



American Farmland Trust

Consolidation of Federal Conservation Easement Programs: Pros and Cons

September, 2011

USDA's Natural Resources Conservation Service (NRCS) manages five easement programs, two of which specifically address agricultural working lands and three that do not. During the debate on the 2008 Farm Bill, an amendment was offered, debated and withdrawn on the House floor by Representative Goodlatte of Virginia to standardize certain elements, features and procedures of all the easement programs managed by USDA. This white paper explores the potential for a consolidation/merger proposal being considered again during the 2012 Farm Bill and what impact such an outcome would have specifically on the future usefulness and administration of the Farm and Ranch Lands Protection Program; and, it suggests possible alternative scenarios to such a proposal.

Section 1: Background Information on USDA Easement Programs

Background: The Farm and Ranch Lands Protection Program (FRPP) was the first federal program to contribute funds directly to the purchase of permanent conservation easements on working agricultural lands. Originally called the Farmland Protection Program, the program was created in the 1995 Farm Bill with a one-time authorization of \$35 million. Re-authorized in the 2002 and again in the 2008 Farm Bills, the program has seen its funding expanded, its emphasis on protecting working agricultural lands reinforced, and demand on its use spread nationwide. From a single allocation of \$35 million, FRPP has grown to a \$200 million authorization for FY'12. From its inception, FRPP has always been a financial assistance program involving eligible public or private partners (entities). In administering the program, USDA through the Natural Resources Conservation Service (NRCS) does not negotiate directly with landowners but rather with eligible entities working on behalf of private landowners.

The Grasslands Reserve Program (GRP) was created in the 2002 Farm Bill. Advocates for GRP were motivated to create a program for purely grazing lands, and the grasses, forbs and shrubs supported by this land, that were felt to be under-represented by FRPP's emphasis on lands with prime and unique soils. While GRP offers a permanent easement option, it also at one time purchased term-easements and it includes rental contracts. GRP operates more like a traditional federal acquisition program with USDA typically negotiating directly with the landowner.

The Wetlands Reserve Program (WRP) has been a NRCS offering since 1990. WRP is a voluntary program that provides technical and financial assistance to private landowners and Tribes to restore, protect, and enhance wetlands in exchange for retiring eligible land from agriculture (text taken from NRCS WRP Fact Sheet). It is a retirement program, not a working lands protection program. Unlike lands targeted by FRPP and GRP, lands covered by WRP are not typically threatened by direct conversion by residential or commercial development, rather they are threatened by farming itself. WRP transactions are handled entirely by NRCS. Other than promoting the program to landowners, there is no transactional involvement by other public or non-profit partners. Currently, WRP offers four options to landowners: 30-year contracts; 30-year easements; permanent easements; and, restoration cost-share agreements.

The Healthy Forest Reserve Program (HFRP) was created in 2003. HFRP offers a permanent easement option, 30-year contracts and 10-year cost-share agreements. However, HFRP is not a working lands protection program. The objectives of the program are to promote the recovery of endangered and threatened species; improve plant and animal biodiversity; and, enhance carbon sequestration. Active silviculture management on enrolled lands is not mentioned at all in the Final Rule for the program (issued 2/10/2010). The program to date has only been used in a few states: Arkansas, California, Indiana, Maine, Mississippi, Oklahoma and Oregon.

The 1996 Farm Bill amended the Emergency Watershed Protection Program (EWPP) to allow NRCS to purchase floodplain easements as an emergency measure. NRCS may purchase EWPP easements on qualified lands that have been impaired within the last 12 months or have a history of repeated flooding. The easements provide NRCS with the authority to restore the affected lands to the extent possible to their natural condition. Landowners are limited to the quiet enjoyment of the eased land and the right to undeveloped recreational uses of the land, typically hunting and fishing. Other than periodic haying and grazing, approved by NRCS, there is no active agricultural use of the land allowed.

