

**Testimony**  
**of**  
**Marc Staunton**  
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**Before the**  
**Natural Resources Committee**  
**Subcommittee on Water, Wildlife and Fisheries**  
**U.S. House of Representatives**  
**On**  
*“The National Wildlife Refuge System at Risk:  
Impacts of the U.S. Fish and Wildlife Service’s Proposed BIDEH Rule.”*

**April 10, 2024**

Chairman Bentz, Ranking Member Huffman, and Members of the Subcommittee, thank you for this important hearing and for allowing me the honor of testifying before this Subcommittee. My testimony today focuses on my concerns about negative impacts of the Proposed Rule and Policy Updates Regarding National Wildlife Refuge System; Biological Integrity, Diversity, and Environmental Health published by the U.S. Fish and Wildlife Service (USFWS) on February 2, 2024 (Proposed BIDEH Rule).

**My Background**

My name is Marc Staunton. I am a fourth generation Klamath Basin farmer. More specifically, since 1928, my family has lived on and farmed land served by the Klamath Reclamation Project (Project), a U.S. Bureau of Reclamation (Reclamation) project authorized in 1905. My wife and I and our four children live in Klamath County, Oregon, near the town of Malin, close to the Oregon-California border. I am the President of the Board of Directors of the Klamath Project Drought Response Agency, an intergovernmental agency that designs and administers programs to align water supply and demand in the Project area, and a board alternate member of the Klamath Water Users Association (KWUA). I am also the current Chair of the Klamath County School Board.

After receiving my bachelor’s degree in business marketing from Azusa Pacific University, and following my great-grandfather’s career path, I settled back into our farming operation with my grandfather, two uncles, and my father. Since then, our family has worked to transition the business toward the future. Currently, my uncle, three other family members, and I make up the

farming partnership that oversees and manages Staunton Farms. We grow a wide variety of potatoes, onions, garlic, small grains, and alfalfa hay, and have produced other crops through time. I was raised outside Tulelake, California, near the property homesteaded by my great-grandfather and great-grandmother. We continue to farm that land, and other property that we either own or lease.

### **Historic and Current Agricultural Operations on Project Refuges**

Land that we lease includes some of the so-called “lease lands” located in Tule Lake National Wildlife Refuge (NWR). This land is also within Tulelake Irrigation District (TID) and part of the Project. The lease lands are ancient lake bottom, covered in a natural wetland habitat and duck manure, resulting in extremely high-quality, productive farm ground. My perspective regarding farming on national wildlife refuge land is based on this experience, but I believe my experience and our operation have much in common with farming on other refuges across the country.

The Project lease lands occupy land that was ceded to the United States for purposes of reclamation through irrigation legislation enacted by California and Oregon in 1905. Over time, land was reclaimed and developed for irrigation. Reclaimed land was initially leased to producers as the irrigation infrastructure was developed. The next step was that the land would be opened to homesteading under public land laws. Preferences in the homesteading program were given to veterans of World Wars I and II. My great-grandfather, Edward Staunton, was one of these homesteaders.

In the 1950s and early 1960s, there was a public policy debate over whether then-remaining leased lands would be opened for homesteading versus continuing to be leased. This was resolved in the Kuchel Act, which disallowed further homesteading while providing for continued leasing of these reclaimed lands for commercial agriculture.

The lease land program today is operated by Reclamation, with administrative control remaining with USFWS. Generally speaking, the leasing of these lands for commercial farming is based on a bidding process, where farmers bid for a parcel consisting of individual units in sealed bids. Leases are awarded based on the highest offer per acre. A lessee receives a one-year lease with the right to renew for four additional years, making for a maximum five-year term. However, in recent years, the right to renew may be longer; for example, when a grower is operating with organic certification.

The Upper Klamath Basin is the most important migratory area for waterfowl in North America. The Klamath Basin represents the bottleneck through which the entire Pacific Flyway must pass. Birds from Alaska, the Yukon, the Canadian Prairies, and Boreal Forest all filter down through the Klamath Basin and then disperse south to the Pacific Ocean, Mexico, and U.S. Southwest, only to return the following spring, headed back north. Eighty percent of the waterfowl in the Pacific Flyway have historically used the Klamath Basin at some point during their annual migrations.

Moreover, nine-tenths of the waterfowl that travel through the Klamath Basin concentrate on Tule Lake and Lower Klamath NWRs, the two principal wildlife refuges in the Refuge Complex,

some of which have also historically been farmed, while most is reserved for year-round waterfowl habitat and storage. Established by executive orders in 1908 and 1928, respectively, and later confirmed in the Kuchel Act, the Refuges are reserved for the “major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith.” The Kuchel Act limits the acreage of row crops produced on the Project. Traditional lease land farming in the Tule Lake NWR would consist of a maximum allotment of 33 percent of a farm unit be in “row crop” and 66 percent in grains. No matter how large or small a farm operation is, the ratio of grain to row crop cannot increase above that threshold. Even with Kuchel Act management throughout the 1990s, lease land farmers were under continuous attack by environmental groups wanting to remove agricultural activities from the Refuge Complex. To create more durable and productive wildlife habitat and to deal with the spread of nematode populations along USFWS-operated cooperative farming units, an idea to return farm units back to natural wetlands for a period of time was developed by local university staff, the Tule Lake Refuge team, and innovative farmers—and members of my family specifically—who were willing to try new concepts. After two years of flooding, the wetland was drained and the farmer began to cultivate the soil for crop production. Testing done by the university revealed the multiyear wetland had dramatically reduced the populations of nematode in the field. Along with that, other soil diseases harmful to crop production had also been radically reduced as well as dramatically improving soil tilth and health.

