

March 12, 2009

Easement Programs Division
Natural Resources Conservation Service
Farm and Ranch Lands Program Comments
P.O. Box 2890
Room 6819 – S
Washington, DC 20013

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3/19/09
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Dear Friends:

The Land Trust Alliance would like to make the Department aware of a relatively new national land trust accreditation program that may assist it in administering the requirements of section 1491.4(c) and 1491.4(d) of the Interim Final Rulemaking on the Farm and Ranch Lands Protection Program (FRPP), which set standards for nonprofit organizations to become “eligible entities” to participate in the program, and to become “certified” entities.

The accreditation program is operated by the Land Trust Accreditation Commission (the Commission), an independently governed program of the Land Trust Alliance (the Alliance). The Commission uses a rigorous process to verify accreditation applicant compliance with 37 standards derived from the Alliance’s Land Trust Standards and Practices– the Alliance’s comprehensive ethical and operational guidance for operating a nonprofit land conservation organization.

This accreditation program is highly regarded in the nonprofit community, and the state governments of Colorado and California already utilize it as a valid alternative to their own detailed requirements for organizations to qualify for tax incentives or conservation funding.

Many land trusts that are not accredited have successfully partnered with NRCS on FRPP projects. Many of these land trusts would clearly meet all the criteria for being an “eligible entity” and even a “certified entity”, and NRCS should give them the opportunity to demonstrate that they do.

For those land trusts that have been accredited, NRCS should recognize that accreditation has already examined and tested most of the criteria for eligible entity or certified entity, with a few exceptions that NRCS will need to verify for itself. Those are addressed those below.

The rulemaking at Sec. 1491.4 (c) states that to receive FRPP funding, an entity must meet the definitions of "eligible entity" and

"must demonstrate:

- (1) A commitment to long-term conservation of agricultural lands;
- (2) A capability to acquire, manage, and enforce easements;
- (3) Sufficient number of staff dedicated to monitoring and easement stewardship; and
- (4) The availability of funds."

Accreditation by the Commission provides intense and detailed scrutiny of commitment to long-term conservation, capability to acquire, manage and enforce easements, and sufficient resources for monitoring and easement stewardship.

The Commission's reviews material relative to the applicant's financial procedures, board governance and land conservation programs to make a finding that an accredited land trust has the capacity to acquire, manage and enforce easements, as required by its standards 6B and 6D, directly addressing the issues raised in 1491.4(c)(2).

The Commission requires each applicant to prove they have sufficient number of staff (or trained volunteers) dedicated to monitoring and easement stewardship, and that they have the capacity and resources to monitor and enforce those easements, as required by its standards 7A, 11C and 11E, directly addressing the issues raised in Sec. 1491.3 (c)(3)

The Commission requires each applicant to demonstrate that it has funds dedicated to the stewardship and defense of its easements and, when necessary, that the applicant has a feasible plan for securing additional funds, as required by its standards 6B, 6F and 11A, directly addressing the issues raised in Sec. 1491.3 (c)(4)

For an accredited land trust, the only questions NRCS would need to independently verify are:

1. That protecting agricultural lands is a purpose of that land trust, and,
2. The "availability of funds" (presumably, for their minimum share of the cost of acquiring easements in partnership with NRCS).

Sec. 1491.4(d) adds additional requirements for eligible entities that wish to become "certified entities", which is that they demonstrate to the Chief that they have:

- (1) The ability to complete acquisition of easements in a timely fashion;
- (2) The ability to monitor easements on a regular basis;

- (3) The ability to enforce the provisions of easement deeds;
- (4) Experience enrolling parcels in the Farm and Ranch Lands Protection Program or the Farmland Protection Program.
- (5) For non-governmental organizations, the existence of a dedicated fund for the purposes of easement management, monitoring, and enforcement where such fund is sufficiently capitalized in accordance with NRCS standards. The dedicated fund must be dedicated to the purposes of managing, monitoring, and enforcing each easement held by the eligible entity; and
- (6) Other certification criteria, including having a plan for administering easements enrolled under this part, as determined by the Chief.

Sec. 1491.3 (d)(1): The Commission requires that applicants have a tight and well-documented system for processing and completing conservation transactions. Those systems help ensure that an accredited land trust would meet this standard, though NRCS would obviously want to examine that organization's specific record in completing FRPP projects

Sec. 1491.3 (d)(2): The Commission verifies that each applicant monitors each conservation easement that it holds on an annual basis, following its standards 11C, and also verifies that each applicant has and utilizes solid baseline documentation on which to base their monitoring work.

Sec. 1491.3 (d)(3): Every accredited land trust must have policy and/or procedure for how to enforce a potential easement violation, and the Commission reviews documentation to see that applicants have successfully managed enforcement actions, as required by its standards 9A, 9E, 9G, and 11E.

Sec. 1491.3 (d)(4): The Commission does not evaluate whether the applicant has experience enrolling parcels in the Farm and Ranch Lands Protection Program. This requirement would have to be verified by the Department

Sec. 1491.3 (d)(5): As noted above, each accredited land trust must demonstrate that it has secured the dedicated funds necessary for the stewardship and defense of its conservation easements. The fund(s) must be dedicated to the purposes of managing, monitoring and enforcing the applicant's easements. The applicant must have sufficient funds to take immediate enforcement actions and to manage its current stewardship costs.

Sec. 1491.3 (d)(5): While we cannot anticipate what additional criteria the Chief may want to add, all accredited land trusts will have a clear plan for administering all of its easements, including those involving FRPP.

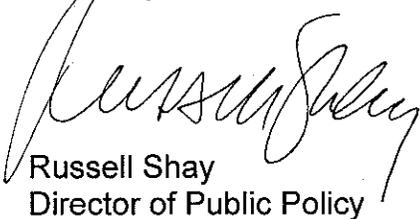
We hope you will agree that national land trust accreditation offers an effective and efficient way to assist the Department in administering this section. If you

wish to know more about the Land Trust Accreditation Commission or its programs please visit www.landtrustaccreditation.org, or call either the Alliance or Commission staff.

The accreditation program is still relatively new, having begun its work in 2007, and so far only 53 land trusts have been accredited by the Commission. Fifteen off the 120 land trusts that have participated in FRPP are already accredited; another 14 have applied for accreditation. While the numbers are small now, they are growing, and we want to encourage the Department to use the work we have done to carefully examine land trusts who have put in a great deal of time and effort to demonstrate that they are operating to very high standards.

Thank you for your consideration.

Sincerely,



Russell Shay
Director of Public Policy