Comparing and Contrasting: The best way to consider the similarities and differences between these programs is to view their features in table form:

Program Characteristic	Wetlands Reserve Program	Emergency Watershed Program-Flood Plain Easement	Healthy Forest Reserve Program (HFRP)	Grassland Reserve Program	Farm and Ranch Lands Protection Program
	←-----Focused on Land Retirement-----→			←-----Focused on Working Lands-----→	
Purpose or Goal	Restore, protect, or enhance wetlands on eligible lands. The goal is to achieve the greatest wetlands functions and values, along with optimum wildlife habitat on every acre enrolled in the program. The program accepts eligible wetlands and associated habitats such as uplands, riparian areas, and forest lands.	Restore, protect, maintain and enhance the functions of the floodplain; conserve natural values including fish and wildlife habitat, water quality, flood water retention, ground water recharge and open space; reduce long-term federal disaster assistance; and safeguard lives and property from floods, drought, and the products of erosion.	Restore, protect and enhance forest ecosystems to promote the recovery of T&E species; improve biodiversity; and enhance carbon sequestration	Assist landowners and operators in protecting grazing uses and related conservation values by conserving and restoring eligible private land—grassland, rangeland, and pastureland. Program emphasis is on supporting grazing operations, plant and animal biodiversity, and grassland and land containing shrubs or forbs under the greatest threat of conversion.	Assists with the purchase of conservation easements to protect agricultural use and related conservation values of the land by limiting non-agricultural uses.
Length of easement/contract	Easements: Permanent and 30-years and maximum allowed under State Law Restoration cost-share agreements: generally 10-years 30-year contracts with Tribes	Permanent easements	Easements: Permanent, 30-year, and maximum allowed under State law 30-year contracts with Tribes 10-year cost-share agreements	Easements: Permanent and maximum duration under State Law Contracts: 10-year, 15-year and 20-year rental contracts	Permanent easements, unless State law prohibits a permanent easement
Allowed use	Wetland functions and values plus wildlife uses	Quite enjoyment and undeveloped recreational use	Forest ecosystem and T&E species uses, including carbon sequestration	Grazing use	Agricultural use
Selection Criteria	The Wetlands Reserve Program (WRP) regulation provides that the State Conservationist will, in consultation with U.S. Fish and Wildlife Service (FWS) and the State Technical Committee (STC), rank applications for enrollment in the WRP	NRCS will use a ranking system to rank floodplain easement applications.	Each State establishes ranking criteria in consultation with the State Technical Committee and Federal, State and local wildlife agencies and organizations	Each state establishes ranking criteria, which will consider threats to conversion including cropping; invasive species; urban development and other activities that threaten plant and animal diversity on grazing lands.	National and State ranking criteria are used. State criteria are established by each NRCS State Conservationist. Criteria cover the quality of land to be protected; development threats; and, ag viability.

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Land valuation	Lowest of Geographic Area Rate Cap, appraisals (seldom used) conducted by certified, general real property appraisers, or landowner offer.	Geographic Area Rate Cap, appraisals or market analysis	Appraisals – Before and After appraisal method	Lowest of Geographic Area Rate Cap, appraisals conducted by certified, general real property appraisers or landowner offer. Value based on fair market value less grazing value.	Appraisals - Fair market value less agricultural value
Landowner eligibility	<p>Must be a landowner to participate in the program. Landowners must comply with Highly Erodible Land and Wetland Conservation provisions of FSA of 1985</p> <p>Adjusted gross income provisions apply</p> <p>Registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006</p> <p>7-year ownership requirement</p>	<p>Must be a landowner to participate in program.</p> <p>Landowner does not need to comply with Highly Erodible Land and Wetland Conservation provisions of FSA of 1985</p> <p>Registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006</p>	<p>Must be the landowner of eligible land for which enrollment is sought;</p> <p>Landowner does not need to comply with Highly Erodible Land and Wetland Conservation provisions of FSA of 1985</p> <p>Registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006</p>	<p>Must be a landowner for easement participation or be a landowner or have control of eligible land for rental contract participation;</p> <p>Must comply with Highly Erodible Land and Wetland Conservation provisions of FSA of 1985</p> <p>Adjusted gross income provisions apply</p> <p>Registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006</p> <p>GRP has an option where easements can be acquired through eligible entities similar to FRPP. Criteria for determining whether an entity is “eligible” can be found in 7 CFR part 1415</p>	<p>Program is implemented through eligible entities. Eligible entity requirements found in 7 CFR part 1491</p> <p>Must be a landowner to sell an easement to an eligible entity. Participating landowners must comply with Highly Erodible Land and Wetland Conservation provisions of FSA of 1985</p> <p>Adjusted gross income provisions apply</p> <p>Registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006</p>
Land Eligibility	Marginal, frequently flooded agriculture lands and associated uplands.	Any floodplain lands damaged by flooding at least once within the previous	Eligible land includes private land that contributes to the restoration and	Grassland, land that contains forbs or shrubland where grazing is the	Must be privately owned land on a farm or ranch and contain at least 50 percent

