

Testimony on ACEP-ALE

Provided by Oregon NRCS State Conservationist Ron Alvarado
Oregon Senate Committee on Environment and Natural Resources
Thursday, March 7, 2019 at 1 p.m.

Purpose and Background:

As the U.S. population continues to rise, productive farm and range land is rapidly disappearing due to the development and infrastructure deemed necessary to support the growth. Protecting this valuable resource is more important than ever, with our very existence and economy depending on the productivity of arable lands (agriculture contributes \$992 billion to the U.S. GSP). By 2050, our dependency on agriculture to provide the necessary food we need will increase 50 to 70 percent more than what's consumed today. From 1992 to 2012, an estimated 31 million acres of farmland has been lost in the U.S., and 62% of development occurred on farmland. Source: Farms Under Threat, 2018, American Farmland Trust.

Protecting agricultural lands from non-ag related development and fragmentation is a priority of national importance, as it directly impacts the nation's ability to sustain food and fiber production for a growing population projection.

Conservation easements have been used to great effect across the country to protect diverse landscapes. In particular, land in agricultural production is a priority landscape for protection because of its intrinsic and associated environmental and habitat values, and farm and ranch businesses' contributions to the economy and rural communities. The sale of agricultural easements (conservation easements that permit active farming or forestry management) is also one way for farm landowners to generate liquid capital from real estate, which they might use to fund business operations, to help to divide their estate between their heirs, or for other purposes.

Oregon Trends:

As Oregon continues to see pressures on its rural lands from low-density development, fragmentation, population growth, rural landowner succession challenges, and other factors, there is growing interest around the state in using conservation easements to complement Oregon's land use program by permanently conserving rural lands. This interest creates an opportunity to better utilize existing tools and financial incentives that will facilitate the use of conservation easements in Oregon as a strategic tool to protect the state's rural lands.

Agricultural lands are a relatively large and ecologically and economically important subset of Oregon's rural lands. About 16.3 million of Oregon's 62 million acres are in farms and ranches (Source: 2012 Census of Agriculture). These productive lands offer environmental services, like habitat, migratory corridors, and water filtration, by virtue of being undeveloped, open spaces. Additionally, these properties often include riparian areas, forest, and other high-quality habitat. Agricultural lands also contribute to Oregon's economic wellbeing and especially its rural communities, with \$8.2 billion in economic impact and 4% of the state's employment directly attributable to agriculture in 2015 (Source, OSU Service Rural Studies Program).

While demand in Oregon has traditionally been low for working lands easements because of the success of the state's comprehensive land use system, such demand has grown recently due to trends including: increasing market price of agricultural land, an increase in intergenerational land transfer, the increase in size of a viable agricultural operation, energy infrastructure development, increased land purchases for recreational use, and landowners retiring from agriculture or forestry who want to ensure that their land remains in production. Another factor that has increased demand came in 2015 when Congress enacted one of the most powerful conservation measures in decades: the enhanced federal tax incentive for conservation easement donations. One area where interest in working lands easements has recently increased is southeastern Oregon, where landowners are working to protect sage grouse habitat.

About ACEP-ALE:

Federal match funding exists through the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) to secure conservation easements that protect agricultural lands in perpetuity (forever) through the Agricultural Conservation Easement Program (ACEP). ACEP was created in the 2014 Farm Bill as an updated version of the former Farm and Ranchland Protection Program (FRPP) which was also an easement program. The 2018 Farm Bill reauthorized ACEP with some amendments and authorized total program funding at \$450 million per fiscal year (FY) for FY's 2019-2023. This doubled the investment for ACEP compared to the previous Farm Bill.

ACEP provides financial and technical assistance to help conserve agricultural lands and wetlands and their related benefits. The program has two components, Agricultural Land Easements (ALE) and Wetland Reserve Easements (WRE). This testimony focuses on the ALE component.

ALEs protect the long-term viability of the nation's food supply by preventing conversion of productive working lands to non-agricultural uses. Land protected by agricultural land easements provides additional public benefits, including environmental quality, historic preservation, wildlife habitat and protection of open space.

NRCS provides financial assistance to eligible partners for purchasing ALEs that protect the agricultural use and conservation values of eligible land. In the case of working farms, the program helps farmers and ranchers keep their land in agriculture. The program also protects grazing uses and related conservation values by conserving grassland, including rangeland, pastureland and shrubland.

Eligibility:

ALEs are held by a third-party entity such as a land trust, not by NRCS and not by the private landowner. NRCS enters into an agreement with the entity to cost-share on the easement, and the entity works with the landowner to purchase the easement and protect the agricultural and natural resource values of the property.

To enroll land through ACEP-ALE, NRCS enters into cooperative agreements with eligible partners (tribes, state and local governments, and non-governmental organizations that have farm or grassland protection programs). Land eligible for agricultural easements includes cropland, rangeland, grassland, pastureland and nonindustrial private forest land. NRCS prioritizes applications that protect agricultural uses and related conservation values of the land, such as grasslands of special significance, and those that maximize the protection of contiguous acres devoted to agricultural use.

Match Funding:

NRCS can partner with a Cooperating Entity to contribute up to 50 percent of the fair market value of the agricultural land easement and may contribute up to 75 percent on Grasslands or Projects of Special Significance. The Cooperating Entity must provide an amount that is at least equivalent to the Federal share. A Cooperating Entity may include as part of its share a qualified conservation contribution (donation) from the landowner if the entity contributes its own cash resources in an amount that is at least 50 percent of the Federal share. Under no circumstances may the eligible entity acquire its minimum cash contribution through additional cash contributions, payments, fees or loans paid by the landowner.

It's important to note that an entity must demonstrate match funding at the time of application, and that NRCS Oregon's allocated funding for ACEP-ALE is determined based on the number of eligible applications received.

ACEP-ALE Implementation in Oregon:

Since ACEP-ALE was rolled out in the 2014 Farm Bill, NRCS Oregon has received 17 applications on 105,498 acres. Of those applications, 9 were enrolled in ALE's for a total of 49,540 acres.

ALE enrollments include 5 ACEP-GSS easements on 40,093 acres, providing \$6,285,100 to protect grazing lands; and 4 ALE easements on 9,447 acres, providing \$1,920,250 to protect viable agricultural lands.

Prior to the 2014 Farm Bill, the Forest Reserve Protection Program (FRPP) and Grassland Protection Program (GRP) provided match funds for easements. Utilizing those programs, Oregon enrolled 5 easements between 2003 and 2007 on 15,908 acres. FRPP was initially authorized in 1996 Farm Bill.

NRCS Oregon has received an increase in interest and applications for ALE since the program launched in 2014 Farm Bill, which has paralleled with an increase in Land Trust capacity throughout the state. Easements enrolled in Oregon have nearly doubled in the 2014 Farm Bill over the previous Farm Bills.

Table: 2014 ACEP-ALE Enrollment Agreement (obligations)

Fiscal year	ALE			ALE-GSS		
	Count	Acres	Obligations	Count	Acres	Obligations
2014	0					
2015				1	12,225	\$ 1,300,000.00
2016	2	2,181.8	\$ 372,750.00			
2017				1	3,755	\$ 450,000.00
2018	2	7,265.0	\$ 1,547,500.00	3	24,113	\$ 4,535,100.00
Total	4	9,446.8	\$ 1,920,250.00	5	40,093	\$ 6,285,100.00

Supplemental Attachments:

- ACEP-ALE Success Story featuring Wallowa County landowner Woody Wolfe
- 5 Steps to ALE brochure produced by NRCS Oregon to aid in program outreach
- ALE Powerpoint Presentation