



WASHINGTON ASSOCIATION OF CONSERVATION DISTRICTS

RESOLUTION 2022-12

SHORT TITLE: NRCS Easements and easement programming recommended areas of improvement

SPONSOR CD: Skagit CD

AREA: XNW SW NC SC NE SE

RESOLUTION TYPE:

- Policy
- Position Statement
- Recognition
- Study

RESOLUTION ACTION AGENCY (check any option that applies):

- WACD
- WSCC
- OTHER STATE AGENCY _____
- NRCS
- NACD
- NON-STATE/FEDERAL PARTNER _____

BACKGROUND/PROBLEM STATEMENT:

Resolution Summary:

This resolution calls for WACD to develop a policy that directs WACD to draft a position statement with a set of recommendations on policy improvements to the NRCS ACEP-ALE program for the 2023 reauthorization of the Farm Bill (currently The Agricultural Improvement Act of 2018). WACD shall establish a work group to develop the document(s) needed to present the position and recommendations to the relevant federal agencies for action. This document(s) will include an action strategy to implement the changes identified in the resolution with timing consistent with the NACD opportunities for action. The document shall urge the 118th Congress to consider, adopt, and implement the recommendations set forth in the 2023 Farm Bill during the Bill's reauthorization process. The House and Senate Agriculture Committees will draft, amend, and vote on a reconciled version of the 2023 Farm Bill. Once signed by the President, USDA will direct NRCS to begin implementation of the program policies.

Background:

There has been great collaboration between Washington Conservation Districts (CD), State Conservation Commission (Commission) and Natural Resources Conservation Service (NRCS) staff to increase success in the protection of important resource lands by improving the NRCS Agricultural Conservation Easement Program (ACEP) processes across Washington State. Despite these efforts, challenges to program implementation still exist, resulting in missed opportunities to direct federal conservation funding in a diligent and meaningful way.



WASHINGTON ASSOCIATION OF CONSERVATION DISTRICTS

Challenges include, but are not limited to, project timeline delays due to inefficiencies of processing procedures; limitations on funding implementation and accessibility (e.g., little to no funding available for project due diligence, like appraisals or surveys, or staff support); misalignment and misunderstanding of program requirements (e.g., USDA eligibility through FSA); and loss of projects due to limited land eligibility criteria under traditional ACEP-ALE.

As land prices and project expenses continue to skyrocket, non-profit organizations leading farmland protection efforts state-wide are experiencing price increases for services required for easement transactions. These organizations are having to limit the number of transactions conducted or turn down important projects due to budget limitations. Organizations participating in the ACEP-ALE program are limited to the amount of federal financial assistance available to cover project expenses. Currently, the federal financial assistance is limited to 50% of the easement fair market value alone. An increase in the financial assistance available for the easement fair market value or availability of federal cost-share assistance for project costs, such as appraisals or administration, under the ACEP-ALE program would help to alleviate these financial barriers, resulting in more land protection.

Huge improvements have been made in Washington State to address USDA-FSA eligibility challenges experienced by both participating entities and landowners. However, there is not a state-wide standard nor is there state-wide consistency between FSA offices and agents to support entities and landowners with establishing the correct records for NRCS ACEP programming. Collaboration between the two agencies on how to better equip agency staff – both at NRCS and FSA - with the appropriate knowledge on NRCS programming and eligibility requirements will help streamline participation in the ACEP program, resulting in more land protection.

Private forests comprise 58% of all forested land in the U.S. In Washington State, nearly 43% of Washington's forestland is owned by private companies, groups, or individuals. These forests face new threats, mainly from conversion to housing and urban development. Enhancing the NRCS Healthy Forests Reserve Program (HFRP), creating a new forestland easement component to ACEP, or providing exceptions to the non-industrial private forestland land eligibility criteria will help ensure private forestlands remain intact and in production.

The proposed resolution is comprised of a set of three recommendations proposed by Skagit CD staff that support adaptation of NRCS easement programming at the national level (i.e., national policy level) to assist program implementation at the state level. These recommendations address several of the challenges previously discussed and provide a pathway to resolution. Additionally, these recommendations echo those championed by the Washington Association of Land Trusts (WALT), American Farmland Trust (AFT), the Land Trust Alliance (LTA), and other regional conservation groups. WACD and NACD's adoption of the proposed resolution strengthens the collective voice of the conservation community that calls for improvements to federal programming intended for conservation efforts.

