USDA

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

JAN 18 2005

The Honorable John Paul Woodley, Jr.
Assistant Secretary of the Army for Civil Works
The Department of the Army
108 Army Pentagon – Room 3Echo 446
Washington, D.C. 20310

Dear Mr. Woodley:

In 1994, the Department of Agriculture (USDA), the Environmental Protection Agency, the Department of the Interior, and the Department of the Army entered into a Memorandum of Agreement (MOA) to streamline wetland delineation processes on agricultural lands, promote consistency between the Clean Water Act (CWA) and the Food Security Act (FSA), and to provide predictability for USDA program participants. Since the MOA was signed, the FSA has been amended twice (the Federal Agriculture Improvement and Reform Act of 1996 and the Farm Security and Rural Investment Act of 2002). As a result, the MOA is in conflict with current statute. In addition, differences now exist between the FSA and the CWA on the jurisdictional status of certain wetlands (e.g., prior converted cropland or isolated wetlands may be regulated by one agency, but not the other).

Therefore, effective immediately, USDA intends to withdraw from participation in the MOA, and no longer make wetland determinations for purposes other than implementation of the Swampbuster Provisions of the FSA.

If we can be of further assistance, please contact Thomas W. Christensen, Acting Deputy Chief for Programs, NRCS, at (202) 720-4527.

Sincerely,

for MARK REY
Under Secretary
Natural Resources and Environment

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**DEPARTMENT OF THE ARMY**
**OFFICE OF THE ASSISTANT SECRETARY**
**CIVIL WORKS**
**108 ARMY PENTAGON**
**WASHINGTON DC 20310-0108**

REPLY TO
ATTENTION OF

January 24, 2005

The Honorable Mark Rey
Under Secretary
Natural Resources Department
U.S. Department of Agriculture
1400 Pennsylvania Avenue, SW
Washington, D.C. 20205

Dear Mr. Rey: Mark

I have received your letter of January 18, 2005, regarding the 1994 *Interagency Memorandum of Agreement Regarding the Delineation of Wetlands for Purposes of the Section 404 of the Clean Water Act and Subtitle B of the Food Security Act.* Likewise, Army Civil Works intends to withdraw from participation in this agreement for the reasons cited in your letter, as well as the impacts of the Supreme Court decision in the Solid Waste Agency vs. Northern Cook County case,. By copy of this letter I am notifying the U.S. Environmental Protection Agency and the U.S. Department of the Interior of this action.

Please do not hesitate to contact me if you have questions. Your staff may contact Mr. Chip Smith, Assistant for Environment, Tribal and Regulatory Affairs, at (703) 693-3655.

Sincerely,

George S. Dunlop
Principal Deputy Assistant Secretary of the Army
(Civil Works)

CF:
Mr. Benjamin Grumbles
Acting Assistant Administrator for Water
U.S. Environmental Protection Agency

The Honorable Craig Manson
Assistant Secretary for Fish, Wildlife and Parks
U.S. Department of the Interior

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