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	Note, the term agriculture lands do include wooded lands.	calendar year, or that have a history of repeated flooding (i.e., flooded at least twice within the previous 10 years). While NRCS normally purchases floodplain easements on agricultural lands, on a case-by-case basis NRCS may purchase floodplain easement in rural residential areas in lieu of traditional EWP recovery work if a sponsor is acquiring the underlying land rights and the cost of the recovery work would exceed the easement acquisition costs. In such situations, any structures are then demolished or removed from the easement area.	enhancement of habitat or otherwise increase the likelihood of recovery for a selected species under section 4 of ESA, candidate species, State listed species or one identified by the Chief for special consideration	predominant use; or land located in an area that has been historically grassland, forbs, or shrubland, and the land could provide habitat for animal or plant populations of significant ecological; contains historical or archeological resources, or would address issues raised by State, regional, and national conservation priorities.	prime, unique, statewide, or locally important farmland, unless otherwise determined by NRCS; contain historical or archaeological resources; furthers a State or local policy consistent with the purposes of the program; and is subject to a pending offer by an eligible entity; (2) Must be cropland, rangeland, grassland, pastureland, or forest land that contributes to the economic viability of an agricultural operation or serves as a buffer to protect an agricultural operation from development; Must not include forest land on greater than two-thirds of the easement area.
Restrictions/ Requirements	The landowner must implement a WRPO to restore, protect, enhance, maintain, and manage the hydrologic conditions of inundation of the soil, native vegetation and natural topography of the land.	The easement provides NRCS with the authority to fully restore and enhance the floodplain's functions and values to natural conditions to the greatest extent practicable. NRCS may pay up to 100 percent of the restoration costs.	Implementation of a HFRP restoration plan, the effect of which is to restore, protect, enhance, maintain, and manage the habitat conditions necessary to increase the likelihood of recovery of listed species.	Prohibits crop production (other than hay), fruit trees and vineyards and any activity inconsistent with maintaining grazing land. A NRCS GRP Management Plan is required, which covers grazing practices and related grazing and conservation activities, and activities that will impact nesting birds in significant decline.	Limits non-agricultural uses of land covered by an easement. Agricultural activities and buildings are allowed without restrictions up to 2% Impervious Surface limit with a potential waiver to 10% of easement area. A NRCS Conservation Plan is required for any highly erodible cropland.

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Payments	<p>For easement: provides acquisition costs; administrative costs associated with acquiring an easement, and restoration costs.</p> <p>For 30-year contracts: provides contract payment</p> <p>Easement payments are generally a single payment but may be made in annual payments for no more than 30 years.</p> <p>For restoration cost-share agreement: provides restoration cost-share assistance.</p>	<p>Provides acquisition costs; administrative costs associated with acquiring an easement, and restoration costs.</p> <p>Easement payments are made as a single payment</p>	<p>For easement: provides acquisition costs; administrative costs associated with acquiring an easement, and restoration costs.</p> <p>For 30-year contracts: provides contract payment</p> <p>Easement and contract payments may be made in a single payment or for no more than 10 annual payments of equal or unequal size.</p> <p>For restoration cost-share agreement: provides restoration cost-share assistance.</p>	<p>For easement: provides acquisition costs; administrative costs associated with acquiring an easement, and restoration costs.</p> <p>Easement payments are generally a single payment however; landowners may request payment for up to 10 years in equal or unequal amounts.</p> <p>For rental contracts: provides annual rental payment. If restoration efforts are necessary, participant can receive cost-share assistance through a restoration agreement.</p>	<p>Provides cost-share assistance to eligible entities to acquire an easement.</p> <p>Single payment or up to 5 installment payments; first payment at closing followed by 4 annual payments.</p>
Special provisions for Indian Tribes	30-year contract enrollment option	None	30-year contracts	None	None
Partner Involvement	None, The USDA holds the easement	None, The USDA holds the easement.	Partnership with the Forest Service as part of the Healthy Forest Initiative. No outside partners	Limited. 2008 Farm Bill enables USDA to enter into Coop Agreement with eligible entities to acquire easements. But, since the entities must provide a 50% match and get no funding to administer the easements, landowners may still apply directly to USDA, which will pay 100% of easement.	Extensive. Landowners may only apply to the program through an eligible entity. The entity holds the easement.

