



2023 Farm Bill Priority Platform

California Rangeland Trust's mission is to serve the land, people, and wildlife by conserving California's working rangelands. Now in its 25th year, the Rangeland Trust has helped more than 90 ranching families permanently protect over 371,500 acres of pristine rangeland throughout the Golden State. The impact of this work stretches far beyond the ranching families we partner with, it benefits all Californians.

Rangelands are Disappearing at an Alarming Rate

Rangelands are critical to our state's social, cultural, and economic well-being, but unfortunately, we are losing them at a rapid rate. Between 2001 and 2016, more than 465,000 acres of agricultural land were lost to development in California alone, and more than 60% of that was rangeland and pastureland.

Protecting Working Lands Protects the Planet

California's rangelands support rich biodiversity, air and water quality, wildlife habitat, local food supplies, and climate resiliency. In fact, scientists at UC Berkeley determined that ranches conserved by the Rangeland Trust provide \$1.44 billion in ecosystem services annually to the people of California. They also found that Rangeland Trust conservation easements return \$3.47 for every dollar invested (www.rangelandtrust.org/ecosystem-service-study/). Conserving rangeland is a smart investment, especially as we look for ways to protect our environment and ensure a greener future.

Collaborative Efforts for Conservation Across the Country

California Rangeland Trust is part of a larger conservation movement across the United States. The Partnership of Rangeland Trusts (PORT) is an association of agriculturally oriented land conservation organizations established to leverage resources to enhance the voluntary conservation and stewardship of America's ranchlands. Members include the California Rangeland Trust, Colorado Cattlemen's Agricultural Land Trust, Montana Land Reliance, Nebraska Land Trust, Northwest Rangeland Trust, Ranchland Trust of Kansas, South Dakota Agricultural Land Trust, Texas Agricultural Land Trust, and Wyoming Stock Growers Land Trust.

PORT members are unique in the conservation community because of their affiliations with state-based agricultural industry organizations. PORT members are national leaders in land conservation, holding more than 1,300 perpetual conservation easements on nearly 3 million acres of working agricultural land. PORT and its members understand the important role private lands have had in the founding of the country and to its existing and future economies and environmental prosperity. Conservation tools promoted by PORT strike a balance between

ensuring that the natural and productive values of the land will endure, while providing the flexibility landowners need in the day-to-day management of their operations.

PORT members believe:

- Conservation efforts should support long-term or permanent protection of land resources with minimal impact on the landowner's day-to-day management decisions.
- Privately owned working lands play a critical role in delivering meaningful conservation outcomes by providing healthy food and fiber, maintaining open spaces, and ensuring clean air and abundant water for rural and urban communities alike.
- Conservation must respect the rights of individual landowners to make decisions regarding public access.
- All Federal conservation easement programs should provide the option for non-governmental entities to hold conservation easements funded through the Farm Bill conservation easement programs.

PORT Recommendations for the 2023 Farm Bill

In collaboration with our PORT partners, the California Rangeland Trust helped develop the following list of recommended changes to the 2023 Farm Bill.

Recommendations for Statutory Changes:

1. *Increase funding to the Agricultural Conservation Easement Program (ACEP).* NRCS has indicated that current funding levels allow it to only meet 1/3 of existing demand for the program. Conservation easements provide farmers and ranchers with a way to realize liquidity from their land without selling the land, selling portions of the land, or mortgaging an interest in the land. [A 2017 economic analysis completed by the Dept. of Agricultural and Resource Economics at Colorado State University](#) found that beyond assisting our nation's farmers and ranchers, federal investments through ACEP have generated additional economic stimulus and created additional jobs for rural communities across the nation.
2. *Increase the ceiling on the eligible federal share for ACEP conservation easements to 65% of easement value for traditional ACEP/ALE and 80% of the easement value for Grassland's of Special Significance.* Currently, NRCS can typically only contribute 50% of the easement value for traditional ACEP/ALE projects. The NRCS share can increase to 75% on properties that are designated as "Grasslands of Special Significance". PORT's recommended increases to the federal share will enable farmers and ranchers to gain additional liquidity from the easement which could be significant in helping them weather the current economic challenges. It will also incentivize additional conservation particularly in areas of the country that have high conservation values but where matching funds are difficult to secure.

3. *Eliminate Adjusted Gross Income (AGI) eligibility requirements for ACEP.* AGI requirements are not appropriate factors for determining eligibility for land conservation programs. To combat the challenges we face related to a changing climate, our national needs to continue to grow healthy food to feed a growing society, and maintain our precious water resources, we must conserve our land and water resources with the highest conservation value. Additionally, AGI checks administered through the Farm Services Agency and the Internal Revenue Service are slow and cumbersome and are a barrier to putting money on the ground quickly.
4. *Exempt conservation program payments from future AGI calculations.* Payments made through ACEP or any other federally administered or state administered conservation program should be excluded from AGI calculations used to determine eligibility to participate in a Farm Bill conservation program. Without this exemption, we risk impeding further enrollment in conservation programs.
5. *Adjust valuation rules under ACEP.* The appraisal process is one of the significant bottlenecks in completing conservation projects. However, the appraisal process is also a critical safeguard to prevent fraud, waste, and land speculation. Currently, the statute allows for alternative appraisal methods such as Geographic Area Rate Caps (GARCs) or other area wide market analysis. PORT recommends providing state NRCS offices with further flexibility to consider alternative valuation methodologies that can appropriately substantiate values for conservation easements being purchase through ACEP. Many other federal conservation programs use alternative value substantiation methodologies like Adjusted Assessed Land Valuation (AALV).
6. *Transaction Costs.* Allow for ACEP/ALE funds to be used to cover transaction costs incurred by landowners. Additionally, any funds secured for transaction cost assistance should be available for advanced payments. Eligible entities that receive advanced funds will be liable for repayment of any funds advanced if the project is not completed.
7. *Allow ACEP to be administered through a Hub-type system.* Capacity is a growing issue for NRCS and it negatively impacts the agency's ability to efficiently administer its programs, including ACEP. NRCS frequently develops agreements with third parties to help deliver technical assistance and other agency functions. PORT recommends using established state and regional entities like State Coalitions of Land Trusts and the Partnership of Rangeland Trusts to provide Technical Assistance in the administration of ACEP.
8. *Modifications (see Attachment A for supplemental information on Modifications).* Within statute, (1) clearly articulate that violations can be corrected using modifications; (2) create additional categories under easement modifications to include "amendments", "supplements", and "corrections"; and (3) provide clarity on where the approval authority lives for the different types of modifications. For instance, amendments should have the highest bar for review and approval while approval of supplements and corrections should be at the state and local level. Additionally, clear direction on modifications needs

