

Incentives

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A quarterly newsletter published by the Environmental Defense Center for Conservation Incentives



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The Center for Conservation Incentives

Welcome to the first issue of *Conservation Incentives*, the quarterly newsletter published by the newly-formed Environmental Defense Center for Conservation Incentives. The purpose of our new Center is to promote the conservation of biodiversity in the United States through the development, expansion, and targeting of incentive programs that reward landowners who practice conservation stewardship on privately-owned farms, ranches, and forests. The Center was launched earlier this year with major support from the Doris Duke Charitable Foundation (DDCF). Environmental Defense greatly appreciates the generous support of DDCF and that of our trustee Bob Wilson, whose support is also critical in launching this

new effort.

We hope that this newsletter and, more broadly, the Center itself, will be an important and useful resource to conservation groups, landowners, government agencies, scientists, and others who are working to conserve rare species and ecosystems on private lands. We welcome your input on this newsletter and on all the work the Center undertakes.

Sincerely,

Robert Bonnie
Managing Director
Center for Conservation Incentives



Ron Nichols, Natural Resources Conservation Service

An Alaska landowner and USDA District Conservationist discuss sustainable agricultural techniques.

New center opens doors to wildlife incentives

Private landowners own 73% of the contiguous United States. This simple fact has far-reaching implications: we cannot protect America's biological diversity without conserving and restoring habitats on private farmland, ranchland, and forestland. To accomplish that requires enlisting landowners as willing participants. We do not have the funds to buy all the land needed to conserve biodiversity. Nor is government regulation – despite its important role – sufficient to conserve private lands. Often active management such as reforestation, prescribed fire, invasive species control, and other activities, is essential for restoring and maintaining habitat.

Therefore, our success in conserving America's natural heritage depends in large part on creating incentives that encourage private landowners to protect natural ecosystems on their lands. In recognition of this need, Environmental Defense was recently awarded a \$5 million grant from the Doris Duke Charitable Foundation to establish the Center for Conservation Incentives. Thanks to a grant from Environmental Defense Board Member Robert W. Wilson, the Center will have an additional \$5 million for its work.

The Center's overarching objective is to conserve biodiversity on U.S. private lands through expansion and targeting of existing incentive-based programs and the development of new incentives. Our

major focus is to influence US Department of Agriculture (USDA) Farm Bill and Department of Interior conservation incentive programs that can potentially provide billions of dollars for biodiversity conservation on private lands.

The Center's broad goals include:

- directing USDA and Interior incentive program funds to projects that protect and restore rare species and a variety of ecosystems
- launching model projects to demonstrate how incentives can benefit both biodiversity and landowners
- improving federal and state conservation incentives policy
- developing a network of landowners and conservation groups that can champion and execute incentive programs
- building broad public awareness of the importance of private land conservation and incentive programs

Central to meeting these goals will be developing partnerships with private landowners, conservation groups, federal and state agencies, and other key constituencies.

The Center's co-directors are Michael Bean and Tim Searchinger. Robert Bonnie serves as managing director, responsible for overseeing day-to-day operations of the Center. Environmental Defense will have 25 staff in California, Colorado, Massachusetts, North Carolina,



USFWS

The red-cockaded woodpecker is the focus of the first Safe Harbor agreement which took effect in 1995 in the Sandhills of North Carolina.

Texas, Washington, DC, and Wisconsin whose time is devoted wholly or partially to the Center's nationwide activities.

The Center has also established an Advisory Committee of experts from academia, conservation groups, agriculture, forestry, and business who are assisting and advising us in implementing the Center's work.

*-Robert Bonnie
Managing Director
Center for Conservation Incentives*

FWS releases conservation banking guidance

On May 8, 2003, the U.S. Fish and Wildlife Service (FWS) took an important step forward in creating incentives for private landowners to conserve endangered species. The Service's action was the release of formal guidance governing the establishment, operation and use of "conservation banks" under the Endangered Species Act. That guidance should ensure greater consistency in the development of this rather new, but potentially very important, conservation tool.

Conservation banks are properties that are dedicated by their owners to conservation of endangered species in order to compensate for future losses of those same species or their habitats elsewhere. They are conceptually similar to wetland mitigation banks, which have been utilized for more than two decades pursuant to the Clean Water Act. Bank owners receive "credits" for their conservation accomplishments, proportionate to the extent of those accomplishments. Those credits can then be used or sold to third parties to mitigate the impact of

future development projects elsewhere. Thus, successful conservation investments can turn endangered species and their habitats into assets for landowners, rather than liabilities.