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Acreage enrollment level Numbers through FY 10	2,347,128	187,876	691,860	1,206,953	809,098
Cost of the program FY09 and FY10 obligations (in thousands FA and TA)	\$1,065,850 FY11 projection: \$611,312	EWP-FPE: \$62,567 Recovery: \$156,480	\$10,143	\$147,766	\$268,662
Backlog of applications As of June 10, 2011	2715 applications 251,915 acres	2194 applications 215,920* data is still undergoing quality assurance review	150 applications 24,565 acres	401 applications 209,058 acres	184 applications 92,365 acres
Does funding expire October 1, 2012? CBO Baseline	Expires - annual funds Baseline falls to zero in 2014	No year funds except for ARRA funds which are 2 year funds. No baseline since funded through special allocations for emergencies.	No year funds Baseline falls to zero in 2013	Expires - annual funds Baseline falls to zero in 2013	Expires - annual funds Baseline continues
Appeals process	Title XII	Non-Title XII	Non-Title XII	Title XII	Title XII

Environmental Profile of NRCS Easement Programs

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Purpose or Goal	Restore, protect, or enhance wetlands on eligible lands. The goal is to achieve the greatest wetlands functions and values, along with optimum wildlife habitat on every acre enrolled in the program.	Restore, protect, maintain and enhance the functions of the floodplain; conserve natural values including fish and wildlife habitat, water quality, flood water retention, ground water recharge and open space.	Restore, protect and enhance forest ecosystems to promote the recovery of T&E species; improve biodiversity; and enhance carbon sequestration	Assist landowners and operators in protecting grazing uses and related conservation values by conserving and restoring eligible private land—grassland, rangeland, and pastureland. Program emphasis is on supporting grazing operations, plant and animal biodiversity, and grassland and land containing shrubs or forbs under the greatest threat of conversion.	Assists with the purchase of conservation easements to protect agricultural use and related conservation values of the land by limiting non-agricultural uses.
Allowed use	Wetland functions and values plus wildlife uses	Quiet enjoyment and undeveloped recreational use	Forest ecosystem and T&E species uses, including carbon sequestration	Grazing use	Agricultural use
Eligibility and Selection Criteria	Land must be restorable and be suitable for wildlife benefits. This includes: Wetlands farmed under natural conditions; Farmed wetlands; Prior converted cropland; Farmed wetland pasture; Farmland that has become a wetland as a result of flooding; Range land, pasture, or production forest land where the hydrology has been significantly degraded and can be restored;	Any floodplain lands damaged by flooding at least once within the previous calendar year, or that have a history of repeated flooding (i.e., flooded at least twice within the previous 10 years).	Forestland that contributes to the restoration and enhancement of habitat or otherwise increase the likelihood of recovery for a selected species under section 4 of ESA, candidate species, State listed species or one identified by the Chief for special consideration	Grassland, land that contains forbs or shrubland where grazing is the predominant use; or land located in an area that has been historically grassland, forbs, or shrubland, and the land could provide habitat for animal or plant populations of significant ecological; addresses issues raised by State, regional, and national conservation priorities.	Privately owned land on a farm or ranch that contains at least 50 percent prime, unique, statewide, or locally important farmland, unless otherwise determined by NRCS; furthers a State or local policy consistent with the purposes of the program; land may serve as a buffer to protect an agricultural operation from development.

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	Riparian areas which link protected wetlands; Lands adjacent to protected wetlands that contribute significantly to wetland functions and values; and, Previously restored wetlands that need long-term protection.				
Restrictions and Management Requirements	The landowner must implement a Wetlands Reserve Plan of Operation to restore, protect, enhance, maintain, and manage the hydrologic conditions of inundation of the soil, native vegetation and natural topography of the land.	NRCS has the authority to fully restore and enhance the floodplain's functions and values to natural conditions to the greatest extent practicable.	Implementation of a HFRP restoration plan, the effect of which is to restore, protect, enhance, maintain, and manage the habitat conditions necessary to increase the likelihood of recovery of listed species.	Prohibits crop production (other than hay), fruit trees and vineyards and any activity inconsistent with maintaining grazing land. A NRCS GRP Management Plan is required, which covers grazing practices and related grazing and conservation activities, and activities that will impact nesting birds in significant decline	Limits non-agricultural uses of land covered by an easement. Agricultural activities and buildings are restricted by a 2% Impervious Surface limit with a potential waiver to 10% of easement area. A NRCS Conservation Plan is required for any highly erodible cropland.

