10.1002/wsb.284/abstract;jsessionid=41C11792A487BB495858647D2126D602.d02t02>

21. Government Accountability Office, “Farm Program Payments Are an Important Factor in Landowners’ Decisions to Convert Grassland to Cropland,” September 2007. <http://www.gao.gov/assets/270/266647.pdf>

22. Environmental Working Group, “EWG Farm Subsidy Database,” Accessed September 4, 2013. [http://farm.ewg.org/cropinsurance.php?fips=38000&summpage=TC\\_TOPREGIONS\\_STATE&statername=NorthDakota](http://farm.ewg.org/cropinsurance.php?fips=38000&summpage=TC_TOPREGIONS_STATE&statername=NorthDakota)

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17. Ducks Unlimited, “Re-coupling Conservation Compliance and Crop Insurance.” <http://www.ducks.org/conservation/farm-bill/recoupling-conservation-compliance-and-crop-insurance>

18. Carol Johnston, “Wetland Losses Due to Row Crop Expansion in the Dakota Prairie Pothole Region,” *Wetlands*, pp 175-182, February 2013. <http://link.springer.com/article/10.1007%2Fs13157-012-0365-x>

of particular interest to the nation's 2.6 million duck hunters and the \$2.3 billion duck hunting industry. According to Ducks Unlimited, in the Prairie Pothole Region alone, nearly 1.4 million acres of wetlands could be drained for agricultural purposes. Should this happen, it would reduce the landscape breeding capacity for nearly 3 million ducks by 37 percent. It isn't just ducks. South Dakota is also the top pheasant-producing state in the country. According to the South Dakota Department of Tourism, pheasant hunting generates \$223 million in retail sales, and supports 4,500 jobs and \$111 million in salaries in the state annually.<sup>23</sup>

But in August 2013, the state released an annual pheasant brood survey that showed a 64 percent decrease in pheasants statewide. Hunting and conservation group Pheasants Forever acknowledged that weather trends likely played some role in the precipitous decline, but attributed the losses primarily to upland habitat loss.<sup>24</sup> In particular, the group noted that federally subsidized crop insurance incentivizes conversion of native grasslands to agriculture purposes. For the first time in 20 years, there are fewer than 1 million Conservation Reserve Program acres in South Dakota for pheasants to nest in. Pheasants Forever estimates the state needs at least 1.25 million to 1.5 million acres to sustain its world-class pheasant population.

## CONCLUSION

While provisions re-attaching conservation compliance to crop insurance subsidies were included in the version of the Farm Bill passed by the U.S. Senate, they were left out of the U.S. House's version of the legislation. An amendment titled the "Crop Insurance Accountability Act" that would have attached the same requirements was cleared to be offered on the floor by the House Rules Committee, but it was withdrawn at the 11th hour by co-sponsor Rep. Mike Thompson, D-Calif.

Published reports have indicated that Thompson's withdrawal came due to pressure from the California Association of Winegrape Growers.<sup>25</sup> While more than 90 percent of California's wetlands regions are already drained, the National Wildlife Federation notes the issue may have revolved around so-called "vernal pools" in the state's Central Valley, which support many threatened animal species.<sup>26</sup> Only about 10 percent of California's vernal pools remain, but there is significant economic pressure to convert these remaining wetlands to agriculture.

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23. Pheasants Forever, "With Upland Habitat Loss Mounting, S.D.'s Pheasant Survey Reveals 64 Percent Decrease," August 30, 2013. <http://www.pheasantsforever.org/page/1/PressReleaseViewer.jsp?pressReleaseId=119422>

24. Ibid.

25. Lara Bryant, "Buy California Wine, Kill an Endangered Species," *Wildlife Promise*, June 26, 2013. <http://blog.nwf.org/2013/06/buy-california-wine-kill-an-endangered-species/>

26. Ibid.

The setback in the House bill threatens to rent a carefully crafted coalition of voices who support conservation compliance, which recently has included the American Farm Bureau Federation and other national farm groups (if not, in all cases, their state affiliates). This is where hunting groups who have endorsed the provision – including the Bull Moose Sportsmen's Alliance, Ducks Unlimited, Pheasants Forever and Quail Forever – have a unique opportunity to work with free-market organizations like R Street, the Cost of Government Center, American Commitment, Americans for Tax Reform, Less Government, Center for Individual Freedom and National Taxpayers Union – all of whom have also endorsed conservation compliance – to educate Republican lawmakers about its value.

Conservation compliance already attaches to nearly all federal agriculture benefits, including commodity and conservation programs. From its inception in 1985 until 1996, it also was attached to crop insurance premium support. With the abolition of direct payments, farmers will lose much of the incentive they currently have to conserve fragile lands, an important measure of accountability required in exchange for the generous taxpayer support they receive.

Compliance with the sodbuster program have combined to save 295 million tons of soil per year, contributing 40 percent of the reduction in erosion since 1982. The swampbuster program has been crucial to a reduction in wetlands draining, thus protecting wildlife habitats for hunters, anglers and wildlife watchers alike to enjoy. These facts mark conservation compliance as another success story in the world of market-based approaches to environmental policy, and one that sportsmen, sportswomen and free-market groups alike can heartily endorse.

R.J. Lehmann is senior fellow, public affairs director and co-founder of R Street. He is an award-winning business journalist who spent nine years covering the insurance, banking and securities industries. He is author of R Street's "2012 Insurance Regulation Report Card" and the forthcoming 2013 edition, and numerous other briefs and policy studies.

Prior to joining R Street, he served as deputy director of the Heartland Institute's Center on Finance, Insurance and Real Estate. He previously was senior industry editor with SNL Financial, leading the news service's coverage of the Dodd-Frank Act, the Patient Protection and Affordable Care Act and legislative and regulatory developments at both the state and federal level. Prior to that, he spent six years with the A.M. Best Co. as manager of their Washington bureau.

He is a three-time award winner from the American Society of Business Publication Editors and was the youngest-ever winner of a first place prize from the New Jersey Press Association. He also is the former public affairs director of the Independent Institute in Oakland, Calif., and the former state chapters coordinator of the Republican Liberty Caucus.

His writings have appeared in the San Francisco Chronicle, Wall Street Journal, Townhall.com, RealClearPolicy, American Spectator, Travel Weekly, the South Florida Business Journal, and Folio magazine, among other publications.

