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JAMES T. SMITH, JR.
County Executive

JONAS A. JACOBSON, *Director*
Department of Environmental Protection
and Resource Management

July 31, 2009

John Glover, Acting Director
Easements Programs Division
Natural Resources Conservation Service
Farm and Ranch Lands Program Comments
P.O. 2890
Washington, DC 20013

RE: Docket Number NRCS-IFR-08013

Dear Mr. Glover:

In response to Federal Register Vol. 74 No. 126 posting of proposed rule making changes to the Farm and Ranch Lands Program please find the following general and specific comments.

Baltimore County has participated in the FRP and FRPP since the programs were created. Initially the County participated in the FRP on its own and then it participated in the FRPP through the State Consolidated Program. Through the FRPP the County added over 1000 acres of farmland to its overall acreage - an important contribution to the County highly successful efforts to preserve farmland and foster an agricultural industry.

Over the past few years despite the terrific assistance of the State NRCS office staff, the program has become more difficult to administer at the local level. The FRPP program has evolved from a program that took into consideration varying local conditions around the Country to a less flexible program that creates impediments to getting acres preserved. Specifically, there are challenges with the impervious surface requirements, homestead requirements, forest management plans, time limitations on transactions, and application eligibility.

The proposed rule to address the issue of the contingent right of enforcement in order to make clear that this is not a Federal acquisition intended to trigger Federal acquisition procedures is an important step forward in restoring the practical application of this program. I agree with the recommendations of the American Farmland Trust on this issue.

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However, the Department needs to address many other unresolved issues that are detrimental to the implementation of this program. Below I wish to bring your attention to other concerns that need to be addressed.

Issue: Certification

The proposed Certification process adopted in 2008 appeared to be the answer to resolving the issues indicated above. It was anticipated that this process would involve a determination of the effectiveness of a program and once a program was certified than processes would take into consideration differing conditions and would be streamlined to increase effectiveness. Unfortunately, this has not happened. It appears as if the certification is in addition to the other regulations and processes.

Issue: Impervious surfaces

Impervious surface requirements present a difficulty for the farms of Baltimore County, Maryland. Our average farm size is approximately 90 acres and we are seeing more intensive farm operations to meet the demands for local food production. A standard of 2% is not reasonable and the formula for adjustment is still too strict. It is recommended that the percentage be size calibrated so that the rules work for smaller farms with more intensive operations.

Issue: Forest Management

The regulations requiring forest management plans for farms with as little as 10 acres is not a productive effort. The threshold of 10 acres is too small to represent a resource significant enough to be addressed through a forest management plan. In the alternative this resource can be addressed in a Soil Conservation and Water Quality Plan. The State of Maryland requires acreage of 25 acres, but that is also too small. The American Farmland Trust recommendation of 100 acres is more reasonable cutoff for requiring a forest management plan.

Issue: Farmstead Area

The farmstead should be limited to the area that includes the farmhouse and any supporting structures such as a garage or storage shed.

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Issue: Application eligibility

The requirement that the jurisdiction already has a property under contract is contrary to the eligibility concept and the rolling application concept. Programs such as MALPF and Baltimore County that have established track records should be allowed to use FRPP funds on any easement that meets the eligibility requirements within the project agreement period.

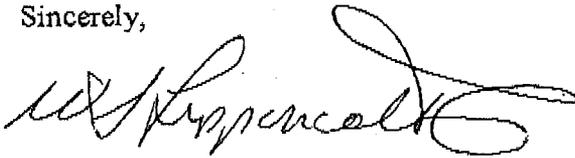
Issue: Agreement timeframe

Because of the requirement to meet the FRPP standards including the requirement for appraisals, recipients should be given a longer period of time to settle the easements.

In conclusion, the new rules move in the right direction in addressing the inappropriate federal acquisition requirements for local easement projects. However, there is much more that needs to be done to modify the program so that it can assist and supplement local government efforts in protecting important soil resources and fostering a dynamic agricultural industry.

If I can be of any further assistance in this matter, please contact me at 410-887-3854.

Sincerely,



Wallace S. Lippincott, Jr.
Program Administrator

c. Jonas Jacobson, Director DEPRM
John Markley, DEPRM
Jim Baird, American Farmland Trust
Mark Rose, NRCS
Tim Clippinger, NRCS