Easement Program Pros and Cons: To adequately consider the pros and cons of consolidating programs, it may be helpful to review the pros and cons of each program.

FRPP:

Pros- With the statutory changes made to the program in the 2008 Farm Bill, FRPP is squarely an agricultural working lands protection program. Associated conservation values of the land do not drive the program and its projects. Leaving aside any issues related to the administration of the program, FRPP provides much needed and welcomed federal funding to support farmland protection projects of importance to state, local and private partners. There is only a permanent easement option. The program provides for a degree of flexibility to accommodate regional and local differences in agriculture and agriculturally-important lands. FRPP is the only easement program that aggressively employs local partners. This tactic not only reduces federal staffing and overhead, in addition, because of a statutory matching formula, FRPP leverages federal funds with state, local and private dollars. Through 2010, 66% of the funding for FRPP projects came from non-federal sources. FRPP continues with a baseline of \$200 million annually

Cons- The program does not issue block grants to local partners, resulting in duplicative and often time-consuming oversight by USDA. The program requires partners to contribute a cash match in every project. Program partners also incur unreimbursed transaction costs for activities required by USDA beyond what would otherwise be needed. Some have also argued that greater environmental performance should be expected from FRPP.

GRP:

Pros- The program will negotiate directly with landowners and pay 100% of the project and transaction costs. When working with a cooperating entity, the GRP rule does not specifically state that the entity must provide a minimum cash match, where FRPP requires cooperating entities to provide 25% of the purchase price of the easement in cash from the entity. In fact, the 11/29/10 GRP Rule could be interpreted to allow a landowner's discount/donation to be counted toward the entire match required of the cooperating entity. GRP considers attributes associated with grazing lands beyond soil quality.

Cons- GRP allows for rental contracts as an option to permanent easements. Environmental values and restoration are on a par with supporting grazing operations in the purpose of the program and in the program's ranking criteria. The required GRP management plan represents a significant involvement on the part of NRCS in the management of the operation. In addition, USDA may condition participation in the program upon the execution of a restoration agreement depending on the condition of the grassland resources. GRP provides USDA with a right of ingress and egress on enrolled lands. In the Farm Bill, the program is scored based on an acre-cap, rather than a dollar authorization. This results in a baseline of zero as the acreage cap is attained.

WRP:

Pros- WRP addresses a significant environmental issue – farmed wetlands. Since the late 1700's, it is estimated that more than 50% of the Nation's wetlands have been drained or altered for cropland use (NRCS. WRP Final Programmatic Environmental Assessment, 2009). WRP has significantly decreased the loss of wetland acreage and moved the national focus toward restoring wetlands. WRP is a major contributor to achieving the Nation's goal of "no net loss" of wetlands. Presumably, farmers and ranchers considering either FRPP or GRP that have acres eligible for WRP are encouraged to enroll that subset of land in WRP.

Cons- WRP is a land retirement program designed to specifically take land out of agricultural production; so stated in NRCS literature on the program. WRP is an excellent complement to FRPP for land on farms that otherwise are eligible

for WRP. However, WRP's contract and agreement options, and NRCS-only management of transactions, would undermine the purposes and partner utility of FRPP if incorporated in a merged program.

HFRP:

Pros- With the limited amount of activity to date, it is hard to judge the effectiveness and value of HFRP. It is not clear from NRCS literature why the program has had such limited application in only a few states. As with WRP, presumably farmers and ranchers considering either FRPP or GRP that have acres eligible for the program would be encouraged to enroll that subset of land in HFRP.

Cons- HFRP could complement FRPP for land on farms that otherwise are eligible for the program. However, as in the case of WRP, HFRP's contract and agreement options, and NRCS-only management of transactions, would undermine the purposes and partner utility of FRPP if incorporated in a merged program.

EWPP:

Pros- EWPP protects important floodplain functions of eligible lands with permanent easements; there are no term easement or contract options. As stated in NRCS literature, EWPP is administered as an emergency measure on lands that meet very specific criteria – impairment within the last 12 months or a history of repeated flooding (i.e., flooded at least two times during the past 10 years).

