

April 24, 2012

The Honorable Debbie Stabenow
Chairwoman

The Honorable Pat Roberts
Ranking Member

Senate Committee on Agriculture,
Nutrition and Forestry
328A Russell Senate Office Building
Washington, DC, 20510

Dear Chairwoman Stabenow and Ranking Member Roberts:

The Land Trust Alliance wishes to commend you and your staff for the draft farm bill recently posted on the committee's website.

The Alliance promotes voluntary private land conservation to benefit communities and natural systems. We work with more than 1,700 local, state and national land trusts across America, many of whom work with NRCS and other USDA agencies to protect working farm, ranch and forest lands across America.

As you know, we have paid special attention to the working land easement programs, including the Farm and Ranch Lands Protection Program (FRPP) and Grassland Reserve Program (GRP), now combined in your draft bill as Agricultural Land Easements under the Agricultural Conservation Easement Program. We want to thank you for the thoughtful way this has been done in the draft, and for the funding levels provided for these easements.

The need and demand for the easement program from farmers, ranchers, forest owners and their conservation partners will continue to grow, and we will continue to advocate for funding adequate to that demand. At the same time, in the context of spending reductions throughout the bill, we greatly appreciate the funding levels you have provided for the Agricultural Land Easement Program.

We also wish to thank you for increasing the spending caps we understand you have agreed to for the Forest Legacy Program and the Community Forest Program, also of great interest to our members.

We look forward to working with you to ensure that the best possible bill moves forward. We have attached more detailed observations about Subtitle H to this letter.

Respectfully yours,



Russell Shay
Director of Public Policy



Lynne Sherrod
Western Policy Manager

Observations related to the Agricultural Conservation Easement Program

1. Overall, the language does a good job of conveying the distinct differences and separation needed between the two legs of the new Agricultural Conservation Easement Program: Agricultural Land Easements (ALE) and Wetland Easements.
2. We are pleased with the proposed administration of this program as well as the defined appraisal process which specifies use of the Uniform Standards of Professional Appraisal Practices.
3. Cost share concerns:
 - a. We believe the waiver authority for grasslands under Section 1265B (2)(C) that allows the Secretary to provide up to 75 percent of the fair market value in the case of grasslands of special environmental significance is a very useful exception to the general policy of limiting the Secretary to providing no more than 50 percent of the fair market value, and will help the new program greatly as we transition from an NRCS acquisition program under GRP to a program relying on third parties to hold easements.
 - b. We would like to see increased flexibility in the approach to the 50 percent match required for other ALE projects, including farm and ranch land easements, to allow the Secretary to recognize eligible entity expenditures and landowner donations in cases where they will advance strategically important conservation.
 - c. We regret that the committee has not chosen to restore the ability of the US Department of Defense to provide matching funds for ALE projects, which they did with FRPP projects until that was quite inadvertently halted by language changes in the 2008 Farm Bill. We believe that partnership was a very valuable one for conservation.
4. We trust the intent of the cost-share language for ALE easements is to replicate the requirements currently in place. Some of our partners have questioned whether the language succeeds in doing that, and we will want to carefully work through this language to make sure it does.
5. Thank you for continuing to recognize the importance of allowing eligible entities to use their own templates for easements that are consistent with the purposes of the program and provide effective enforcement of the conservation values.
6. We understand and agree that the federal investment in easements must be protected by a right of enforcement, but believe that the changes in the 2008 Farm Bill better addressed this issue through the provision of a contingent right of enforcement to the Secretary. This comes down to a very important question of who has the primary responsibility for enforcement of an easement, and that must belong to the eligible entity.

7. It is also understandable that there is provision for the treatment of any potential violation [Section 1265B (4)(E)]. However, this is drafted in a way that could provide for draconian penalties far beyond the cost of correcting any harm, with no clear assurance that the eligible entity would be allowed a reasonable opportunity to resolve any concern before an agreement would either be terminated or a refund requested.

Other Conservation Issues

1. Thank you for introducing expanded compatible uses to the Wetland Easements as well as decreasing the ownership requirement from 7 years to 24 months. The 7 year requirement has been a barrier to important wetland conservation, and ignored circumstances including bankruptcies and other unforeseen ownership changes.
2. Thank you for the reported increases in the funding caps for the Forest Legacy and Community Forest Programs, which are of great interest to many of our members.