Conservation banks have been used for endangered species conservation since the mid-1990s, but almost exclusively in California, where nearly 50 such banks are located today. They range in size from only twelve acres to over 6,000 acres. The relative abundance of conservation banks in California is due to a state policy encouraging their use that was adopted during the governorship of Pete Wilson.

In recent years, conservation banks have been used more widely outside of California as well. Among recent conservation "bankers" are private ranchers in Texas and Arizona whose ranchland provides habitat for

municipal sewer and water commission in Alabama that is managing habitat for the threatened gopher tortoise on buffer land around a drinking water reservoir.

Even the government of the Commonwealth of the Northern Mariana Islands, a U.S. Commonwealth Territory, has established a conservation bank for the endangered nightingale reed-warbler.

Despite the growing number of conservation banks, until now the FWS had no formal national policies or guidance governing the establishment and operation of these banks. As a result of the just-issued guidance, landowners interested in conservation banking can proceed with a clearer understanding of the rules, and FWS itself can avoid inconsistency in its responses to banking proposals.

Successful conservation investments can turn endangered species and their habitats into assets for landowners, rather than liabilities.

In several respects, the new guidance sets requirements not always met by previously approved banks. It also seeks to avoid some of the frequently criticized aspects of wetland mitigation banking policy. Among the important provisions of the guidance are the following: (1) conservation commitments in banks must be permanent, secured by conservation easements or deed transfers; (2) "service areas," the geographic areas in which bank credits may be used to offset impacts, must generally be the recovery plan-designated "recovery unit" within which the bank occurs; (3) a written "banking agreement" must be prepared for every bank, and that agreement must include both a formal management plan for the bank property and a funding commitment to implement it; (4) credits



In Alabama, the Mobile Area Water and Sewer System is operating a conservation bank for the benefit of the federally-threatened gopher tortoise on lands it owns surrounding a local reservoir.

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2002 Farm Bill expands conservation opportunities

Farm and ranch lands occupy roughly half of the land in the contiguous United States, and privately owned nonindustrial forestlands account for another 20%. Thus how farmers, ranchers, and private forest landowners manage their land is critical not only to the production of food and fiber, but also to the country's environment, public health, and rural communities. Central to their land management is the massive Farm Bill that Congress passes about every six years to set the rules for spending billions of dollars each year on agriculture and related areas.

In early May 2002, Congress allocated more than \$120 billion to be spent before the Farm Bill expires in fiscal year 2007. While the overall percentage of conservation program funding dropped from 30% under the 1996 bill to just 17% in the current bill, the legislation does increase actual conservation dollars from an average of \$1.9 billion per year to about \$3.3 billion per year for conservation. This funding offers great opportunities for advancement on many key conservation challenges.

Engaging farmers, ranchers, forest landowners, conservation organizations, state and local governments, and others to leverage Farm Bill conservation dollars for worthwhile conservation projects is crucial. At right is a cursory view of the various conservation programs and available funding. For more detailed information on the programs, how they work, and how to apply or get involved, visit <http://www.privatelandstewardship.org> or contact Suzy Friedman at sfriedman@environmentaldefense.org or 202-387-3500.

*-Suzy Friedman
Scientist and Agricultural Policy Analyst
Environmental Defense*



Tim McCabe/NRCS

Agriculture Management Assistance: AMA provides cost-share payments to farmers and ranchers interested in addressing risk-related issues such as water management, water quality, and erosion control for 15 states where participation in the Federal Crop Insurance Program is historically low. Funding: \$10 million per year.

Conservation Reserve Program: CRP offers financial incentives to producers to protect highly erodible and environmentally sensitive lands by reducing water runoff and sedimentation. The program protects topsoil from erosion, increases wildlife habitat, and protects ground and surface water. Acreage cap: 39.2 million acres.

Conservation Reserve Enhancement Program: CREP allows states to submit comprehensive plans to combine state funds and state programs with CRP to solve a particular natural resource problem through targeted retirement of agricultural land and planting of natural vegetation on that land.

Conservation Security Program: CSP, a new program, will assist producers in implementing conservation practices and reward stewardship on working lands. Funding: \$3.77 billion over ten years, with \$369 million allocated to years covered by the bill — FY03-FY07.

Environmental Quality Incentives Program: EQIP offers financial, educational, and technical assistance for adopting conservation practices, such as improving infrastructure for managing livestock waste or reducing applications of fertilizers and pesticides. Funding: Increasing from \$700 million in FY03 to \$1.3 billion by FY07.

Farmland Protection Program: FPP provides funds for the purchase of development rights to help producers continue farming in the face of rising property values and pressure from developers. Funding: Average of \$100 million per year.

