Agricultural Conservation Easement Program (ACEP)
Wetlands Reserve Easement (WRE)

Notification to Landowner

Applicant Name: __________________________  County: ______________________

NRCS Georgia is providing the below information to assist landowners in decision making for ACEP-WRE. Please note it can take 12-18 months to close the easement transaction from the date of application and up to 4 years to complete final restoration. Maintenance, Management and Monitoring will continue over life of easement. The ACEP-WRE Warranty Easement Deed (WED) is recorded in the real estate records and will stay on the property for the length of the easement which, in most cases, is perpetuity. Future landowners will be bound by these legal agreements. Please review the documents in detail before deciding to move forward.

I acknowledge that I have received and understand this Notification to Landowner.

Landowner Signature: ______________________________________      Date: ______________

1. **Agreement and Deed:** NRCS has provided copies of the 2 legal documents associated with enrollment in ACEP-WRE. It is the landowner’s responsibility to review these documents and ask questions in relation to restrictions and prohibited activities. These documents are not for signature; these are copies of documents that will be signed if application is selected for funding.
   a. NRCS-LTP 31, Agreement for Purchase of a Conservation Easement (APCE),
   b. NRCS LTP-30, ACEP-WRE Warranty Easement

2. **Clear Title:** The fee title owner of proposed property for enrollment in ACEP-WRE must provide clear title to the property. This will include clearing the title from any defects identified through a preliminary title search. Also, any outstanding liens/mortgages must either be subordinated to the United States or satisfied before closing. All title clearance will be at the expense of the landowner. The need for title clearance may delay the application until the next fiscal year.

3. **Legal Access:** Landowner must provide legal, unencumbered, unrestricted, and TRANSFERABLE physical and legal access from the nearest public road to NRCS through ingress/egress, if the property is not currently accessible via public road. NRCS needs to access property in perpetuity for restoration, monitoring and enforcement of the deed. The acres in the ingress/egress are not compensated for in the easement acreages. Providing the ingress/egress is at the expense of the landowner, but the ingress/egress route will be re-surveyed for the NRCS easement plat.

4. **Ranking:** ACEP-WRE is a state-wide program where demand often exceeds capacity to full fill. Therefore, program policy requires all properties submitted for application will be ranked through a competitive ranking process. NRCS has an ACEP-WRE ranking team, compiled of multiple NRCS personnel and our partners. Each property is assessed in the Conservation Assessment Ranking Tool (CART), ranked onsite with ranking team, and ranking is entered in CART. The highest-ranking properties are selected for funding, until funding is exhausted.

5. **Easement Valuation:** ACEP-WRE easements are valued through the Geographic Area Rate Cap (GARC). NRCS has provided a map of Georgia showing what the GARC is for your county. Landowners DO have the option to accept an amount less than the proposed GARC to receive ranking points.
6. **Reserved Rights**: Under an ACEP-WRE Warranty Easement Deed (WED), there are RESERVED rights retained on the property. These reserved rights include the right to hold/transfer/convey title, quiet enjoyment, control of access, and undeveloped recreation (page 2, Part II of the WED).

7. **Prohibited Activities**: Certain activities are prohibited on the easement area. Please make sure to review and understand the prohibited activities (Page 3, Part III of the WED.) These are the rights that NRCS is purchasing from the landowner and these prohibited activities will stay with the property for the length of the easement. CUA’s, as described below, may be authorized but are no guarantee. Violations of these easement terms can result in serious consequences for landowners.

8. **Compatible Use Authorization (CUA)**: There are certain activities restricted by the deed that NRCS may deem needed on the property, such as compatible economic and recreational uses. These activities require a Compatible Use Authorization (CUA) (page 5, part IV of the WED). CUA’s are options to perform activities on the property that may be prohibited in the deed but will have a direct benefit to the resource concerns being addressed through the ACEP-WRE Easement and Restoration Plan (i.e. timber harvesting and burning in upland pines). CUA’s are required any time a landowner is affecting the hydrology or vegetation of the project area, even if it is prescribed for habitat restoration by NRCS.
   a. Only activities that further both the long-term protection and enhancement of the wetland and other natural values of the project area may be authorized as compatible uses through the CUA process.
   b. CUA’s must be in writing and prove the benefit to wildlife habitat or wetland resources.
   c. All CUA’s are processed through the State Conservationist. There is no guarantee that a CUA will be approved, or if approved it will be for a 1-year, 5-year, or 10-year term, depending on the activity.
   d. NRCS has the right to cancel a CUA at any time, as no rights are invested to the landowner via a CUA.
   e. Any timber management in a CUA must be supported by a timber harvesting plan written or under supervision of a registered forester.

