

Land Trust Alliance Written Testimony

House Agriculture Subcommittee on Conservation and Forestry Hearing: *Stakeholder Perspectives on Farm Bill Conservation Programs*

September 20, 2022

Alliance overview

On behalf of our 950 member land trusts, the Land Trust Alliance appreciates the opportunity to participate in this hearing and share lessons learned from the implementation of the 2018 Farm Bill and recommendations for the 2023 Farm Bill.

Founded in 1982, the Land Trust Alliance (the Alliance) is a nonprofit corporation and national land conservation organization based in Washington, D.C., that works to save the places people need and love by strengthening land conservation across America. We are the voice of private land conservation, unifying the American ideals premised on personal initiative, landowner empowerment and individual private property rights. Our members have worked with enthusiastic landowners, including farmers, ranchers and foresters, in their communities to voluntarily conserve more than 61 million acres of land across our country, boosting rural economies by helping to keep working lands in working hands.

Land trusts have a long history of partnering with the U.S. Department of Agriculture (USDA) to help landowners utilize Farm Bill conservation programs. This partnership is vital to ensuring that working lands — farms, forests and ranches — continue to produce food and fiber, provide habitat, protect watersheds and serve as part of the climate solution.

Why the Farm Bill Is So Important

The Farm Bill conservation programs, taken in total, are the largest single federal source of funding for private land conservation. Farm Bill programs create significant opportunities for land trusts to permanently protect working farm and ranch lands, grasslands, wetlands and forests.

Central to our nation's productivity and food security are our working agriculture and forest landscapes and the stewards of those lands. Unfortunately, we are losing working lands at an alarming pace, which is why the Farm Bill conservation easement programs are so critical. While all the Farm Bill conservation programs are important, easement programs are the only ones that offer voluntary incentives and cultivate partnerships to ensure working lands are not irrevocably converted to other uses in the future. The Alliance recognizes the value of these programs, such as the Agricultural Conservation Easement Program (ACEP), as a critical tool for farmers, ranchers and foresters who want to ensure their working lands are forever in family hands. The easement programs enable land conservation organizations and state and local governments to work with landowners to exercise their private property rights in the best interest of them and their families. They are also an excellent investment in food security, an important tool for addressing climate change, and they make a significant contribution to our economy.

In 2018 Colorado State University issued a report on a study assessing the economic impact of the Agricultural Conservation Easement Program-Agricultural Land Easement (ACEP-ALE) (and predecessor programs) from 2009-2017. The report showed that in addition to leveraging state and private funding, landowners with an easement were more likely to change their agricultural practices to improve things such as crop rotation and irrigation. In addition, the \$80 million investment in ACEP-ALE to conserve more than 129,000 acres of farm and ranch land created 1,102 jobs and generated \$174 million in economic activity across the state. Every NRCS easement dollar invested Colorado generated \$2.19 in direct, indirect and induced spending.

Earlier this year, the Montana Association of Land Trusts released a report, "Working for Montana Agriculture," which showed similar results. The report evaluated the economic impact of the 92 ALE easements in Montana since the implementation of the 2014 Farm Bill. The \$109 million ALE investment in these easements protected 289,000 acres of farm and ranch land, yielded \$182 million in economic activity, and supported 1,057 jobs, largely in rural Montana.

These programs are matched with other funding sources to compensate willing landowners for the value of a perpetual easement, thus ensuring the lands will never become a strip mall or housing development. Instead, the lands will remain in agriculture, securing their ability to provide food, fiber, plant and wildlife habitat and healthy watersheds for our nation. The money generated from an easement enables the landowner to pay off debt and reinvest in their farm or ranch. In addition, it can often make it easier for the landowner to resist outside development pressures and transfer the property to the next generation. Farm Bill easement programs are a good investment for our country.

Farm Bill Lessons Learned

The Alliance celebrated the passage of the 2018 Farm Bill, which increased funding for ACEP from \$250 million/year to \$450 million/year. We thank you for taking this action. This increase in funding rectified a budgetary gimmick used in the 2014 Farm Bill whereby funding was cut in half in the last year of the bill. While it was a substantial increase in funding, it is still not currently meeting the demand from willing landowners who want to conserve their working lands with an easement.

Beyond much-needed funding, the 2018 Farm Bill included important policy provisions to make the program more effective and efficient. One key provision of the 2018 Farm Bill allows landowner donations and expenses to satisfy the ACEP-ALE match requirement. This was extremely important to states such as Kansas, Texas and Alabama that lack meaningful statewide conservation programs, making it challenging to secure the required match. This has allowed meaningful participation from these states. Unfortunately, the Natural Resources Conservation Service (NRCS) did not fully follow through with congressional intent and made cash match a national ranking criteria, thereby giving projects with a cash match an unfair advantage.

Another key provision was removing the requirement for an ALE plan. While requiring an ALE plan may have sounded good, it ignored the fact that ACEP-ALE easements are perpetual real estate transactions. Management practices can and must change as landowners work to maintain working lands in an ever-changing world. In addition, NRCS did not implement the ALE plan

requirement consistently, and, in many cases, state NRCS staff were demanding very prescriptive plans as part of this real estate transaction. Many important farm and ranch lands went unprotected because landowners did not want the federal government telling them how to run their operations through a required and approved plan. Congress recognized this and removed the ALE plan requirement in the 2018 Farm Bill. Unfortunately, when NRCS published the final ACEP rule it gave states the authority to make an ALE plan a state-ranking criteria, which undermines congressional intent.