PROPOSED RESOLUTION LANGUAGE: The Washington Association of Conservation Districts is to adopt and implement a policy that requests the Natural Resources Conservation Service (NRCS) consider the following improvements to the Agricultural Land Easements (ALE) component of ACEP:



WASHINGTON ASSOCIATION OF CONSERVATION DISTRICTS

1. Increase the federal share contribution for classic ACEP-ALE transactions. The share is currently capped at 50% of the easement's fair market value (FMV).
 - a. Increase the 50% share up to 75%, akin with the Grassland of Special Significance ALE component, following similar program parameters and policy, and/or
 - b. Offer cost-share for project due diligence expenses incurred by the participating entity (e.g., provide 25% cost-share of appraisal; provide 25% cost-share of land survey).
2. Enhance partnership with the Farm Service Agency (FSA) to address challenges with establishing USDA eligibility through FSA for NRCS programs.
 - a. Develop training materials and training opportunities on NRCS eligibility requirements for FSA agents, and/or
 - b. Allow NRCS staff to assist clients with completing USDA-FSA eligibility.
3. Develop additional exceptions to the Non-Industrial Private Forestland (NIPF) land eligibility requirements.
 - a. For states with working forestlands, consider exceptions to the 2/3 land coverage requirement, and/or
 - b. Develop a forestland component to the ACEP program that builds off the Healthy Forests Reserve Program (HFRP) to ensure that private forestland remains intact and in production.

TYPE OF TEXT OF RESOLUTION (check all boxes that apply):

- Technical (changes address grammar, punctuation, sentence flow and makes **NO** substantive change(s) to the existing policy.
- Substantive change to existing policy. If in doubt, check the box.
- New policy.

ARE WACD RESOURCES (FUNDING, STAFF CAPACITY, ETC.) REQUIRED TO IMPLEMENT THE POLICY?

NO

YES (briefly explain): Skagit CD staff are prepared to work with the WACD work group or select committee (e.g., the Natural Resources Policy Committee) to develop the resolution for submission to NACD for consideration, and letters to appropriate Department of Agriculture divisions for action. The work group would also develop a strategy for implementing the resolution. This work must be expedited in preparation for the 118th Congressional Session that begins January 3, 2023.

The work completed by the Work Group/Committee results in the development of a position statement with clearly defined recommendations. Development of the position statement and recommendations may entail Committee discussions between the NRCS-WA, Washington State Conservation Commission, and the Washington Association of Land Trusts to align priorities for improvements to ACEP in the 2023 Farm Bill; researching USDA policies and proposed programmatic enhancements to inform WACD and NACD support; participating in 2023 Farm Bill listening and/or drafting sessions; collaborating with AFT and LTA to align 2023 Farm Bill policy



WASHINGTON ASSOCIATION OF CONSERVATION DISTRICTS

agendas; representing WACD's position as needed at local, regional, or state-wide meetings; and reporting on the resolution status/outcomes as required by WACD/NACD.

WACD Resources:

- Work group/Committee participation. Group/Committee draft appropriate documents to submit to NACD for consideration at next NACD meeting. The Group/Committee may work with member districts and WALT to develop position statement and align policy recommendations in Washington State.
- Financial requirements. Proposed resolution requires limited fiscal impact on WACD. There are no proposed budget requirements to support the position statement itself. However, there may be some budget needs for committee involvement. The Skagit CD Easement Liaison is prepared to carry out a bulk of the workload required for developing the position statement and recommendations. WACD staff time is limited to committee involvement and administrative work for managing the resolution.

NACD Resources:

- Committee participation. Committee to revise, as needed, the position statement and policy recommendations from a national standpoint that aligns with other national policy recommendations (e.g., those proposed by the Land Trust Alliance and the American Farmland Trust). The development of this position must be expedited upon adoption of the resolution to align with reauthorization of the Farm Bill.
- Financial requirements. Proposed resolution requires limited fiscal impact on NACD. There are no proposed no budget requirements to support position statement itself. However, there may be some budget needs for committee involvement and NACD staff time, as directed by the NACD committee.

Federal Resources:

- Congress must revisit the Farm Bill every five years as part of the Bill's reauthorization process. Government agencies, including the USDA, are responsible for implementing the programs and policies of the Farm Bill. USDA will direct NRCS to implement policies of the ACEP program.