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Glennon, Robert - Washington, DC

From: Gay Mills [gmills@geneseelandtrust.org]
Sent: Monday, September 25, 2006 1:08 PM
To: Glennon, Robert - Washington, DC
Cc: Stephenson, Marilyn - Albany, NY
Subject: FRPP Interim Final Rule

September 18, 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 on behalf of the Board of Directors of the Genesee Land Trust (GLT) 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 five years, seven farms have been awarded FRPP funds – keeping over 1800 acres of land permanently available for agriculture. Full funding for these projects was only possible through the awarding of FRPP funds and from the New York State Farmland Protection Program support.

I am concerned that FRPP policies proposed in the Interim Final Rule conflict with the standards of the New York State Farmland Protection Program. 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, two local farmers that had planned on protecting their land did not apply to the state’s program because FRPP funds were not an eligible match. I am very concerned that if this conflict is not resolved, it will significantly discourage farmer participation in either program.

Specifically I am concerned about the following issues outlined in the proposed rule:

- NRCS acting as a co-grantee: NRCS’s re-characterization of what it has considered to date to be a contingent right in easements acquired through the FRPP is unnecessary and likely to have a chilling effect on participation in the program. The “contingent right” enables the Secretary to enforce or take title of the easement if the cooperating entity is not doing a sufficient job, which is precisely what the Agency says it will continue to do once it switches from a “contingent right” to a full “right.” Re-characterizing the rights held by the United States will alienate partners and decreases the effectiveness of the program. The GLT strongly recommends that the Agency maintain the current “contingent rights” provision.
- GLT opposes the proposal to limit the amount of impervious surfaces allowed on a FRPP easement to 2 percent. A well-managed agricultural business will adopt management techniques that preserve topsoil. We believe that property owners should be allowed to add buildings such as greenhouses

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and barns that enable that property to remain in agriculture. By and large, FRPP participants are landowners who are committed to agriculture and want to continue farming and ranching into the future. We recommend that the Agency work with FRPP partners such as NYSDAM to determine an impervious surface limitation and approval process that will ensure continued support for the program.

- In 2006, GLT has worked with one farmer in the Town of Walworth who was only willing to participate in this program if he could receive a waiver from the 2% limit.
- GLT opposes the proposal by the NRCS to require cooperating entities to conform to both the Uniform Standards of Professional Appraisal Practices (USPAP) and the Uniform Appraisal Standards for Federal Land Acquisition (Yellow Book) when conducting appraisals. We believe that this proposal places an excess financial burden on cooperating entities, lengthens an already cumbersome application process and is not required by federal statute. We recommend that the Agency continue to allow FRPP partners to use either the USPAP or the Yellow Book when conducting appraisals.

The FRPP has been an important component of the 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,

E. Gay Mills
Executive Director

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

Gay Mills
Executive Director

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