Forest Lands Enhancement Program: FLEP, which combines previous Farm Bill forestland stewardship programs, provides technical, educational, and cost-share assistance to promote sustainable practices on nonindustrial private forestlands. Funding: \$100 million for FY02-FY07.

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Texas gives wildlife a tax break

As program coordinator of Private Lands and Habitat at the Texas Parks and Wildlife Department (TPWD), Linda McMurry knows as much as anyone about the state's Wildlife Tax Valuation Program. Yet if you ask her how many acres or landowners are enrolled in the popular program, she'll tell you she has no idea. That information is spread among the 256 county tax appraisers' offices, where landowners sign up for the program. What McMurry does know is that the Wildlife Tax Valuation "keeps our guys, busy, busy, busy ... they could work 24 hours a day just to keep up."

Launched in 1996, the year after Texas voters approved it in Proposition 11 by an enthusiastic 2 to 1 margin, the Wildlife Tax Valuation Program allows owners of property already qualifying as agricultural land to retain their lower tax assessment while converting their land use to wildlife management status. In short, Texas landowners can take the cows off their land without losing the benefit of reduced property valuation. In addition to prior agricultural status, additional requirements are that the land be used to "generate a sustaining, breeding, migrating, or wintering population of indigenous wild animals" and those animals must be produced for "human use." Human use is widely defined to include not only food, medicine, or recreation, but also the owner's enjoyment of managing for wildlife and taking pleasure from the presence of the wildlife.

To enroll, landowners create a wildlife management plan, following detailed guidelines established by the TPWD and specific to Texas's 10 ecological regions. In the plan, a landowner must commit to implementing at least 3 of a possible 7 forms of wildlife

management, choosing from habitat control, erosion control, predator control, supplemental water provision, supplemental food provision, shelter provision, or conducting wildlife censuses.

While landowners may design their own plans, assistance and review are available from TPWD, the Texas Agricultural Extension Service, the U.S. Natural Resources Conservation Service, and other entities, including private biologists.

Why is the program so popular? The program encompasses all wildlife, McMurry explains; "birds, butterflies, quail, deer – you name it and I got it." Mike Berger, chief of the Private Lands and Habitat Branch at TPWD, notes particularly heavy enrollment along the I-35 corridor that links Dallas and San Antonio, where a heavy influx of urban dwellers want to own rural property not for traditional agricultural purposes, but for recreation and wildlife. That meshes well with the program's overall goal of reducing fragmentation by encouraging landowners to retain, rather than develop and sell, their land.

Support for the wildlife management tax valuation is almost universal, as the state loses no money when property is transferred from agricultural to wildlife status, an important consideration at a time when state budgets are tight.



Steve Meslowski/USFWS

The endangered golden-cheeked warbler is just one species that may benefit from Texas' Wildlife Tax Valuation Program.

Last year, McMurry surveyed all 50 states in search of parallel programs, but found none. She's taken calls from Coloradans who hope to create a similar program, and learned of one in Oregon, but that state does not permit the participant to live on the enrolled land.

For more information about the Texas Wildlife Tax Valuation, visit http://www.tpwd.state.tx.us/conservation/private_lands/agricultural_land/ or call Texas Parks and Wildlife Department, 1-800-792-1112 or 512-389-4800.

*-Margaret McMillan
Endangered Species Specialist
Environmental Defense*

Future issues of Conservation Incentives will feature other state incentive conservation programs. We welcome information from your state; call Margaret McMillan at 202-387-3500 or send an email to mmcmillan@environmentaldefense.org.

South Carolina Safe Harbor a success for landowners and red-cockaded woodpeckers

Landowners in five states are managing their property under Safe Harbor Agreements to benefit the red-cockaded woodpecker (RCW), giving new hope for a bird that was listed as endangered in 1971 but continued to decline due to habitat loss and degradation. As of April 2003, North Carolina, South Carolina, Texas, Georgia, and Virginia landowners have enrolled a total of nearly half a million acres under Safe Harbor. A large chunk of that acreage is in South Carolina, where 82 landowners have signed up 326,581 acres, since the plan's start in 1998.

From its start, the South Carolina Safe Harbor program had a lot going for it, including its model, the highly successful North Carolina Sandhills program, and significant interest from many longtime South Carolina landowners, some with large properties managed for quail, a game bird with habitat needs compatible with RCWs. But perhaps most important, several private and public entities contributed significant time, staff, and financial resources to make this Safe Harbor work.