9. **Required Restoration**: ACEP-WRE is designed not only as an easement program, but as a wetland restoration program. Per WRE Policy, NRCS is charged with “restoring, protecting, and enhancing wetlands...while maximizing wildlife habitat benefits” on each of our enrolled easements. All landowners who enroll in ACEP-WRE agree to implement or have implemented by NRCS, ACEP-WRE restoration according to the Wetlands Reserve Plan of Operations (WRPO.) Landowners will have the opportunity to provide input into the Final WRPO, however, NRCS must restore, to the extent practicable, as much of the hydrology to pre-disturbed conditions.

10. **Management of Easement Property**: Along with restoration, ACEP WRE comes with maintenance and management responsibility. Certain management activities will be the responsibility of the landowner, typical management practices, such as access road maintenance, prescribed burning, etc. If there are management activities that are deemed needed and the landowner refuses, the United States has the right to enter the easement area to undertake any activities to restore, protect, manage, maintain, enhance, and monitor the wetland and other natural values of the Easement Area (page 5, part V of the WED.)
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ACCESS GUIDELINES

If the ACEP-WRE parcel proposed for enrollment is not accessible directly from a public road, landowners must be willing and able to grant NRCS or its designee unencumbered, unrestricted, transferable, and otherwise sufficient physical and legal access.

“Access” means LEGAL and PHYSICAL ingress and egress to the entire proposed easement area over contiguous or adjacent lands for the exercise of any of the rights or interests under the easement for the duration of its term for the purposes of the program.

Evidence of access shall include a map depicting the location of the proposed easement, location and name of public road from which easement will be accessed, and the route between public route and easement area (if applicable).

Landowners can grant access to proposed easement across lands owned by WRE applicant but not proposed for enrollment in WRE. This shall be drawn on the map as the route between public road and easement parcel proposed.

The map should also note where and if third-party lands (neighboring lands) are being crossed. If the ingress/egress to the easement area is via third-party lands, the landowner must provide the legal document that grants the access.

At minimum, land access must be all-wheel-drive accessible.

Any land that NRCS determines to have unacceptable legal access that is encumbered, nontransferable, restricted, or otherwise insufficient are not eligible for enrollment. Ineligibility due to lack of access is not appealable.

Access via ingress/egress will be surveyed during the boundary survey and described as Exhibit B in the easement deed.

NOTE: If easement parcel touches a state or federal highway, NRCS will offset the easement parcel boundary by AT LEAST 100’ from the right of way, or the distance described within the ROW deed recorded on the property. This will help prevent future administrative actions by having to remove acreages from easement to accommodate road expansions. This will be surveyed and granted to NRCS.
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BUSINESS PROCESS

NRCS accepts ACEP-WRE applications on a continuous basis, with application cut-off dates (otherwise known as batching periods) set each Fiscal Year (FY).

- **APPLICATION (Field Office)**
  - Landowner submits application (CPA-1200), map, and deed/plat prior to application cut-off date
  - Landowner provides the necessary information for NRCS and FSA to determine if the landowner is eligible to participate:
    - Property Deed – Proof of Ownership
    - Customer records in SCIMS
    - AD-1026 for HEL/WC Compliance and Current FY AGI eligibility
    - If landowner is an entity, provide entity documents, 901/902, POA (if applicable), and certificate of good standing.
  - Field Office (FO) will email the State Office (SO) the CPA-1200 Application, map, and deed/plat to the GA Easements email inbox at GA.EasementApp@usda.gov so that SO can enter the easement into the NRCS Easement Stating Tool (NEST).
  - The SO will email the FO the NEST application number
  - The FO conducts site visit and performs the pre-screening. Based on pre-screening, the FO will prioritize its workload.
  - If application is deemed High or Medium Priority, the FO will work with landowner to fill out other needed documents (Landowner Hazardous Material Interview, Landowner Disclosure, etc.)
    - If deemed low priority, the Easement Case still must be created in CD but can be done later in the FY.
  - The FO can then create Easement Case in Conservation Desktop, creating practice schedule with easement practices and restoration practices.
  - FO compiles Application Checklist documents, provides required information to landowners as identified in the Application checklist, and gets appropriate landowner signatures on forms.
  - FO submits Complete Application Package to SO via Sharepoint (see separate guidance)
  - State Office then reviews application, SO will follow up with FO on any missing items/documents and begin planning for ranking visits.