Cons- Since EWPP is limited to such a narrow category of land, is applied on an emergency basis and only offers a permanent easement option, it would present a minimal threat to FRPP in a merged program. EWPP could complement FRPP for land on farms that otherwise are eligible for the program.

Section 2: What is the likelihood of easement program consolidation?

The federal deficits in FY09, FY10 and FY11 will be the three largest federal deficits since WWII. Bond rating agencies have put the United States on notice with respect to our level of debt to GDP ratio and any change in rating will increase the cost of borrowing for the Federal government. While discussed and largely ignored during the last farm bill, this budget climate will force federal program spending to be reduced. Compounding the problem of money is the fact that some 37 farm bill programs have no baseline carrying over from the last farm bill.¹ Among those 37 programs, are 4 of the 5 federal government conservation easement programs. Continuing these programs at current rates of spending would cost an additional \$674 million annually in the next farm bill—additional money that will not be forthcoming. This high premium on money will create a vicious dynamic during this farm bill cycle. Farm bill programs during the 2012 cycle will likely need to show that they have real public value and that each program has a solid justification for spending precious federal dollars. Programs will also need to show that they are not duplicative and that each program is running as efficiently as it can. In addition, given the limited resources, programs that overlap and redundancy in programs must be eliminated and the efficiency of programs improved. Many will argue that the way to get the best value out of these program dollars is to have the method of delivery as clear, concise, and quick as possible. Consolidation and streamlining is one way to achieve that.

Calls for budget cutting and consolidation have already been made. In a recent House Agriculture Committee conservation hearing Chairman Lucas spoke of budget challenges and the need to make difficult budget decisions.

¹ Baseline refers to amount of annual program spending within the farm bill that carries over from one bill to the next. Programs that are not authorized at above \$50 million annually are deemed to minor to receive a baseline in subsequent bills and programs that are scheduled to sunset or end at the end of one farm bill do not receive a baseline in the next farm bill.

(<http://agriculture.house.gov/hearings/hearingDetails.aspx?NewsID=1399>, audio/video feed time index 39min.) During that hearing, NRCS Chief White spoke about the need to consolidate. (*Id* at time index at 1.18.) Members in this hearing spoke about duplication, multiplicity of management schemes, questioning the performance of each program and a need to focus on outcomes and not on programs as we need to look at the biggest ‘bang for the buck’. In meetings with House and Senate staff every conversation on easements starts with the refrain “we need to consolidate” or “how do you propose to consolidate...?”

It should be no great surprise that consolidation has come up in this farm bill cycle. During the last farm bill, USDA proposed a consolidation of FRPP, GRP and HFRP into a single easement program. Representative Goodlatte of Virginia, then Ranking Member of the House Agriculture Committee, submitted an amendment to the farm bill that would have consolidated the easement programs under one umbrella. This gambit was set aside at the time with an understanding that after the farm bill was over there would be further discussions about streamlining the paperwork and technical differences between the programs while leaving substantive differences between the programs alone—however, no follow-up ever occurred pursuant to that agreement

Section 3: Compatibility of federal easement programs and an analysis of Consolidation Options

In the event of a serious consolidation/merger proposal, the following considerations are among those to explore and incorporate in developing alternative scenarios.

Each of the five NRCS Easement Programs has many, many details. Each of these details creates a difference, sometimes meaningless, sometimes significant, when thinking about a merger. One way to analyze the compatibility of easement programs is to try and identify the most critical elements that cut across all the programs. What does that mean? When looking at the compatibility of the easement programs rather than sift through dozens of details there seem to be three basic concepts that help focus decision-making: 1) what is the Purpose of the easement program?; 2) what type of Permanence does the easement program require?; and 3) what kind of Partnership structure does the easement program create? Again there are many, many other details in how these five easement programs operate but working through these 3 “P”s provides some guidance as to potential compatibility.

- Purpose of the Programs

The purpose of FRPP is to protect and maintain working lands from development; fundamentally FRPP is a working lands program designed to keep agricultural land in production. By way of comparison the WRP, HFRP and EWPP programs are all designed to bring fragile land out of production—all those programs have a fundamental purpose, whatever the underlying reason, to retire land and take it out of production. GRP, like FRPP, has as at least one of its purposes to keep agricultural land in production—grazing use.