The Alliance strongly encourages Congress to retain these important provisions and to provide clarification of intent through report language. Ensuring the agency doesn't create administrative barriers and burdensome procedures is even more important with the much-needed infusion of funding from the recently signed Inflation Reduction Act (IRA).

2023 Farm Bill

In 2017, the Alliance created the Farm Bill Working Group (FBWG), which is now comprised of more than 100 land trust practitioners from across the country who utilize Farm Bill easement programs to help landowners conserve their lands. The FBWG played a strong role in the development of the Alliance's 2018 Farm Bill recommendations and in monitoring implementation through comments on rulemaking and navigating hurdles as they arose. We have been gearing up for the 2023 Farm Bill and earlier this year began socializing our updated recommendations. Our 2023 Farm Bill recommendations reflect lessons learned from the implementation of the 2018 Farm Bill and are forward-thinking as we strive to meet challenges we face today, including increased food security concerns and the impacts of a changing climate.

Funding

As previously stated, we strongly support a significant increase in funding for the ACEP-ALE program. The IRA provides an increase in funding for ACEP over the next four years. The 2023 Farm Bill provides Congress with an important opportunity to spread these conservation investments over a longer period of time and avoid a post-FY26 steep drop-off in funding.

Retain Farm Bill 2018 improvements

As mentioned earlier, we must maintain important improvements that were made in the 2018 Farm Bill, including matching funds flexibility and removal of the onerous ALE plans.

Clarify Certification process and benefits

We also recommend enhancements to make the certified entity application and enrollment process work more efficiently. Certified entities were established in the 2008 Farm Bill, yet to date there are fewer than seven certified entities. We recommend clarifying the certification application and enrollment process and ensuring that accredited land trusts have a streamlined path to certification. Congress should make clear that the certification designation results in greater efficiency for program delivery with less direct agency involvement in all easement acquisition processes. We further recommend recognizing certified entities across all NRCS easement programs. This recognition could go a long way toward streamlining and accelerating the pace of getting critical conservation projects done.

Reduce barriers faced by historically underserved landowners

The Alliance strongly supports efforts to increase access to Farm Bill conservation programs for historically underserved landowners. We recommend strengthening this work by providing set-asides in ACEP for beginning, limited-resourced and socially disadvantaged farmers. ACEP, unlike other programs in the Conservation Title, has no such provisions to ensure these farmers have a fair shot at funding. In addition, a reduction in the match requirement or increased government share for land trusts working with these specific landowners would create a greater incentive for entities to work with landowners who might not otherwise participate in Farm Bill programs.

Enhance Healthy Forest Reserve to establish a Forest Conservation Easement Program

ACEP-ALE is a crucial tool for conserving farms and ranches but does not address working forested lands. Private forests comprise 58 percent of all forested land in the U.S. While the total area of forestland in the U.S. has been largely stable historically, private forests now face significant threats, mainly from conversion to housing and urban development. We recommend enhancing the Healthy Forest Reserve Program by creating a stand-alone Forest Conservation Easement Program that ensures private forestland remains intact and in production, allowing them to continue providing numerous benefits to rural and urban communities. Conservation of our working forestlands is critical to the future of our country and funding for forest conservation easements must be in addition to funding for ACEP.

Ensure the Regional Conservation Partnership Program (RCPP) works for easements

The Land Trust Alliance has fully supported the Regional Conservation Partnership Program (RCPP) in past Farm Bills and will continue to do so. RCPP is a key tool for land trusts to help protect farm and ranch lands, grasslands, wetlands and forested lands and provides much needed flexibility for specialized easements not available through ALE or Wetland Reserve. Land trusts want to see consistency in how easements are implemented whether through ACEP or RCPP. One way would be to ensure certified entities have the same benefits in ACEP and RCPP. There is also a concern from the land trust community regarding the time it has taken to get easements approved through RCPP. To our knowledge, only one easement has been fully closed under RCPP in the four years since the last Farm Bill was signed. Our Farm Bill Working Group continues to meet and explore options to improve the administration of RCPP and we hope to work with this Committee to ensure that goal.

Exempt ACEP from the Adjusted Gross Income (AGI) limitation

Unlike other conservation or financial assistance payments, compensation for the purchase of a conservation easement is not a subsidy payment but a conveyance of a private real property right. This means the landowner must give up something of value in exchange for the program payment. The Alliance encourages exemption from the AGI limitation for ACEP. Doing so would eliminate a bureaucratic barrier to bringing projects to closure. In addition to being cumbersome, the limitation prevents critical and sensitive lands from being protected. Focus should be on the protection of working lands, not the current owner.

Conclusion

While I have focused most of my testimony on the protection of working farmlands, ranch lands and forestlands, I would be remiss if I did not reiterate my introductory comments in support of all the programs in the Conservation title. These investments provide a comprehensive portfolio

of programs enabling our farmers, ranchers and forest landowners to be the best possible caretakers of our soil and water resources while providing food, fiber, wildlife habitat, carbon sequestration and clean air. In your deliberations of the 2023 Farm Bill and consideration of the implications of the IRA funding for these programs, we hope to continue to work with you in a bipartisan manner to strengthen the efficiency and effectiveness of the Conservation title programs to benefit our nation's working lands and the private land stewards of these resources. The Alliance is happy to provide our complete set of 2023 Farm Bill recommendations and looks forward to working with the Committee to draft a strong bill that will ensure the future of our working lands.