National Association of Wetland Managers

"Dedicated to the Protection and Restoration of the Nation's Wetlands"

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August 7, 2026

Mr. Brian R. Nesvik
Director
U.S. Fish and Wildlife Service
U.S. Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

RE: Docket No. FWS-R6-ES-2026-2641

Dear Director Nesvik:

The U.S. Fish and Wildlife Service (FWS) recently published a Request for Information on the efficacy of a 2024 rule[1] that established drain tile setbacks on lands protected by a FWS wetland easement for waterfowl management in the Prairie Pothole Region (PPR).

A wetland easement is a legal agreement signed with the United States of America, through the FWS, that pays landowners to permanently protect wetlands. Landowners who sell a wetland easement to the FWS agree that wetlands protected by an easement cannot be drained, filled, leveled or burned.[2] The 2024 rule codifies the process by which landowners could request, and the FWS would provide, drain tile setbacks under wetland easement contracts. The current drain tile setback standards are intended to protect easement wetlands from drainage impacts. Because of the importance of prairie pothole wetlands and of protective FWS wetland easements, the National Association of Wetland Managers (NAWM) urges FWS to retain current FWS drain tile setback standards.

NAWM is a national 501(c)(3) professional organization that supports the use of sound science, law, and policy in development and implementation of state and tribal wetland and aquatic resource protection programs. Since 1983, our organization and

[1] 89 Fed.Reg. 41336 (May 13, 2024).
[2] Wetland Easements | U.S. Fish & Wildlife Service; 91 Fed.Reg. 46795, 46796 (July 24, 2026).

our member states and Tribes have had longstanding positive and effective working relationships with federal agencies. As an association representing state and tribal co-regulators, NAWM understands the complexity of federal laws such as the Clean Water Act (CWA), the Food Security Act, and the National Wildlife Refuge Administration Act, and the implementation challenges these laws pose. We have worked together with federal agencies in the implementation of regulatory and non-regulatory programs designed to protect wetlands and other waters, such as challenges in determining the jurisdictional status of wetlands and other waters under the CWA, CWA section 404 permit program for dredged or fill material, and state and tribal water quality standards for wetlands.

NAWM often coordinates with other non-governmental organizations that work to protect America's wetlands. We are aware of the July 29, 2026, letter by Ducks Unlimited (DU), and strongly support the excellent points made in the letter. Specifically, we agree with DU that:

- The Small Wetlands Acquisition Program establishing voluntary and permanent conservation easements to protect PPR wetlands is a successful and essential tool for protecting wetlands.
- Wetlands in the PPR are the most important breeding grounds on the continent, providing habitat for globally significant populations of breeding waterfowl, including over 63 percent of North American ducks.[3] In addition, the PPR is important as breeding and migratory habitat for many species of grassland and wetland-dependent birds. For these reasons and as explained in the DU letter, maintaining the integrity and extent of wetlands in the PPR is critical to support healthy duck and other bird populations.
- The current standard for calculating drain tile setbacks, the van Shilfgaarde equation, is consistent with FWS' requirement of "no impact" included in its voluntary wetland easements. The setbacks required by the U.S. Department of Agriculture have different purposes than the FWS easements, and as a result would not be an effective alternative approach.
- The 2024 rule upholds the 60-year precedent of the FWS easement program with the goal of no wetland drainage in the National Wildlife Refuge System. As described in the DU letter, the 2024 rule codifies longstanding practice in the FWS easement program, thereby providing clarity to landowners while preserving flexibility for site-specific solutions and formalizing a science-based process for determining tile drain setbacks.
- The wetland easement program represents decades of conservation investments by both the FWS and willing landowners. NAWM is concerned about setting a precedent for ending previously agreed upon commitments after payments are made. Were the 2024 rule repealed, the benefits of these investments may be lost.

[3] Wetland Easements | U.S. Fish & Wildlife Service

In conclusion, NAWM appreciates the opportunity to provide comments on the FWS' Request for Information. We urge you to consider the points in both this letter and that by Ducks Unlimited and uphold the existing drain tile setback approach as established in the 2024 rule.

Sincerely,

Portia Osborne
Executive Director
National Association of Wetland Managers

Cc:
NAWM Board of Directors
Adam Putnam, Chief Executive Officer, Ducks Unlimited