

(11)

FRPP - IFR - WAYNE - AG

Received 9/20/06

GJE



WAYNE COUNTY  
AGRICULTURAL DEVELOPMENT BOARD

September 7, 2006

Robert Glennon, Farm and Ranch Lands Protection Program Manager  
Easement Program Division  
USDA Natural Resource Conservation Service (NRCS)  
1400 Independence Ave, SW Rm 6819-S  
Washington, DC 20250-1400

Dear Mr Glennon:

I am writing in response to the Interim Final Rule published on July 27, 2006 for the Farm and Ranchland Protection Program (FRPP). FRPP has been an important partner to our local efforts to protect farmland and support our local farmers. Over the last seven years, thirteen farms have been protected – keeping over 3,400 acres of land permanently available for agriculture and helping two young farmers start operations. These projects were only able to be completed with the combination of FRPP and the New York State Farmland Protection Program funds.

The Wayne County Agricultural Development Board is concerned that FRPP policies proposed in the Interim Final Rule conflict with the standards of the New York State Farmland Protection Program. I am attaching a copy of a resolution that we passed at our last Board meeting. This year, New York State Department of Agriculture and Markets indicated that FRPP funds would not be permitted as a match for state-funded projects – largely due to new FRPP standards. As a result, we know of at least six local farmers that did not apply to the state's program because FRPP funds were not an eligible match even though they had planned on doing so. We are concerned that if this conflict is not resolved, it will continue to discourage farmer participation in either program.

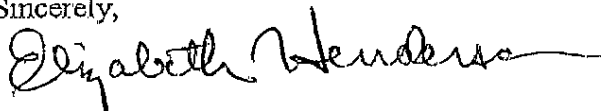
Specifically we are concerned about the following issues outlined in the proposed rule:

- We are concerned with NRCS acting as a co-grantee. This new standard is burdensome and adds time and expense to project costs. If NRCS retains the right of third party enforcement, with reporting criteria for the local municipality or land trust, federal interests would be protected.
- We believe that the 2% impervious surface restriction is not an appropriate method for protecting topsoil from “non-agricultural use.” Since the language restricts agricultural buildings with or without floors, it is unclear as to whether high-tunnel or row-cover applications would be covered by this rule. A well-managed agricultural business will adopt management techniques that preserve topsoil. We support using management practices and plans to save topsoil for future farm operations, not impervious surface restrictions.
- We believe the proposed indemnification language is not appropriate for NRCS as a co-grantee or contingent right holder especially given the NRCS minority share of the project cost. For example, farmers shouldn't be required to defend the federal government against a lawsuit over management practices when the easement only authorizes NRCS to limit non-agricultural use or development.

- While our Board supports occasional audits to confirm program conformance, we believe the "Yellow book" Appraisal standards and title review on each project are unnecessary, expensive and burdensome.
- Three of the four concerns noted above could be alleviated by changing the program from an easement procurement program to a "block grant-type" program. There are many other federal programs, for example U.S. Housing and Urban Development "community development block grant" program, that use this format to enable states and local municipalities to accomplish the program goals. Federal compliance is assured through various reporting and audit procedures. We support changing the FRPP to a block grant-type program. I understand this may not occur until the next Farm Bill, but never the less feel it is important to get this on the table.
- We also firmly believe that farm viability is critical to a successful farmland protection program.

The FRPP has been an important component of our local efforts to support a future for our agricultural industry. I hope you will consider these concerns and make appropriate changes to ensure that the program can continue to be an effective partner in the future.

Sincerely,



Elizabeth Henderson, Chairwoman

CC: U.S. Senator Hillary Clinton  
U.S. Senator Charles Schumer  
U.S. Congressman James Walsh  
Ron Alvarado, NRCS-NY State Conservationist  
Marilyn Stephenson, NRCS-NY FRPP Program Manager  
Patrick Brennan, Commissioner NYSDAM  
David Haight, American Farmland Trust



WAYNE COUNTY  
AGRICULTURAL DEVELOPMENT BOARD

---

(From the August 15, 2006 meeting minutes not yet approved.)

WHEREAS, Purchase of development rights is an identified farmland preservation tool in the Wayne County Agriculture Development Plan, (Section IV, A,1), adopted 6/17/97; and the preservation of agricultural lands and the rural character are priorities identified in many of the Town Comprehensive Plans; and

WHEREAS, the NYSDAM farmland protection implementation grant (FPIG) program and the USDA Farm and Ranchland protection program (FRPP) have been instrumental in protecting over 3200 acres of farmland with conservation easements in Wayne County; and

WHEREAS, it is only fair that the farm families and farm business owners be paid the fair market value of any agricultural conservation easement; and

WHEREAS, at least six farm families decided not to participate in the grant programs this year due to the conflicts between the two programs;

NOW, THEREFORE, be it

RESOLVED that the Wayne County Agriculture Development Board hereby endorses and supports the efforts by the American Farmland Trust to encourage Commissioner Patrick Brennan and State Conservationist Ron Alvarado to "work together and do what is necessary to overcome the differences and insure compatibility between these important programs;" and be it further

RESOLVED, that the Chairwoman of the Ag Development Board is authorized and encouraged to send letters of concern to the appropriate policy makers.

Art Crandon moved the adoption of the resolution.

Seconded by Larry Arliss

Abstention- Elizabeth Claypoole

Motion Carried.