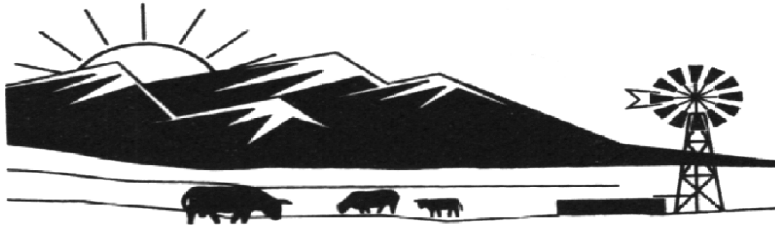


**COLORADO CATTLEMEN'S
AGRICULTURAL LAND TRUST**



PROTECTING OPEN SPACE BY PRESERVING AGRICULTURE

July 20, 2004

Easement Division
Natural Resources Conservation Service
P.O. Box 2890
Washington, DC 20013-2890

RE: Grassland Reserve Program

To Whom It May Concern:

Over 137 years ago, the Colorado Cattlemen's Association formed the first cattlemen's association in the nation. In 1995 they once again showcased their foresight by taking the revolutionary step of forming their own land trust, recognizing the need to help Colorado's ranchers and farmers. The Colorado Cattlemen's Agricultural Land Trust was created with the primary interests of the agricultural landowner in mind; a land trust of landowners, by landowners and for landowners. CCALT became the first land trust in the nation to be formed by a group of mainstream producers.

The mission of this organization is to help Colorado's ranchers and farmers protect their agricultural lands and encourage continuing production for the benefit of themselves, their families and all of Colorado's citizens. CCALT's primary emphasis is to increase awareness among landowners about the use of conservation easements as a means of protecting land and as a tool for facilitating the inter-generational transfer of productive lands. To date, CCALT partners with 81 landowners across the state in the protection of over 151,000 productive agricultural acres.

The high plains and the Rocky Mountains meet in southern Colorado. This landscape rises from 6,000 feet on the shortgrass prairie covered plains and mesas to over 13,000 feet at the top of the Spanish Peaks and Sangre de Cristo Mountains. This vast region is nearly all privately owned ranch land used for cattle production and wildlife based recreation. However, the natural beauty of the area has not gone unnoticed; significant pressure for second homes and large lot development is now fragmenting the area to the

detriment of the ranching community and wildlife that relies on these unbroken landscapes.

Shortgrass prairie stretches across the still largely untouched reaches of southeastern Colorado. Inhabiting this sensitive environ are an impressive array of diverse populations of plants and animals. This region embraces not only open space, wildlife and scenic expanses but a vibrant ranching community that has been in place for more than a century. Early settlers quickly learned that setting a plow to this land was a grave mistake and served neither the best interests of man nor the land. Modern rangeland grazing practices continue to emulate the seasonal patterns of bison, elk and pronghorn that once grazed their way across these plains.

Following on the lead of one local rancher, who protected his 28,800 acre ranch with a conservation easement in 2000, nearby landowners have been working closely with CCALT on numerous conservation easements in the area. To date, CCALT has protected more than 90,000 acres in this region and is working with other landowners in the protection of another 17,500 acres.

Many of these ranches are contiguous, providing significant blocks of protected land, a boon to ranchers and a necessity for the multitude of sensitive wildlife and plant life that abound here. Ranches in the shortgrass prairie region of southeastern Colorado are large; protecting these vitally important working lands and ecosystem in a meaningful way means working at a larger scale than seen elsewhere in the state. This is a rare opportunity to protect a major working landscape, keeping it intact for all the species that call it home.

As you might imagine, CCALT is deeply interested in this resource and was very supportive of the Grasslands Reserve Program from its inception. We were extremely pleased to see USDA's efforts to address the protection of this national treasure before urban sprawl forces this major working landscape into crisis mode. However, we have been disappointed in the recent move away from the initial intent of this legislation which was to keep the resource intact in a way that respected private property rights and supported the lifestyle and culture of the ranchers who manage the majority of this expansive land base.

Application Process:

We understand that there are some landowners who may be interested in the program the way it now stands but we believe that this approach will not net NRCS the largest bang for their very limited bucks. Currently landowners are the ones who apply for GRP funds. These one page applications provide little opportunity for NRCS to acquaint itself with larger conservation initiatives that might be occurring simultaneously. Often landowners name 3rd party land trusts as the final recipient without ever having consulted these organizations or having seen required language. This process creates unnecessary confusion and affords the land trust community zero ability to participate in the process except as a final receptacle. In the case of FRPP, it is the land trust who applies for funding, after careful conversations with the landowner, who may only be a small part of

a much larger landscape scale protection effort. This approach allows NRCS to further leverage minimal funding and to make strategic decisions based on far more comprehensive data.

