



PRIORITIES FOR REFORMING THE AGRICULTURAL CONSERVATION EASEMENT PROGRAM (ACEP) WITHIN THE AGRICULTURAL ACT OF 2014

Background on PORT

The Partnership of Rangeland Trusts (PORT) is an association of locally-based, agriculturally-oriented land conservation organizations established to leverage resources to enhance the voluntary conservation and stewardship of America's ranchlands. Members include the Colorado Cattlemen's Agricultural Land Trust, Montana Land Reliance, Texas Agricultural Land Trust, Ranchland Trust of Kansas, California Rangeland Trust, Wyoming Stock Growers Land Trust and the Northwest Rangeland Trust. All participating organizations share the unique characteristic of working from within the agricultural community by having associations with their state livestock organization either through direct affiliations or cooperative agreements. Members are national leaders in both the agricultural and land conservation fields, holding more than 1,300 conservation easements on more than 2.2 million acres of land. Nationally, this represents roughly one in every six acres currently protected through conservation easements held by private, non-profit organizations. PORT understands the important role private lands have had in the founding of our 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.

Funding:

- Maintain funding levels at \$500 million per year.

ACEP Reforms

- *Matching Funds:* Eliminate the requirement for eligible entities to contribute cash resources (i.e. matching funds). Landowner donation should satisfy matching requirements for ACEP investments. This adjustment would open access to the program to additional states where conservation funding is not currently readily available (i.e. Texas, Kansas, etc.).
- *ALE Plans:* Eliminate the requirement for an Agricultural Land Easement Plan ("ALE Plan").
- *Minimum Deed Terms, Right of Enforcement and ALE Plans:*
 - a. Revise to allow for flexibility to acknowledge local or regional nuances that cannot be fit within a "one-size-fits-all" set of terms.
 - b. Revise to clarify that the contingent right of enforcement does not extend to a right of inspection unless the eligible entity fails to fulfill its enforcement obligations under the deed of conservation easement.

- c. Revise to explicitly state that by conveying a conservation easement a landowner does not eliminate or restrict the landowner's participation in any other environmental markets (i.e. ecosystem services markets).
 - d. Revise to explicitly state that mineral development can occur as long as it complies with the limited, localized and not irretrievably destructive of the conservation values standard from the treasury regulations.
- *Adjusted Gross Income Limitation:* Section 1605(a)(2)(1) should be revised to exclude ALE from the AGI limitations. The purposes of ALE run counter to AGI limitations. Some of the most important land to meet the purposes of the program is owned by producers that cannot meet the AGI limitations. Prohibiting these lands from being permanently protected is shortsighted. AGI limitations should be limited to technical assistance programs not property interest acquisition programs.
- *Amendments:* Revise Section 1265D(c) to separate Subordination, Exchange and Modification from Termination. Termination should be handled separately because of the potential tax implications on third party held easements. Additionally, a higher standard should be given to termination considerations. Modifications that (1) have a neutral effect on or increase the conservation values; (2) do not confer an impermissible private benefit; (3) consistent with the original intent of the easement; and (4) are consistent with the purposes of the program should be allowed.