to be provided from Congress to the Department of Agriculture and NRCS. While the current statutory language is appropriate, NRCS's rules and procedures around modification have unnecessarily constrained eligible entities from being able to properly administer easements over time. The direction should focus on creating a system for considering modifications that is (a) consistent with statute; and (b) consistent with the best practices for amending/modifying conservation easements as developed by the Land Trust Alliance. Consistency in amendment/modification practices across the realm of conservation programs is critical for the proper long-term care of perpetual conservation easements and the health of conservation organizations that are charged with the perpetual stewardship obligations.

9. *Expand the entity certification program allowed for under ACEP to RCPP.* The certified entity program should be expanded to include RCPP. Allow certified entities under ACEP to use their approved conservation easement templates for RCPP. The current lack of a certified entity program for RCPP, and the inability to use approved templates makes the program inflexible and the funding difficult to deploy. Standardization with ACEP would increase enrollment and utilization of RCPP funding.
10. *Require consistency in easement terms between ACEP and RCPP.* Consistency in easement terms between RCPP and ACEP is essential for the appropriate administration of these important conservation programs. Currently, RCPP and ACEP easements are administered under entirely different regulatory processes. This creates confusion for eligible entities, private conservation funders, and landowners.
11. *Allow non-governmental entities to hold easements funded through the Forest Legacy Program.* Landowners are much more amenable to entering into perpetual conservation easements with non-governmental entities. The Forest Legacy Program as currently structured requires easements to be held by a government entity. This requirement unnecessarily limits the ability of this program to deliver conservation outcomes and fulfill its programmatic objectives.

Recommendations for the Manager's Report:

1. *Ranking Criteria.* Congress should be explicit in its direction to USDA/NRCS that the ACEP/ALE program is focused on long-term agricultural viability and not species protection or other conservation objectives. Further, Congress should explicitly direct that matching funds should not be included in the ranking criteria. In the 2018 Farm Bill, Congress removed the non-federal cash match requirement to expand conservation opportunities through ACEP particularly in regions of the country where non-federal cash match is not available or hard to secure. USDA/NRCS has circumvented Congress's direction by including non-federal cash match as a ranking criterion.
2. *Irrigated Land Flexibility.* Congress should direct USDA/NRCS to not employ limitations on what types of crops are grown or on planting methods on irrigated land within ACEP/ALE projects. These types of very specific and narrow limitations

negatively impact management flexibility and can also have negative impacts on proper resource stewardship.

3. *Flexibility to Revise Approved Deed Templates.* Congress should direct USDA/NRCS to provide flexibility to State Conservationists to approve minor revisions to terms that do not impact regulatory deed terms in approved ACEP/ALE and RCPP deed templates.
4. *Empower State Technical Committees.* Congress should direct USDA/NRCS to further empower State Technical Committees to advise on the development of state ranking criteria for ACEP/ALE. Congress should also direct USDA/NRCS to allow eligible entities to serve on relevant ACEP and RCPP subcommittees of the State Technical Committee. Currently, NRCS has prohibited eligible entities from participating citing conflicts of interest. However, it is the eligible entities that have the expertise in the programs necessary to make reasonable policy decisions.

Attachment A – Supplemental information on Modifications

Section 2605. Administration. Amend Section 1265D of the Food Security Act of 1985 to modify (2)(c) to add SUBORDINATION, EXCHANGE, MODIFICATION, SUPPLEMENT, CORRECTION, AND TERMINATION:

- a. *Supplements and Corrections.* Will need to define these terms. Definition should include that these types of EAAs do not make substantive changes to the easement. Authority to approve supplements and corrections should be at the state conservationist level. These types of actions should be categorically excluded from NEPA. Additionally, there should be specific performance standards for agency response times to requests for supplements and corrections.

Modifications. Clear direction on modifications needs to be provided from Congress to the Department of Agriculture and NRCS. While the current statutory language is appropriate, NRCS's rules and procedures around modification have unnecessarily constrained eligible entities from being able to properly administer easements over time. The direction should include the following:

- b. Modifications can be used to correct violations and avoid costly litigation.
- c. Creating a system for considering modifications that is (a) consistent with statute; and (b) consistent with the best practices for amending/modifying conservation easements as developed by the Land Trust Alliance.
- d. Requiring specific performance standards for agency response times to modification requests.

Consistency in amendment/modification practices across the realm of conservation programs is critical for the proper long-term care of perpetual conservation easements and the health of conservation organizations that are charged with the perpetual stewardship obligations. As modifications should only be allowed in instances where the protection of the conservation values is either unchanged or improved, modifications should be categorically excluded from NEPA or handled through a programmatic NEPA analysis.