This practice is known as “walking wetlands” and we actively continue that practice where possible, and subject to water availability. I have also pursued walking wetlands on private land, and overall walking wetlands have gained notoriety outside the Project and the Klamath Basin. More broadly, lease land farming has been a model of innovative farm management and operations in partnership with wildlife that provides lessons for other areas.

In 2008, in recognition of the growing competing needs for water in the Klamath Basin, refuge managers partnered with Ducks Unlimited to come up with a strategic, biologically-sound, scientific approach to meeting refuge purposes. That 2008 plan—as further reconfirmed in the refuges’ 2016 Comprehensive Conservation Plan or CCP—is based on the fundamental premise that food—not habitat—is the limiting resource for migrating ducks, geese, swans, and other waterfowl. To achieve the goals identified in that plan, there was a need for more food associated with both wetlands and farmed areas within the refuge. As refuge managers quickly recognized, farmers were the answer to both these problems.

Through the period of 2006 to 2016, the walking wetlands program and flooding continued with tremendous sustainability, repeatedly resulting in suppressed populations of soil pathogens to crops, enhanced soil fertility and tilth, reduced farming inputs, and boosted quantity and quality of yields. For the refuge, continual rotation of wetlands and cropland provided vibrant healthy habitat which supported 90 percent of some waterborne species total refuge populations but impacting only 4 percent of total refuge wetlands.

Recently, the walking wetlands program has experienced major setbacks due to extremely low water deliveries to TID, but when water delivery has been allowed, we continue to see the same positive outcomes. The value continues to be reflected in the approximate doubling of lease revenues which followed flooding cycles in the commercial lease lands. According to the USFWS’s website, as of 2007, 21 percent of Tule Lake NWR agricultural lease lands had

undergone a wetland cycle. These lands accounted for 37 percent of the total lease revenues to the government.

A similar situation occurred on portions of the refuges that were then being farmed by refuge staff—that is, lands outside the 22,000 acres reserved for leasing under the Kuchel Act. Despite intentionally being managed for agricultural purposes to grow food for birds, these areas were not producing enough of that food to meet refuge objectives. Plantings of barley and other grains often failed to mature or produced low yields.

To make sure these lands grew the food necessary to support the flyway, refuge management started entering into cooperative agreements, whereby a farmer provides all the seed, fertilizer, equipment, fuel, and labor in exchange for access to the land. The farmer is allowed to harvest three-quarters of the crop, the remaining one-fourth being left standing in the field for the benefit of wildlife. Not only has crop rotation, modern equipment, and access to market made a huge impact of bioenergetics but more so, the expertise of legitimate farmers who have a good understanding of raising crops has dramatically improved the volume of feed available to wildlife. To illustrate, in 2023, Staunton Farms left unharvested 123 acres of organic barley and 190 acres of organic cereal rye as part of our cooperative lease to USFWS. Taking the approximate 2.5 ton per acre yield we recorded on the harvested portions of those fields, the crop that was left equates to just over 1,500,000 pounds of grain left wholly for bird food and habitat, solely from a small portion of ours and neighbors' waste grain in the basin.

This is another win-win solution that helped federal managers meet the refuges' authorized purposes.

### **My Family's Experience on the Refuge**

I strongly believe that, done correctly, conservation and agriculture go hand in hand, and that belief is based on life experience. For example, it always fascinates me to watch as a freshly harvested field of potatoes is flooded. Waterfowl glean the nutrient-dense crops left behind by the harvester, and the leftover nutrients in the soil help stimulate the growth of native tule plants resulting in the potato field becoming a vibrant wetland in less than a year. Any time that our goal of feeding 330 million Americans has a symbiotic relationship with the local ecosystem, I believe we are headed in the right direction.

And, for my family and others, lease land farming is an integral part of our overall business and farm planning. It has provided an opportunity for new farmers to pick up their first field, business ventures to expand when markets require, and in our case build a customer base that relies on the extremely high-quality products the lease land soil grows.

In addition, as mentioned above, for our family, the practice of walking wetlands has also become an integral part of our business strategy of producing and packaging premium organic potatoes on lease lands. We felt there was so much value in this approach of natural wetland and working land rotation that we developed hundreds of acres of private land off the Tule Lake Refuge Complex within Tule Lake Basin to expand this rotation. We were able to compete with much larger, low-cost producers because of our undeniable quality and market performance. Furthermore, it was important to us to focus on production that was truly sustainable,

measurable, and repeatable and felt it gave us an edge in delivering truly healthy produce to our customers.

