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Decker, Denise - Washington, DC

From: Elizabeth Kerlin [ekerlin@adamscounty.us]
Sent: Tuesday, February 17, 2009 3:05 PM
To: RA.dcwashing2.frpp
Subject: Interim final rule with request for comments
Attachments: FRPP Interim final rule.doc

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February 17, 2009

Easements Programs Division
Natural Resources Conservation Service
Farm and Ranch Lands Program Comments
P.O. 2890
Room 6891-S
Washington, DC 20013

Dear Sir or Madam:

This letter is in regards to Farm and Ranchlands Protection Program's Interim final rule. Upon my review I have found most of the interim rules to be acceptable to our organization's functions. I'm confident that the Land Conservancy of Adams County (LCAC) will be able to follow the majority of these rules to the best of our ability. I would like to comment on 1491.4 (g) which reads as follows:

Prior to FRPP fund disbursement, the values of the conservation easement must be appraised. Appraisals must be completed and signed by a State-certified general appraiser and must contain a disclosure statement by the appraiser. The appraisal must conform to the Uniform Standards of Professional Appraisal Practices or the Uniform Appraisal Standards for Federal Land Acquisitions, as selected by the entity. State Conservations will provide the guidelines through which NRCS will review appraisals for quality control purposes.

Although this rule has not changed in this interim review, this rule has caused us frustration and as a result we seriously doubt FRPP's usefulness for our organization. It is understandable to review appraisals to determine acceptance of the after easement market price. But in our experience FRPP's outside appraisal reviewer accepted the determined prices; our appraiser's "failure" was in the way he drafted the minute details. Details I assume were included in the review guidelines that were never provided to our organization or to our appraiser. In the future please provide what is required in writing, so that our appraiser and our organization completely understand what is expected. For reference our appraiser is Brian Pedrick of Agrarian Associates in Lebanon, Pennsylvania.

The Land Conservancy of Adams County sees three significant issues with the way the FRPP reviews easement appraisals for acceptance:

- 1) The easement appraisals are not reviewed consistently. The Roger Bupp Farm (Cooperative Agreement #73-2D37-07-304) is currently awaiting a decision on its third easement appraisal review. The first appraisal was reviewed and failed; not because the reviewer disagreed with the determined prices, but rather because he wanted our appraiser to expand on his explanations. A supplemental report was provided to Tim Sittig October 29, 2008 who then gave it to a completely different reviewer for the second review. Obviously two reviewers are going to see things a

little differently and will have differencing opinions on how standards should be reported. An appraisal is partially based on local experience and opinion and differences are evident in every report as our second review clearly states:

Appraisal reviewers recognize that deficiencies can be found in nearly every appraisal report. However, minor technical nonconformance should not be the cause of disapproval of an appraisal report, unless the deficiency affects the reliability of the value estimate, or the value estimate itself.

LCAC's request regarding this issue is to have the same reviewer review the appraisal throughout all of our easement reviews. Brian Pedrick bases his appraisals on his experience with a reviewer. If the reviewers are constantly changing it is impossible to satisfy everyone's opinions and needs.

- 2) The second issue I see with FRPP's review process is the time it takes to review appraisals. It consistently takes FRPP approximately two to three months to review each appraisal or appraisal supplemental report. Roger Bupp's Farm appraisal was first submitted May 6, 2008. We received notification that the appraisal failed review in July. A second appraisal was submitted on October 29, 2008. We received notification of its failure on January 20, 2009 after numerous phone calls and emails requesting any information on the Bupp review. The review is dated January 2, 2009; we are unsure as to why it took 18 days to email the review to our office. LCAC began working on this easement in August of 2007 and we are still unsure as to how much longer FRPP will continue to fail and review appraisals. Luckily for LCAC the landowners have been willing to work with us through the delays thus far.

The Mickley Farm (Cooperative Agreement #73-2D37-07-304) appraisal was submitted November 13, 2008 and notification of its failure was received on January 20, 2009. Report was also dated January 2, 2009. The only time FRPP was able to review a LCAC easement appraisal in a reasonable amount of time was for the third Nancy Bushey Farm appraisal review (cooperative Agreement #73-2D37-07-304). Ms. Bushey was experiencing health problems and we were able to convince FRPP to expedite the third review of the appraisal which took approximately a month. Still there were two lengthy reviews of preceding appraisals before this final expedited review. LCAC still have 100 more acres to preserve on Ms. Bushey's farm with FRPP funds this year. Ms. Bushey's experience with FRPP delays has seriously affected her view of LCAC's abilities to complete projects in a timely manor. During Ms. Bushey's first easement we were constantly given appraisal review deadlines that were never met. This has caused a serious amount of distrust between LCAC and Ms. Bushey and LCAC and Ms. Bushey's neighbors that she has shared her experience with.

1491.4 (d) lists requirements of an eligible "certified entity" who can hold FRPP easements. (1) lists specifically the need of the "certified entity" to demonstrate "the ability to complete acquisition of easement in a timely fashion." If FRPP continues the requirement of inconsistent and lengthy reviews of easement appraisals LCAC is uncertain if we will be able to "complete acquisition of easement(s) in a timely fashion." What does FRPP consider "timely"?

- 3) The third issue I see with FRPP's review process is that our appraiser Brian Pedrick is one of the only appraisers in the entire state that can do the required appraisals. As a result he is doing (and re-doing) almost all the FRPP appraisals in the state. Mr. Pedrick has worked diligently with LCAC to ensure that it is not his time that is delaying the appraisal review. When he learns of the necessary changes he has consistently made those changes in supplemental report form in less than a week's time. The changes are then immediately sent to FRPP to begin the review.

I hope by reviewing some of our experiences and frustrations with FRPP's review process you can begin to see it is near impossible to complete easement acquisitions in a timely manner. And by perpetuating the delays we are hurting our relationships with our conservation benefactors and potentially many others who learn of the seriously lengthy delays as a result of FRPP's reviews. It is our hope that the review process becomes less stringent and strict. Our future of using the program hinges on the usefulness of the program to our conservancy's needs.

Sincerely,

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