Milliken Corporation Forestry Consultant Lamar Comalander played a critical role in introducing landowners to the new program. He continues to do that, recently using monies contributed by the Leopold Stewardship Fund, a joint initiative of the Sand County Foundation and Environmental Defense, to enroll six landowners with a total of 86,000 acres in Safe Harbor. The South Carolina Red-cockaded Woodpecker Conservation Coalition was an early backer, as was the Mead-Westvaco Corporation, a forest products company, which helped develop the agreement and then convinced other landowners to enroll.

For the nation's first statewide Safe Harbor, US Fish and Wildlife Service issued

an "umbrella permit" to the South Carolina Department of Natural Resources (SCDNR), which then enrolls landowners. As with all Safe Harbor Agreements, landowners agree to undertake specified voluntary management actions to benefit the listed species. In return, the U.S. Fish and Wildlife Service "freezes" the landowner's Endangered Species Act obligations to those present ("the baseline") at the time

the agreement is signed. Prior to Safe Harbor, many landowners feared they would be subject to additional regulations under the ESA if they protected and restored habitat for endangered species. Safe Harbor has effectively removed this perverse incentive.

Safe Harbor assurances have appealed to a diverse group of landowners, ranging from large corporations to Mepkin Abbey, a monastery, and including both small and large private landowners. These landowners have committed to management actions such as hardwood control and prescribed burns that mimic the wildfires that once maintained longleaf forests.

Mark Clement is General Manager of Brosnan Forest which the railroad corporation Norfolk-Southern maintains for its staff as a conference center and vacation retreat. He explains that Safe Harbor "makes it a lot easier to do the right thing ... [by taking] away our liability for encouraging growth of the

woodpecker population." It allows the company to protect woodpeckers and still meet its obligation of fiscal responsibility. He says the result is "a shift in the mindset," leading to enhanced management for red-cockaded woodpeckers.

Virgil Dugan, who has managed Friendfield Plantation for three decades, was well aware, in the pre-Safe Harbor days, that a single woodpecker colony could be disastrous for small landowners. When Safe Harbor came along, he saw a way to conserve longleaf forest without fear of restrictions. "We are now encouraging RCWs," he says.

When Don Dyches purchased his Hampton County property, his primary interest was deer hunting, but now he is avidly pursuing forest and wetland restoration. He found Safe Harbor offers a "win-win situation ... a way "to protect both the bird and the landowner."

Turkey Hill Plantation Manager Stro Morrison says "everybody wins" under Safe Harbor. At one time, fewer of the controlled burns that might have benefited RCWs were being done at Turkey Hill, but with the property enrolled in Safe Harbor, Morrison

Safe Harbor is a "win-win situation"...a way "to protect both the bird and the landowner."

*-Don Dyches
Hampton County landowner*

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Lori Duncan/USFWS

Mark Clement, General Manager of Brosnan Forest, stands in open habitat that is ideal for red-cockaded woodpeckers.

are generally to be awarded for biological accomplishments achieved, rather than simply for conservation actions taken; (5) the sale of credits before they are actually earned – a much criticized practice of wetland mitigation banking – is not sanctioned; (6) preservation of existing habitat, which is generally not allowed by wetland mitigation banking policy, has been a common feature of conservation banking practice, and will continue to be under the new guidance; and (7) a consistent and principled approach to mitigation, both as among multiple conservation banks for the same species, and as between banking and non-banking means of mitigation, is required.

While the promulgation of formal guidance on the subject of conservation banking was clearly needed and should ensure greater consistency in the Fish and Wildlife Service's approach to banking, the failure of the Service to invite public comment on the guidance is ill-advised. The 1995 federal interagency wetland banking policy underwent extensive public review and comment, which resulted in significant changes to the policy. The new conservation banking policy, which is ambiguous or unclear in a number of places, would have benefited from outside scrutiny.

The new guidance on conservation banking, as well as other information on this topic, can be found on our website at www.environmentaldefense.org/article.cfm?ContentID=151.

–Michael Bean
Co-director
Center for Conservation Incentives

Related resources

Daily, Gretchen C. & Katherine Ellison. 2002. *The New Economy: The Quest to Make Conservation Profitable*. Island Press, Washington, DC. 260 pp. Ecologist Daily and journalist Ellison consider the economic value of protecting nature, gathering examples from around the globe of the growing trend toward “a world where Mother Nature at last receives fair compensation for her labor and recognition in our formal financial accounting.” The authors discuss novel efforts such as New York City's choice to provide clean water through protecting a watershed rather than building a new waste treatment plant and the founding in Australia of Earth Sanctuaries, Ltd., the world's first publicly-traded company “with a core value of conservation.” A list of recommended reading is also provided.