- Permanence within the Programs

FRPP is an easement program that permanently protects agricultural land with no other agreement options. Similarly, EWPP also requires permanent easements. All of the other easement programs have permanent easements coupled with some level of shorter term contracts or easements. In GRP and HFRP, acreage in contracts and term easements far and away exceed the acreage covered by permanent easements. In WRP, permanent easements are the prevailing option used.

- Partnership Structures within Each Program

Finally, FRPP uses a multi-partner approach in which the landowner is involved in a transaction with private, local, and/or state partners as well as the federal government. FRPP is the only easement program that strictly uses this Easement Consolidation

approach. WRP, HFRP and EWPP all create a direct relationship between the landowner and the federal government when creating the easement. GRP has an option to create either a direct relationship or use multiple parties in the transaction. However, to date, this option has been minimally applied. The partnership structure inherent in FRPP and the companion matching formula governing cash contributions by FRPP partners bring important, non-federal dollars to the table that the other easement programs do not. In tight budget times, the 66% non-federal matching dollars brought to bear in FRPP transactions to date cannot be easily overlooked or discounted.

Discussion:

The land retirement easement programs (Wetlands Reserve Program, Healthy Forest Reserve Program and Emergency Watershed Protection Program) all lend themselves to a consolidation with each other. The purposes of each are clearly similar – retire land with specific resource attributes, or conservation or eco-system values from active agricultural or forestry uses. All of them are currently administered by NRCS directly with the landowner, and NRCS develops management plans for lands eventually enrolled in each program. The three could be covered by a single application and general review process with distinct targets, attributes and criteria for each of the resource lands now covered by each of the current programs. So, for example, a future Natural (Critical) Resources Land Retirement and Restoration Program would target previously farmed wetlands, forestlands that support biodiversity and critical wildlife habitats and threatened farmed floodplains. Landowners with any or all of these land types would apply to one program. During the application and site review process their lands would be placed in one of the three eligible categories and then considered against other applications within that same category. Lands meeting the current characteristics of WRP and HFRP could still be offered the same range of contracts and easements as now offered, floodplains would only be offered the permanent easement option.

The two easement programs that focus on working lands, Grasslands Reserve Program and Farm and Ranch Lands Protection Program, however, might have an easier time merging. As mentioned both programs focus on keeping agricultural land in production. This is a core commonality that suggests compatibility. Some compatibility problems do remain however: First, GRP allows both permanent and long-term contracts as part of its program. A merged program that maintained that same structure would run counter to FRPP's emphasis on permanent easements. Second, while GRP allows for multi-party transactions it also creates direct relationships between landowners and the federal government. Some additional details to note: If a GRP plus FRPP consolidation were to take on some of the more restrictive management requirements of GRP that may reduce interest in the new program among traditional FRPP partners and prospective landowners concerned with federal involvement and oversight in the management of their operations. One word of caution: A consolidation of FRPP and GRP may ironically engage the larger agricultural organizations that to date have pretty much stayed out of the discussion on these two programs. Merger would be an easy cost-savings measure to support for ag groups being challenged to find savings in the Farm Bill. However, if a merger incorporated GRP's rental contract option for all lands covered by the new program, this would appeal to the traditional ag groups that are cautious of, if not antagonistic toward, permanent conservation easements.

There is no doubt that there are valuable rangelands in the US threatened by direct conversion or in many cases by fragmentation into smaller parcels, effectively removing that land from active agricultural use. To date, FRPP has been viewed as having limited success in meeting the needs of grazing lands in part because up until the 2008 Farm Bill soil quality was an overarching attribute of land eligible for the program. The 2008 Farm Bill reduced the emphasis on soil quality in the determination of eligible land and added as a category of eligible land, land that "furthers a State or local policy consistent with the purposes of the program," specifically to help address concerns related to covering grazing lands in the program. If FRPP can be shown, or further modified, to be more inclusive of working rangelands, than perhaps the solution is to fully embrace the permanent protection of working grazing lands in FRPP, while the restoration activities contained within GRP might be merged into CRP or remain as a much smaller stand alone program,

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removing the tension between restoration and active agricultural use that now exists in GRP. Further, if the matching requirements in FRPP were further liberalized to allow a landowner discount/donation = or > 50% of FMV to satisfy the non-federal match, these changes would greatly enhance the attractiveness of FRPP to working ranchland protection interests and partners.