

Topic: Land Trust Alliance Farm Bill Recommendations

Farm Bill conservation programs are the largest single federal source of funding for private land conservation. Farm Bill programs create significant opportunities for land trusts to protect high-priority farm and ranch lands, grasslands, wetlands and forests. The programs provide matching funds to conservation partners, helping local investments go further to protect America's working lands.

Through stakeholder meetings with our land trust members — who work hand in hand with landowners to conserve and restore working lands — the Alliance has developed the following targeted recommendations to streamline program administration and implementation, ensuring critical conservation dollars fund good projects.

- **Robust funding for the Agricultural Conservation Easement Program (ACEP).** The Alliance's top priority is to adequately fund ACEP to meet the high demand for this program that keeps working lands in production. Farmers and ranchers who want to protect their land for future generations are often turned away because of limited funding for this vital program. This leaves too many critical lands threatened by development pressures.
- **Clarify the certified entity application and enrollment process and ensure exceptional land trusts have a streamlined path to becoming certified.** The ability to recognize exceptional land trusts as certified entities was established in the 2008 Farm Bill with the intent to streamline implementation for entity-held easements. Until 2022, only eight entities were certified under the Agricultural Land Easement (ALE) program. Thanks to our community's calls to expand this important tool, in 2023 the agency took a more proactive approach, inviting qualified partners to become certified through a streamlined process. While the number of certified entities has increased, statutory clarifications would provide the agency with clear guidance to help implement this important tool for experienced partners to conserve working lands.

Recommendations:

- *Clarify that accredited land trusts that have at least five ACEP or predecessor program easements can be automatically approved upon applying.*
 - *Codify the ability for all qualified entities to be certified.*
 - *Recognize certified entities across all NRCS easement programs including the Regional Conservation Partnership Program (RCPP).*
- **Provide additional cost-share options for easements.** Currently, for most ALE easements, NRCS can only provide 50% of the easement value. An increase in the federal share will allow more farmers across the nation to participate, especially in areas where the state and local partners are new and don't have the financial ability to participate. Reducing the match requirement for land trusts working with historically underserved producers, who were often denied participation in the past, will also create a greater incentive for entities to work with landowners who might not otherwise participate in Farm Bill programs.

At the same time, there are state and local partners that have the financial capacity to take a lower cost-share and would be willing to do so with less bureaucratic red tape. Some state

programs have trouble reconciling their own easement terms with the federal government's. In other cases, farmers and ranchers would like to work directly with a non-government entity or state or local government. Giving the program more options is in the best interest of everyone involved.

Recommendations:

- *Increase federal share to 65% for most easements.*
- *Increase federal share to 90% for historically underserved producers.*
- *Allow a 25% federal cost share for easements held only by the partner entity, in line with RCPP entity-held easements without federal third-party right of enforcement.*

- **Cover project costs incurred by landowners.** Landowner transaction costs (appraisals, title reviews, surveys, etc.) associated with the sale of an easement can be significant. These costs can be a barrier to entry for many landowners, especially historically underserved producers. The next Farm Bill should explicitly authorize reimbursement of these expenses.

Recommendation:

- *Allow ACEP funds to pay for landowner transaction costs including clearing heirs' property title issues.*

- **Reduce barriers faced by historically underserved landowners.** All landowners should have access to Farm Bill conservation programs. The Alliance recommends reducing the match requirement for land trusts working with these landowners, who were often denied participation in the past, to create a greater incentive for entities to work with landowners who might not otherwise participate in Farm Bill programs.

Recommendations:

- *As noted under the cost-share recommendation, increase federal cost share to 90%.*
- *Allow ACEP funds to pay for landowner transaction costs including clearing heirs' property title issues.*

- **Replace the Healthy Forests Reserve Program (HFRP) by establishing a Forest Conservation Easement Program (FCEP).** Private forests comprise 58% of all forested land in the U.S. While the total area of forestland in the U.S. has historically been largely stable, private forests now face significant threats, mainly from conversion to housing and urban development. We recommend creating a Forest Conservation Easement Program to replace the Healthy Forests Reserve Program, to ensure that private forestland remains intact and in production, continuing to provide numerous benefits to rural and urban communities. FCEP would retain the HFRP purpose of restoring and enhancing forest ecosystems to promote the recovery of endangered or threatened species, improve biodiversity and enhance carbon sequestration, while expanding upon HFRP by providing an opportunity for eligible entities, like land trusts, to hold forest conservation easements.
- **Exempt the Agricultural Conservation Easement Program from the Adjusted Gross Income (AGI) limitation.** Unlike financial assistance payments, compensation for the purchase of a conservation easement is not a subsidy payment but a conveyance of a private real property right. This means the landowner must give up something of value in exchange for the program payment. The Alliance encourages exemption from the AGI limitation for ACEP.

- **Provide flexibility for minor modifications of easements.** The 2018 Farm Bill provided statutory authority on easement administrative actions such as modifications. Additional language is needed to ensure modifications that align with program goals, including ensuring agricultural viability, are allowed in a streamlined way. Modifications that allow for the long-term care of easements while also providing some flexibility for landowners without jeopardizing the goals of the program are needed.
- **Ensure the Regional Conservation Partnership Program (RCPP) works for easements.** RCPP is a key tool for land trusts to help protect farm and ranch lands, grasslands, wetlands and forested lands. Land trusts want to see consistency in how easements are implemented whether through ACEP or RCPP.

Recommendations:

- *Ensure certified entities have the same benefits in ACEP and RCPP.*
- *Allow no more than 10% of the total federal share of an agreement to pay indirect costs with eligible partners.*

- **Make Buy-Protect-Sell (BPS) work as intended.** The 2018 Farm Bill was a step in the right direction, enabling BPS transactions that can provide opportunities for those who have trouble accessing farmland. However, for these transactions to work effectively, the language needs to be refined to clarify the primary purposes of BPS, clarify eligible lands and establish realistic timelines for enrollment.

Recommendations:

- *Allow the eligible entity easement holder to be different from the eligible entity landowner and allow multiple entities to be a part of a BPS transaction.*
- *Eliminate restriction on sale price.*
- *Lengthen time to execute BPS transactions.*
- *Allow for advance payment for BPS transactions.*
- *Eliminate additional restrictions on land eligibility.*
- *Also allow Buy-Sell-Protect (BSP) transactions, and transactions on lands where there's a lease-to-own contract in place with a farmer or rancher, to be processed as standard ALE transactions.*

- **Maintain improvements to the Agricultural Conservation Easement Program made in the 2018 Farm Bill.** The 2018 Farm Bill eliminated the ALE plan requirement, which did not advance conservation. Mandating ALE plans oversteps landowner autonomy and can result in key agricultural lands being lost or not enrolled in the program. In addition, the 2018 Farm Bill expanded access to ACEP-ALE in areas with little state or local conservation funding through the addition of provisions to allow landowner donations and expenses to satisfy match requirements.

Recommendations:

- *The ALE plan requirement should not be restored in the next Farm Bill.*
- *Provisions allowing landowner donations and expenses to satisfy match requirements should be retained in the next Farm Bill.*