

## Easements in WY

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## New Farm Bill

- Current indications: New Farm Bill will consolidate the easement programs
- FY 2014 - currently have authority for FRPP
- FY 2014 - don't have authority for WRP or GRP

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## Priorities

- FRPP Priority historically has been given to Sage Grouse
- Are there other species that would benefit from easements?
- What about locally important soils, target areas?
- How much land do we need in easements to have an effect?

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## Barriers

- What Barriers are we encountering to implementing?
- How do we overcome those barriers?
- How does outreach from us and partners effectively help overcome barriers?

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## Wetland Reserve Program (WRP)

To protect, restore, and enhance the functions and values of wetland ecosystems

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## Grassland Reserve Program (GRP)

To provide assistance to landowners and operators to protect grazing using and related conservation values

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## Farm and Ranchland Protection Program (FRPP)

To protect agricultural use and related conservation values of eligible land by limiting nonagricultural uses of the land

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## Eligible Land is Privately Owned

- It can be owned by a person, legal entity, or Indian Tribe having legal ownership of land.
- The term landowner may include all forms of collective ownership including joint tenants, tenants-in-common, and life tenants.

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## Eligible Land Must be Subject to a Pending Offer

From the Statute:

The term "eligible land" means land on a farm or ranch that is **subject to a pending offer** for purchase from an eligible entity.

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### 3 Types of Eligible Land

Land that:

1. Contains Prime, unique, or other productive soil;
2. Contains historical or archaeological resources; or
3. The protection of which will further a State or local policy consistent with the purposes of the program.

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### 1<sup>st</sup> Type: Prime Farmland

Land must be at least 50 percent prime, unique, or statewide or locally important soil.

Can be reduced by State Conservationist with input from the STAC for a specific area or region

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### 2<sup>nd</sup> Type: Historical or Archaeological Resources

1. Listed in the National Register of Historic Places
2. Formally determined eligible for listing in the National Register of Historic Places
3. Formally listed in the State or Tribal Register of Historic Places of the SHPO, or
4. Included in the SHPO or THPO inventory with written justification as to why it meets National Register of Historic Places criteria.

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### 3<sup>rd</sup> Type: Furthers State or Local Policy Consistent with FRPP

- State or local policy is consistent with the purposes of FRPP
- FRPP statute states the purpose of FRPP is the protection of agricultural lands from conversion to non agricultural uses
- The conservation easement deed should address the FRPP purposes that are being supported by a specific State or local policy in order to be eligible for FRPP funding.

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### Wyoming Uniform Conservation Easement Act

- The UCEA was enacted to establish a uniform way for conservation easements to be executed, provide interpretation of conservation easement validity and conveyance and state other factors that affect conservation easements.
- UCEA is not to acquire conservation easements but rather lays out the procedure to follow when a conservation easement is being created and conveyed.
- It is not a policy for the specific purpose of acquiring a conservation easement for the protection of agricultural lands from conversion to non agricultural uses.

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### Wyoming Association of Conservation Districts

- **Mission:**
  - The mission statement includes language for the conservation of soil and water resources by promoting control of soil erosion, protecting quality of waters, reduce siltation, and promote wise use of natural resources.
- There is no specific statement that WACD mission is to protect agricultural values by limiting nonagricultural uses of the land.

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### Wyoming Wildlife and Natural Resource Funding Act

- The state policy of the WWRFA authorizes it to expend funds for several purposes that include the "Preservation of open spaces by purchase or acquisition of development rights" (9-15-103(d)(ii))
- This policy is further strengthened by the board's selection of project proposal grants which support multiple use, natural resources heritage of Wyoming and its people (i.e. agricultural lands ranching) of the approved projects.
- For future projects, want to ensure that one of the purposes the project is submitted for and approved for funding includes protection of agricultural land

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### Other Land Eligibility Factors:

- FRPP may not contribute funds to land that is:
  - Is more than 2/3<sup>rd</sup> forestland
  - Land owned by the United States, a State or local government, or by an NGO whose purpose is to protect agricultural use and related conservation values, or
  - Subject to an **easement OR deed restriction** that limits the conversion of the land to non-agricultural use;

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### Landowner Eligibility

- *Landowner* means a person, legal entity, or Indian Tribe having legal ownership of land.
  - All landowners listed on the warranty or quit claim deed must be AGI and HEL/WC eligible
  - All members of an entity that is the landowner must also be AGI and HEL/WC eligible

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### Entity Eligibility

- ❖ Any agency of any State or local government or an Indian tribe or
- ❖ Non-governmental organization that—
  - ❖ Is and always has been dedicated to conservation purpose as defined by the IRS, and
  - ❖ Is a non-profit or private foundation managed by a non-profit.

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### Other Entity Eligibility Factors

- ❖ Have an established farmland protection program that purchases agricultural conservation easements for the purpose of protecting agriculture use and related conservation values by limiting conversion to non-agricultural uses of the land.
- ❖ Have demonstrated a commitment to the long-term conservation of agricultural lands.
- ❖ Have the authority and demonstrate the capability to acquire, manage, and enforce conservation easements or their equivalent.
- ❖ Have staff capacity (either directly or through formal agreement with other entities) dedicated to monitoring and easement stewardship.

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### Review Ranking Criteria

- ⦿ Does the FRPP ranking criteria adequately address the priorities identified above?

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Questions?

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**Subcommittee**

- GARCs are currently under development
- Need members of the State Technical Advisory Committee to review the GARC rates
- Should a program be authorized for WRP and GRP, ranking will also need to be reviewed by the subcommittee

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Questions?

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## Update on Phase 1

- Active WRP agreements are currently under review
- Closed WRP, GRP, and FRPP easements and completed WRP restoration agreements will be reviewed next

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## Update on Phase 2

- Pending FRPP Agreements
  - 15 are eligible
  - 3 remain under active review
  - 14 have been cancelled at the request of the cooperating entity
  - 6 were ineligible at time of obligation but have since become eligible and new agreements were established
- Have moved into the normal business process for the agreements that were approved to move forward

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Questions?

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