

Commonwealth of Pennsylvania



DEPARTMENT OF AGRICULTURE OFFICE OF THE SECRETARY

July 17, 2009

John Glover, Acting Director
Easement Programs Division
Department of Agriculture
Natural Resources Conservation Service
P.O. Box 2890
Washington, D.C. 20013-2890

Dear John:

This letter is in regard to the corrected Interim Final Rule for the Farm and Ranchlands Protection Program (FRPP).

The Department applauds NRCS for reconsidering its original interpretation of "contingent right of enforcement" and clarifying that it was not intended as an acquisition of real property but an interest limited to enforcing the terms of an easement if an eligible entity fails to do so. This is consistent with the intent of the 2008 Farm Bill. We are pleased that DOJ title standards no longer apply - enabling federal reimbursements to be processed more efficiently. It is our understanding the new rule will apply to farms under the 2009 cooperative agreement - however there are thirty-eight farms under the 2007-08 cooperative agreement still subject to the federal title procedures. A waiver should be granted to the 2007-08 applicants, similar to the yellow book appraisal report waiver recently granted to the same round of applicants. Like the yellow book appraisal report, the federal title insurance has resulted in lengthy delays in reimbursement. Each of the thirty-eight farms already has a title commitment through the state program and must be free and clear of any encumbrances before approved by the state board. This waiver should also be granted to the Pennsylvania county programs that applied directly to NRCS for funds under the 2007-08 cooperative agreement.

The revisions to FRPP in the 2008 Farm Bill provide an opportunity to streamline the existing program by certifying programs as eligible entities and allowing funds to be used under existing program guidelines. Although the interim rule establishes a certification process, it does not appear to provide a meaningful incentive for entities to become certified. The Department encourages NRCS to reconsider several of its existing policies and allow certified entities to administer the FRPP funds without compromise to state and county program guidelines. For example, subdivision requirements, utility rights-of-way and oil and gas exploration policies posed a challenge for Pennsylvania as we strived to reach a compromise in the 2009 cooperative agreement.

Thank you for the opportunity to comment on the corrected final interim rule. With nearly \$5.4 million in applications submitted by Pennsylvania and its counties this year, we are relying on FRPP to offset fewer state dollars and look forward to continuing our successful partnership with you.

Please do not hesitate to contact Doug Wolfgang, Director of Farmland Preservation, at (717) 783-3167 or dowolfgang@state.pa.us if there are questions or you would like to discuss our comments.

Sincerely,

A handwritten signature in black ink that reads "D. Wolff".

Dennis C Wolff

cc: Governor Rendell
Congressman Holden
Senator Casey
Senator Specter
Secretary Vilsack
Ann Mills, Acting Deputy
Barry Frantz, NRCS - Harrisburg

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