Environmental Defense. 2002. *What Land Trusts Should Know About Endangered Species Regulation*. Environmental Defense, Washington, DC. This 16-page report discusses Endangered Species Act obligations and opportunities from the perspective of land trusts. As landowners, land trusts have an array of conservation tools to consider, including not only conservation easements, but also safe harbor agreements, conservation banking, candidate conservation agreements with assurances, and habitat conservation plans. A brief appendix discusses funding sources for habitat management and restoration. View the report online at http://www.environmentaldefense.org/documents/2332_LandTrust.pdf

Ferraro, Paul J. & Agnes Kiss. 2002. Direct payments to conserve biodiversity. *Science* 298:1718. November 29. Despite investment of billions, the loss of biodiversity continues in developing nations. The authors contend that, in general, biodiversity can be conserved more effectively by direct payments, rather than indirect approaches that attempt to foster development simul-

taneously. While the direct payment approach may seem like social welfare, paying people for “doing nothing,” biodiversity protection should be regarded as a “valuable commodity” and an “alternate land use.” Letter to editor and authors' response in *Science* 299:1981, March 28. P.J. Ferraro maintains a list of global conservation payment initiatives at <http://epp.gsu.edu/pferraro/special/conservation.htm>.

Hilty, Jody & Adina M. Merenlender. 2003. Studying biodiversity on private lands. *Conservation Biology* 17(1):132-137. Private lands harbor much of the biodiversity in the US, but researchers face many constraints in conducting research on these lands. Consequently, far fewer studies take place on private lands. Following their successful research in Sonoma County, California, which is 94.4% privately-owned, the authors urge increased efforts to conduct biological field research on private lands. They examine the recent literature to quantify the number of recent field studies on private lands, review successful and failed efforts, and suggest guidelines for establishing and maintaining good relationships with landowners.

White, Patricia A. and Michelle Ernst. 2003. *Second Nature: Improving Transportation Without Putting Nature Second*. Defenders of Wildlife and Surface Transportation Policy Project, Washington, DC. This 70-page report includes a chapter examining the use of wetland and species conservation banks, with a focus on their use to mitigate for transportation projects. The authors briefly describe the concept of banks and discuss the Colorado short-grass prairie initiative, North Carolina's red-cockaded woodpecker habitat bank, and California conservation banking, and conclude by offering policy recommendations. See <http://www.defenders.org/habitat/highways/secondnature.html>

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anticipates the arrival of woodpeckers and says, "We're looking forward to it."

Al Epps reports that Safe Harbor has "worked very well" at Good Hope Plantation, where he has been a consulting forester for 20 years. He urges landowners to enroll early, and government agencies to invest more monies in cost-share financing to help landowners carry out controlled burns and other wildlife management activities.

Other affirmation of Safe Harbor's success in South Carolina is coming from the red-cockaded woodpeckers, which have increased their numbers on several Safe Harbor properties. And they are being welcomed by the landowners.

The full text of the South Carolina Safe Harbor Agreement is available at www.environmentaldefense.org/article.cfm?ContentID=140.

*-Margaret McMillan
Endangered Species Specialist
Environmental Defense*

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Grasslands Reserve Program: GRP is a new program authorized to enroll up to 2 million acres of restored, improved, or natural grassland, rangeland, and pastureland, including prairie, in short and long term easements.

Technical Service Provider Program: A new program, TSP will allow third parties to provide technical assistance for conservation planning and the design, layout, installation, and evaluation of conservation practices.

Wetlands Reserve Program: WRP offers participating landowners up to 100% reimbursement for restoring wetlands previously drained or converted to other agricultural uses and incentives to enhance wetlands in exchange for retiring marginal agricultural lands. Acreage: 2.275 million acres.

Wildlife Habitat Incentives Program: WHIP provides both technical assistance and cost-share payments to participants for the establishment of wildlife habitat development practices. Funding: Average of \$60 million per year.

Please share your comments about this newsletter by emailing us at CCleditor@environmentaldefense.org or by contacting us at the address and phone number below. Thank you!

The Environmental Defense Center for Conservation Incentives

The Environmental Defense Center for Conservation Incentives was launched in 2003 with major support from the Doris Duke Charitable Foundation to further the conservation of biodiversity on U.S. private lands through the use of incentives. The Center works with landowners, conservation organizations, and government agencies to develop place-based projects that demonstrate the utility of incentives in conserving habitats on private lands. The Center also works to influence the development and implementation of national and state incentive programs and policies. Headquartered in the Washington, DC office of Environmental Defense, the Center also has staff in all of the regional offices. We thank the Doris Duke Charitable Foundation and Robert Wilson for their generosity in funding this work.

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