Our farming community has experienced the benefit and satisfaction of farming these uniquely situated lands, but we have also experienced many difficulties along the way. Multiple legal challenges, intense pesticide scrutiny, and operational changes have made it not for the faint of heart to continue to invest in leasing this land. Additionally, producers in the Klamath Basin annually contribute uncalculated economic value in the form of losses of production to the wildlife of the Pacific Flyway who cannot see the lines between private land and refuge lands; the birds feed and reside in all lands of the basin, whether publicly or privately owned. The grains, alfalfa, and crops and habitat that contribute to migratory bird feed and rest is a major continuation to the success of the flyway.

### **The Proposed Rule as Drafted Is Unworkable**

This brings me to the potential crippling effect of the Proposed BIDEH Rule if it is implemented as proposed. At the outset of this part of the discussion, I will note that I am aware of the comment letter dated April 4, 2024, submitted to USFWS by TID, KWUA, and Klamath Drainage District on the Proposed BIDEH Rule (KWUA Letter). The KWUA Letter discusses the history and regulatory structure related to the lease lands. I understand that the KWUA Letter has been offered for the record of this hearing and refer you to the KWUA Letter for more detail on the issues it discusses.

The Proposed BIDEH Rule states: “We 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 cannot achieve refuge management objectives through natural processes.” There is a similar limitation for use of chemical pest controls.

I am very concerned about the impacts of this rule on our refuge lease lands. If agricultural use were prohibited on lease lands, there would be very major negative impacts on my family, my community, and the environment. The KWUA Letter refers to the \$30 million in crop value provided on Project lease lands and hundreds of jobs that are supported. The economic multiplier for agricultural crop value identified by Oregon State University is approximately two (dollars for each dollar of crop value). A more concerning economic factor would be the dramatic alteration of competitive private land in the basin. Eliminating 22,000 acres of current crop production would advance the all-to-common threat of consolidation to small or beginning farmers who have difficulty competing for access to land.

There would also be new costs for the federal government. TID’s contract with Reclamation provides for diversion and delivery of water to the lease lands and requires Reclamation to pay for the cost of irrigation water delivery and drainage. Currently, in the lease contracts, Reclamation passes these costs through to lease land growers. Also, lease land growers pay rent, known as “lease revenues,” to the government. The more valuable the lease lands are for farming, the higher the amount of lease revenues farmers are willing to pay. Net lease revenues (gross lease revenues less the cost of administering the leasing program) provide money for various purposes. TID is entitled to ten percent of net lease revenues. Counties are entitled to up

to 25 percent of net lease revenues. The remaining net lease revenues go to the federal treasury and are accounted for in the Reclamation Fund. If the value of lease lands for farming is diminished or eliminated, there would be a reduction in the number of payments to all of these current recipients.

Even though the case can be made that the Kuchel Act mandates agriculture in our Klamath refuge system, the vague nature of the BIDEH language opens the door for legal and judicial interpretation. I do not know if every individual in the USFWS would conclude farming to meet criteria required by the proposed regulation, particularly if USFWS does not consider agriculture to be a purpose of our local refuges. I do know that lease land farming, and various practices associated with lease land farming, have been targeted in litigation brought by groups that are opposed to agriculture. I am concerned about how the Proposed BIDEH Rule would be used by those parties in the next lawsuit.

The BIDEH language would remove local control and innovation. I cannot stress enough how devastating this would be. With all due respect, folks in Washington, D.C., do not—nor could they be expected to—understand how and what I do in my part of the country.

Thinking about our relationship with our local USFWS office, we have built an understanding of each other's needs, what resources each can bring to the table, and challenges each of us must deal with. By creating a presumption that agriculture is prohibited on refuges—unless determined to be “necessary” to achieve four separate, vague criteria—the Proposed BIDEH Rule proposes to fundamentally alter the historical relationship between farmers and wildlife in the Tule Lake and Lower Klamath NWRs, and in so doing, fundamentally undermine the natural capacity of these areas. As a result, agriculture would always be coming from a defensive position, which internally will change our ability to freely create and innovate for the best outcomes of our collective environment.

This cannot be allowed to happen. Beyond all the concerns I have discussed above, recent events speak for themselves: there have been three years in the history of Tule Lake lease land operations when producers were not allowed to farm the Tule Lake Refuge Complex because of water curtailments. In each of those years, the refuge “bioenergetics” model dropped radically. Fields lay bare or weeds infested fields and there was little to no wildlife or agricultural benefit throughout the system. This could be the same for the Lower Klamath Refuge Complex that became a wasteland of noxious weeds and invasive insects due to lack of irrigation water.

## **Conclusion**

My personal opinion is that agriculture has played a critical role in the idea, adoption, and implementation of projects that meet statutory requirements, fulfill refuge purposes, and ensure biological integrity, diversity, and environmental health. The heavy hand of government and new fodder for more litigation will not create a healthier, holistic ecosystem for your refuge systems. A community of local people, living with the land and ecosystem, understanding the unique challenges, developing the solutions as unique as the landscape are what a working land approach looks like and what I believe will continue to bring real, lasting benefits to our wildlife, our refuges, our food supply, our community, and our country.

Thank you for the opportunity to testify before you today, and I am happy to answer any questions you may have.

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