- **RANKING AND ASSESSMENT (State, Area, Field Offices, and partners)**
  - Ranking Team (which consists of Easement Specialist, Field Office, Area Office (Engineer and/or ARC), State or Partner Biologist, and others as needed) visits each site and performs the ranking.
  - Ranking Team will update and approve the Preliminary Wetland Restoration Plan of Operations (WRPO)
  - FO will prepare CPA-52 and Cultural Resources Review based upon Prelim WRPO
  - FO will complete Assessment in CART, if applicable.
  - SO will complete Ranking in CART

- **PROJECT SELECTION (State Office)**
  - Applications with the highest-ranking scores are tentatively selected for funding until the budget is exhausted.
  - Due Diligence is ordered, to include Title Search/Title Insurance Commitment, and Environmental Database Search. This is reviewed in depth by State Office.
Funds (WBS) Codes are created, and Funds Reservations are completed for tentatively selected applications.

- Some of these steps may take place prior to ranking, if the SO deems it timely, on pre-screened applications in a High Status.

- **NATIONAL INTERNAL CONTROLS (IC) PRE-OBLIGATION REVIEW (State Office)**
  - Per NI 300-300, SO will prepare all documents needed for Pre-Obligation Internal Controls Review and upload all documentation into NEST.
  - There is an option to have 2 reviewers: cursory review and state review, depends on workload and staffing.
  - SO will submit request via the Program Activity Management System (PAMS) for National IC review.

- **OFFER/AGREEMENT TO PURCHASE/OBLIGATION (State Office)**
  - Once the pre-obligation approval is received from the national IC team, NRCS SO will prepare the offer package to send to the landowner.
  - If landowner accepts offer, then agreement package is signed by State Conservationist and submitted to national payment team for obligation via Bulk Obligation protocol.

- **SURVEY/UPDATE DUE DILLIGENCE (State Office, some Field Office)**
  - Once agreement is finalized, NRCS will get boundary survey ordered, either via agreement with the landowner or federal BPA.
  - Survey is completed on the ground, with pre-survey site visits with both FO and Landowner.
  - Boundary survey received by State Office, and a detailed review checklist is completed.
  - Final Boundary Survey is resubmitted to Title Company for updated title commitment and Closing Protection Letter.
  - Complete Site Visit for the LTP-27 Preliminary Certificate of Inspection and Possession.

- **OGC PTO (State Office)**
  - Once updated title insurance commitment is received, NRCS State Office will email the complete closing package to USDA Office of the General Counsel (OGC) for their review and approval to close, which is given to NRCS via a Preliminary Title Opinion (PTO).

- **NATIONAL INTERNAL CONTROLS PRE-CLOSING REVIEW (State Office)**
  - Once PTO is received, the draft closing documents and the PTO are uploaded into NEST. The IC request is submitted via PAMS to the national Internal Controls team (with either a state or a cursory/state review, just like pre-obligation).

- **CLOSING (State Office)**
  - Once final approval to close is received from all appropriate NRCS reviews, SO prepares closing and payment package to send to federally contracted Closing Agent/Attorney. This will be the same firm who provided the title insurance commitment.
  - Advanced payment for the easement is submitted to the closing agents escrow account.
  - Processed via direct entry into FMMI.
  - Closing Agent contacts landowner to set up a closing date.
  - Once all closing documents are signed by the landowner, the closing package is submitted the State Office for execution by the State Conservationist.
  - Easements are closed in escrow, as they are not considered final until signed by the State Conservationist.
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- Closing Agent must close/disburse advanced funds within 10 days of receiving the funds for the easement
- Complete Site Visit for the LTP-22 Final Certificate of Inspection and Possession.

- OGC FTO
  - Submit Final closing documents to OGC for the issuance of a Final Title Opinion (review PTO for FTO document checklist)
  - Upload final closing documents and FTO into NEST

- RESTORATION (State, Area, and Field Offices)
  - Once Easement is closed, NRCS State Office will coordinate with Cooperative Agreement partner to begin the preparation of the Final Wetland Restoration Plan of Operation (WRPO)
    - Note, ideally, this should be worked on during the time between offer and closing
  - Pre-planning Site visits to include partner, State Office, Field Office, and Landowner
  - Restoration must begin within 1 year and be completed within 3 years of closing