

26

FRPP - IFR - EASTERN SHORE

Received 9/25/06
GJM

Glennon, Robert - Washington, DC

From: Meredith Lathbury [mlathbury@eslc.org]
Sent: Monday, September 25, 2006 11:00 AM
To: Glennon, Robert - Washington, DC
Cc: Rose, Mark - Annapolis, MD; Rob Etgen; Sandra Edwards; pvorac@adelphia.net; mdforests@hereintown.net
Subject: FRPP Interim Final Rule Comments

Dear Mr Glennon:

Thank you for the opportunity to comment on the amendments to the Interim Final Rule implementing the Farm and Ranch Lands Protection (FRPP) (7 CFR part 1491) as set forth in the *Federal Register*, Vol 71, No 144 (Thursday, July 27, 2006). We applaud the efforts by the Natural Resource Conservation Service (NRCS) to continue to improve and clarify the FRPP program. On behalf of the Eastern Shore Land Conservancy (ESLC), I offer the following comments regarding the proposed rule:

1. Eligibility of Forest Lands: We support the proposed changes that would help to accommodate the land types typical in Maryland in which agricultural land is interspersed with forest. NRCS might consider partnering with state natural resources agencies, such as Maryland Department of Natural Resources, to require forest management under an approved Forest Stewardship Plan.
2. Real Property Interest of the United States: If the United States is to be added as an additional Grantee, then the easement document should be clear about what it means to be a Grantee and whether Grantee's rights and responsibilities differ whether the Grantee is the United States or another entity, such as a land trust or a State agency.
3. Title Review: We understand and support this proposed change provided that the United States provides funding for the title work and that the OGC provide timely review.
4. Impervious Surface Limitations: We support the proposed impervious surface policy. However, we suggest that the criteria for waiver include consideration of the need for additional structures to maintain the farm's agricultural viability.
5. Indemnification: We can understand why the United States would want to ensure that landowners retain responsibility for liabilities relating to their own property, however, perhaps there is a less daunting way to achieve the same end. Landowners have reacted negatively towards this indemnification language because they believe it is inequitable for a private landowner to have to indemnify the Federal government. Perhaps this same concept could be re-shaped to state that the landowner is responsible for all liabilities related to the protected property and disclaiming any responsibility on the part of the United States.
6. General Comment: ESLC strongly supports the FRPP and we appreciate our strong partnership with NRCS to implement these conservation easements. Private land trust participation would be more efficient and effective if funds were provided for incidental costs related to these transactions (appraisals, for example) and the long-term stewardship of FRPP protected lands. Accepting a conservation easements is really a liability for private land trusts, and the responsibilities for Grantees required under the FRPP easement are great.

Thank you again for the opportunity to comment and for the opportunity to work with the FRPP program. Our state partners, Ginger Murphy and Mark Rose have been indispensable resources and their assistance is critical to the success of this important program.

Sincerely,

Meredith Lathbury
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