



April 5, 2024

Public Comments Processing  
ATTN: FWS-HQ-NWRS-2022-016  
U.S. Fish and Wildlife Service  
5275 Leesburg Pike, MS: (JAO/3W)  
Falls Church, VA 22041-3803

**Subject: Docket No. FWS-HQ-NWRS-2022-0106: Proposed Rule; National Wildlife Refuge System: Biological Integrity, Diversity, and Environmental Health**

To Whom it May Concern:

The three counties of Modoc and Siskiyou, California and Klamath, Oregon (Tri-Counties), are writing this letter to provide comments and express our concerns regarding the U.S. Fish and Wildlife Services Proposed Rule; *National Wildlife Refuge System: Biological Integrity, Diversity and Environmental Health*.

The lease lands within the Klamath Basin National Wildlife Refuge Complex and throughout northern California and southern Oregon have played and continue to play a vital role in the multi-generational farming and ranching legacies of Siskiyou, Modoc (California), and Klamath (Oregon) Counties, and enable agricultural operators to produce valuable crops that are critical to the Counties' small economies. However, farming the lease lands within the Counties is a continuous struggle.

Farmers have weathered restrictions on water supplies for years, have faced several lawsuits, and now are challenged with a proposed rule from the U.S. Fish and Wildlife Service (Service) which in addition to other concerns, would seek to "prohibit the use of agricultural practices unless they are determined necessary to meet statutory requirements, fulfill refuge purposes, and ensure biological integrity, diversity, and environmental health, and where we [the Service] cannot achieve refuge management objectives through natural processes."

In 1905, the states of Oregon and California ceded the lands under Lower Klamath and Tule Lakes to the United States. During the same year, the U.S. Secretary of Interior directed the U.S. Reclamation Service (now the Bureau of Reclamation) to reclaim the lands beneath both lakes for the primary purpose of homesteading. In 1932, areas within the refuge were designated as sumps and reserved

for flood control and drainage to protect developed homestead lands from flooding. Areas outside the sump, but within the refuge boundary, were leased by Reclamation for agricultural use and additional flood control. In addition to providing flood control, the reserved sump areas also preserved existing wetland habitats for wildlife.

In the early 1960s, Congress was faced with whether to dedicate the land to homesteading or waterfowl production. To answer this question, the Kuchel Act (Public Law 88-567) was passed in 1964. The Kuchel Act defines the purposes of the Lower Klamath and Tule Lake NWR's. The refuges are dedicated to wildlife conservation and the lands are administered for the major purpose of waterfowl management, but with full consideration to optimum agricultural use (USFWS 1998).

Reclamation administers a Lease Land Program under a Cooperative Agreement with the Service, on the Klamath Refuge National Wildlife Refuge Complex. The primary objective of the Lease Land Program is to comply with the law and provide a commercial farming program with benefits for wildlife. In addition, there are livestock grazing and hay farming activities on the Modoc Refuge in Modoc County and similar agricultural practices on other refuges in our area.

The legislative history of the Kuchel Act supports the interpretation that Congress mandated that agriculture continue on lease lands for generations to come. As detailed in 16 USC 695n: Leases of Lower Klamath and Tulelake National Wildlife Refuge reserved lands; management of other reserved public lands for waterfowl purposes, the Secretary is required to continue the present pattern of lease lands within the Klamath Basin. Farming on the lease lands no doubt is beneficial to wildlife, as the production of cereal grains and other wildlife-friendly agricultural produce provides vital food sources for waterfowl during migration.

As detailed in the April 4, 2024, joint letter from the Tulelake Irrigation District, Klamath Drainage District, and Klamath Water Users Association "In recent informal discussions, Service personnel have indicated that they do not believe the proposed rule/policies would apply to the lease lands or would not lead to management changes." Consistent with the joint letter, while we agree that the Service's proposal should be irrelevant to the Kuchel Act, the use of Kuchel Act lands for agriculture practices are required to be considered and approved in compatibility and consistency determinations. The Tri-Counties want to reiterate that the proposed rule/policies cannot be adopted for Kuchel Act lands.

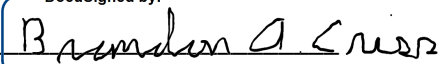
The legislative language is also critically important to the Counties as it recognizes that this continued pattern of leasing is important for revenue to impoverished Counties dependent on such revenue. For decades, the Counties have relied, and continue to rely, on the lease lands as an important aspect of the regional economy. The lands contain rich soil, ideal for crops like grain, alfalfa, potatoes, grass hay, onions, and horseradish. The lease lands contain 17,302 acres within the Tule Lake NWR and 5,526 acres within the Lower Klamath NWR, for a total of 22,828 acres throughout our areas devoted to agriculture. The Counties receive payments from the leasing of these lands, as outlined in Section 3 of the 1964 Kuchel Act. The total amount between the three

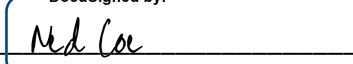
counties averages between \$450,000 to \$500,000 per year. If agriculture on the lease lands were to be terminated, the impact would be felt through vital services provided by the County to its constituents.

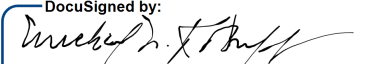
It is also necessary for us to be clear with respect to the pesticide program that is allowed on the lease lands. This program is highly regulated by the U.S. Department of the Interior. Pesticides are utilized as a last resort under an integrated pest management plan. Specific pesticides are only approved for use after a federal team conducts stringent risk assessments. This assessment includes evaluation and analysis of toxicity data, proposed use of the pesticide, environmental conditions, degradation rates, solubility, and availability of other cultural, biological, or less toxic alternatives. There is also an established no-spray zone within 300 feet of sumps and 50 feet within any water bodies within the refuges. In addition, there has been tremendous efforts to increase acreage of organic crops on the lease lands. In 2000, only 38 acres were farmed organically, but by 2017, 13,571 acres (59.5%) of the total lease land acreage was farmed organically.

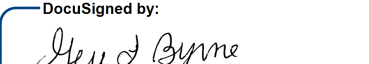
In summary, the language included in the U.S. Fish and Wildlife Service’s February 1, 2024, proposed rule is far too broad, ignores the authorities of Congressional determinations and the Kuchel Act, and would have profound impacts on local farming communities and the counties that represent them.

Sincerely,

DocuSigned by:  
  
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Brandon A. Criss, District 1  
Siskiyou County Board of Supervisors

DocuSigned by:  
  
374E7C1B9FA0405  
Ned Coe, District I  
Modoc County Board of Supervisors

DocuSigned by:  
  
DDEA5EE5A0F24C4  
Michael N. Kobseff, District 3  
Siskiyou County Board of Supervisors

DocuSigned by:  
  
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Geri Byrne, District V  
Modoc County Board of Supervisors

DocuSigned by:  
  
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Derrick DeGroot  
Klamath County Commissioners

cc: Congressman Doug LaMalfa  
Congressman Cliff Bentz