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PEOPLE PROGRESS PRIDE

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Robin Heard, Director
Easements Programs Division
Natural Resources Conservation Service
Healthy Forests Reserve Program
Comments, P.O. 2890, Room 6819–S
Washington, DC 20013

RE: Healthy Forests Reserve Program Proposed Rule Requests for Comments

Our forests constitute one of our most valuable renewable resources. The Iowa Farm Bureau Federation (IFBF), the state's largest general farm organization with more than 153,000 member families, favors a privately owned, sustained-yield forest industry assisted by essential public services such as research, fire protection and pest control. Forestry should continue to be recognized as an environmentally beneficial agricultural enterprise.

Farm Bureau also supports the development of a practical voluntary market-based carbon credit trading system. To encourage this new market, we also support farmers being compensated for planting crops or farming practices that keep carbon in the soil, and incentives to individuals seeking to reforest fragile lands that are currently in agricultural production.

That is one reason why the IFBF organized AgraGate Climate Credits Corp. AgraGate, a subsidiary of the IFBF, was launched in July 2007. The IFBF was a charter member of the Chicago Climate Exchange (CCX) and has operated a carbon credits program since 2003. AgraGate is the leading aggregator of agricultural carbon credits. The company aggregates carbon credits for cropland, rangeland, methane and forestry. AgraGate has sold 2.3 million carbon credits worth $8.5 million on behalf of farmers, ranchers and private forest owners in 30 states. These farmers, ranchers and private forest owners have enrolled their no-tilled, strip-tilled or grass-planted land in the voluntary carbon credits market. AgraGate collects credits from farmers who use eligible conservation practices, then sells them as "exchange soil offsets" (XSOs) on the CCX.

With this background and policy prospective in mind, the IFBF offers these comments to the Natural Resources Conservation Service generally in support of the Healthy Forests Reserve Program proposed rule. Congress enacted the Healthy Forests Reserve Program (HFRP), Title V of the Healthy Forest Restoration Act in 2003 to provide financial

assistance to private landowners to undertake projects that restore and enhance forest ecosystems to help promote the recovery of threatened and endangered species, improve biodiversity, and enhance carbon sequestration. An interim final rule was published by USSDA in 2006. The Food,
Conservation, and Energy Act of 2008 (the 2008 farm bill) included changes to the 2003 act that this proposed rule now seeks to incorporate.

Carbon Sequestration

The IFBF supports the program's purpose, scope and the objectives. The proposed language in subsections 625.1 (b)(3), 625.6(a)(4) and the definitions as contained in 625.2 seem to be consistent with Farm Bureau policy on carbon sequestration and private market programs available to farmers today

Also, the NRCS proposes to add language in subsection 625.8 that clarifies USDA policy regarding environmental credits such as carbon, water quality, biodiversity, or wetlands preservation, on land enrolled in the HFRP. The USDA says it considers these credits the property of the farmer, landowner, or the person who applied the conservation practices on the land, regardless of the federal funds invested. This is a critical issue for the success of this program and any future private or government carbon credit programs.

To establish this principle in the HFRP final rule, the IFBF supports the substitution of language similar to what is proposed for the Wetlands Reserve Program, Subsection 1467.20, Market-Based Conservation Initiatives, subparagraph (b) (1), *Ecosystem Services Credits for Conservation Improvements*, as follows: "USDA recognizes that environmental benefits will be achieved by implementing conservation practices and activities funded through [HFRP] , and that environmental credits may be gained as a result of implementing activities compatible with the purposes of a [HFRP] easement, 30-year contract, or restoration cost-share agreement. NRCS asserts no direct or indirect interest in these credits. However, NRCS retains the authority to ensure that the requirements of the [restoration plan], contract, and easement deed are met. Where activities required under an environmental credit agreement may affect land covered under a [HFRP] easement, 30-year contract, or restoration cost-share agreement, participants are highly encouraged to request a compatibility assessment from NRCS prior to entering into such agreements."

Allocation Formula

As a result of the 2008 farm bill, the NRCS will now allow land enrollment in the HFRP through permanent easements, and continue to allow enrollment through 10-year cost-share agreements. The farm bill requires that 60 percent of program expenditures in any fiscal year will be for easement enrollment and 40 percent of program expenditures will be used for restoration cost-share agreement enrollment. However, the rule 2008 farm bill allows the secretary the discretion to use any funds that are not obligated by April 1 in a given fiscal year to be used for either cost-share agreements or easements during that fiscal year. Farm Bureau policy favors shorter-term easements and cost share agreements over permanent easements.

Therefore, Farm Bureau supports a final rule that re-distributes any funds not obligated by April 1, 2009, or subsequent fiscal years to any combination or percentage of projects with cost-share agreements or easements that are ready to obligate funding, which is consistent with the aforementioned initial statutory allocation requirement. While the NRCS proposes to manage this process at the national level to ensure that the allocation of funds meets the statutory requirements, it should allow also states the flexibility to allocate these funds according to local resource needs and market conditions.

HFRP Restoration Plans

To participate in the HFRP, a landowner must agree to the implementation of a restoration plan, the effect of which is to restore, protect, enhance, maintain, and manage the habitat conditions necessary to increase the likelihood of recovery of listed species under the Endangered Species Act, or measurably improve the well-being of species that are not listed as endangered or threatened under the ESA but are candidates for such listing, state-listed species, or species identified by the NRCS for special consideration for funding. NRCS is responsible for preparing restoration plans. The proposed rule adds a new subsection 625.13(d) to indicate how NRCS will help program participants obtain landowner protections.

When a landowner is operating under a restoration plan that provides habitat for threatened or endangered species, the landowner should have assurance that they will not be found in violation of the ESA or other federal environmental laws. Also, controlling wildlife damage is a critical factor in maintaining the success of American agriculture. In addition, these restoration plans should allow a common sense approach to the removal of trees and brush and the use of borrow areas to repair damaged levees.

Therefore, subsection 625.13(d) should be further clarified in the final rule to specifically recognize that any associated landowner protections, incidental take authorizations, safe harbor agreements, or Candidate Conservation Agreement with Assurances, shall not interfere with private landowners' and managers' rights to lawfully control wildlife damage, remove trees and brush, or the lawful repair of damaged levees on their property that is not directly related to the endangered, threatened or candidate for listing species covered by the restoration plan.

Methods for Cost-Share Reimbursement Rates

NRCS proposes to reimburse participating landowners for their actual incurred costs by using a regional average cost. The NRCS says calculating actual costs would require extensive reviews of each applicant's situation, including review of every relevant receipt, significantly increasing the administrative workload and reduce the financial assistance available to participants. Determining average costs on a regional basis ensure that reimbursed expenses are as close to actual costs as possible for that area, the NRCS says. However, using average costs may be far lower than the actual costs and thereby make full program implementation less likely in those places if landowners are not repaid for their full expenses. The IFBF supports changing this implementation procedure in the final rule to a reimbursement for actual costs.

On behalf of the more than 153,000 member families of the IFBF, thank you for the opportunity to comment.

Sincerely,

Rick Robinson

Rick Robinson
Environmental Policy Advisor