

The U.S. Experience in Soils Protection

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IUCN Project Basic Criteria

1. A statement of policy acknowledging the ecological primacy of soil protection (No)
2. An institutional framework designating a lead agency for administration (No)

3. Financing mechanisms (Yes)
4. Research & monitoring (Yes)
5. Widespread public participation (Yes)

6. Regulatory mechanisms to assure compliance (No)

- Fundamental flaw in US soil protection

7. Enforcement (No)

Statutes lack a sense of soil as an ecological resource on par with water and air

**U.S. Soil Conservation Act of
1935 established Soil
Conservation Service (now
called Natural Resources
Conservation Service)
Superb technical agency**

**SCS made great progress with
farmers who *voluntarily***

participated in programs

**Contour plowing, tree breaks,
crop rotation**

**Many land abusing farmers did
not participate**

**Congress in 1930s could not
pass needed regulatory laws**

**U.S. Supreme Court voided
New Deal legislation as
unconstitutionally infringing
states rights**

President Roosevelt urged states
to pass a model law State
Standard District Act

All 50 states have enacted some
form of the Act

Act creates Conservation Districts
usually at county level
Each state act is different
All are substantively weak

15,000 citizens serve on boards

- This massive citizen participation has its pluses and minuses

State laws are fragmented with
different laws and agencies
dealing with construction,
agriculture, forestry

When prosecutors enforce, they
enforce water pollution law not
soil statutes

*Pacific Lumber Company v.
Water Resources Board*

Water is the resource to be
protected not soil

Earth Day leads to sea change

- Congress passes federal laws nationalizing air, water and solid waste protection
- But not soil – which is viewed as land
- Land use: a matter for state and local law

1972 U.S. Clean Water Act sets
national standards with strong
enforcement from U.S. EPA

Could have been a strong tool for
soil protection

Clean Water Act distinguishes
Point sources: from factories
required to use Best Available
Technology
-permit required

Nonpoint sources - farms and urban
runoff - are left to states
- no permit required

Act requires states to set a Total
Maximum Daily Load (TMDL)
for its waters.

Work backwards from goal to set
discharge levels for individual
users – including agricultural

States ignored the law for years.
Environmental NGOs brought
citizen suits to force compliance

Litigation ongoing in 40 states

Through TMDL program U.S. EPA
and state EPAs could play much
larger role in curbing soil erosion.

Politically difficult

Involves land use controls on private
property owners

EPA Superfund program for
remediation of contaminated soils
has been a major success

**Comprehensive Environmental
Response, Compensation, and
Liability Act of 1980 passed to
take care of abandoned
hazardous waste sites**

The EPA experience in dealing with contaminated soils on mining and industrial sites suggests an expanded role for it in future soils policy. The future may bring some future combination or fusing of the capabilities of NRCS and EPA.

U.S. agriculture has been heavily subsidized since the 1930s in many programs

Payments are made by the Farm Services Administration, an agency focused on disbursing funds and not conservation

U.S. Congress concern over continuing soil erosion results in major subsidy programs linked to farmers conservation performance

Farm Bills

- Multi year “farm bills” in 1985, 1990, 1996, 2002 and 2008 expanded conservation work in
 - Wetland Reserve Program
 - Environmental Quality Program
 - Wildlife Habitat Incentive Program
 - Conservation Security Program

2002 Farm bill subsidies

1. \$41.6 billion to support commodity exports (corn, cotton, soybeans, wheat)
2. \$24.1 for conservation
3. \$188.9 for food stamps for the poor –ensuring urban support for the bill

These Programs administered by NRCS
and focus on ecological principles

watershed planning

Endangered species protection

Good results achieved through budget
process - not by regulation

**Result: erosion declined by more
than 40%**

**on cropland from 3.1 billion
tons/year in 1982 to 1.8 billion
tons/year in 2001**

Subsidy for conservation system
depends on grantees doing the
conservation work

Many do not

Swampbuster and *sodbuster*
provisions of farm bills bar
payment to farmers who carry out
prohibited development

Enforcement actions to recover
funds originate with locally
elected county boards

Many decline to enforce: farmers
do not like to take action against
their neighbor

Major needs for conservation treatment

- 232 million acres cropland
- 280 million acres rangeland
- 222 million acres forestland

Huge backlog of applications for
conservation programs

Only 20 % get funded

Subsides for the conservation programs have accomplished much, but are no substitute for effective regulation

Congress should treat soil as an
ecological resource, no less vital
than air and water

Proposals for increased role for
EPA

IUCN soils template shows US soils
law fragmented with weak
enforcement and lacking in
ecological focus

But with strong efforts in dealing
with soil contamination, targeted use
of subsidies, strong citizen
participation, aided by expert
professional agency