Ownership of Easements:

This important addition to the most recent Farmbill was the result of a landmark partnership effort between the national livestock industry and environmental community. Created to protect America's steadily diminishing grasslands, the original intent was to allow third party land trusts to negotiate and hold easements. USDA's office of General Counsel disagrees with this interpretation of the enabling legislation, currently allowing only for the transfer of their finalized easements to qualifying conservation organizations at USDA's own discretion. This not only provides a great degree of anxiety and uncertainty for landowners but would force the receiving entity to administer the easement at its own expense, a perpetual document that it had no part in negotiating and conceivably not aligned with philosophically.

This land trust is very uneasy with this scenario and we believe that by including local land trusts the NRCS could drastically increase the effectiveness of this program. The original support and interest from within the national livestock community was based upon the idea of having a peer based, agricultural land trust as a perpetual partner.

Conservation Plan:

We believe that eliminating the ability to subdivide or develop these grasslands is the single most powerful tool in keeping this resource intact, which was the original goal of this program. Conservation plans were rejected by all the founding partners who drafted GRP. It is the stewardship and management of these private landowners who have kept this significant resource open and unbroken up till this point. It is our belief that tying these plans to GRP easements is not in keeping with the interests of GRP's conception and is a poor use of NRCS's already strained technical resources.

The objective of this program is to "maintain and *improve* plant and animal biodiversity". Clearly GRP was intended to protect, preserve, and maintain the natural resource value of enrolled grasslands. Nowhere in the statute and report does it indicate the program is intended to improve the resource. There are invaluable NRCS programs, such as EQIP, that are specifically designed to improve and enhance the vitality of grazing lands for improving forage production, water quality wildlife habitat, and plant diversity. While NRCS programs for improving the grazing land resource is an important and needed objective, GRP was not intended or created to assist landowners in enhancing their grazing resource. GRP was developed and introduced as a new and separate program to provide funds for the permanent protection and preservation of large intact native grasslands and ranches threatened by development and other conversion pressures.

We believe this requirement will severely limit landowner interest and inhibit a significant portion of landscape scale opportunities.

Reserve Interest Deed:

8833 Ralston Road ♦ Arvada, CO 80002 ♦ 303/431-6422 ♦ 303/421-1316 Fax ♦
www.ccalt.org

CCALT is deeply concerned about the use of a deed that grants all “interest” in the conserved area to USDA. Removing all these rights from the landowners is unnecessarily burdensome and should be limited to only those rights and uses which accomplish the purposes of GRP by limiting subdivision and development. Many of our landowners deeply desire to protect their lands and heritage for the next generation and are proud to make this contribution to society in general. However, they are understandably extremely cautious about having the federal government as a perpetual partner in their business operations.

Haying restrictions:

This provision which limits haying “during the nesting season” for birds “in significant decline” in local areas would introduce a great deal of uncertainty into the future of participants in GRP. Determining the length of nesting seasons may be difficult as well as facing the ever looming prospect that additional declining populations may be further identified after an agreement has been signed.

Grazing Value:

We agree that NRCS is correct in recognizing that lands enrolled into GRP may be used for other purposes. However, these other purposes should not be considered when enrolling the land or determining the rate of payment. Nowhere in the statute does it specify that payment should be based on “hunting, fishing, hiking, camping, bird watching, and other non-motorized recreational activities.” It is clear in the statute that landowners are to be paid for the “grazing value” of the land. This definition was identified because GRP was designed to support working ranches and biodiversity; twin concepts that go hand in hand. The phrase “ranching operations” was intended to emphasize that ranches actively engaged in cattle operations was to be one of the principle considerations for election into this program. Grazing should always be one of the principle means of calculation for the parcels accepted into GRP.

Landowner Notification:

It is important to remember that these easements will be in effect for 30 years or longer, which is a considerable amount of time. Even in the face of the compensation offered by GRP, landowners are still voluntarily foregoing a substantial amount of future value. CCALT feels that a more acceptable approach is to narrow USDA access to a routine monitoring visit *with permission* from the landowner or in the case of a suspected violation only *after written notification*. Is it prudent to give the USDA such broad authority in view of the fact that these actions could be occurring well after the time that all original participants may be deceased or have sold the enrolled properties?

Wind power:

CCALT agrees with USDA’s analysis of industrial wind power plants. Facilities that are commercial in nature and not intended for personal use are not authorized for the purpose for which the statute was designed.

In closing I would like to state that we fear that the present GRP guidelines set a system in place that will eventually lead to overall landowners’ dissatisfaction and

disillusionment and discourage further participation in a program that could make such a difference to the West. I regret to say that because of the present ruling barring third parties from holding and negotiating these easements and the current conditions of the Reserved Interest Deed, CCALT can not participate in the 30 year or permanent elements of this program or encourage the landowners we partner with to do so either.

CCALT has worked closely with our state NRCS technical committee in determining criteria and I wish to express my great respect and appreciation for the Colorado program. In all dealings, they exhibit sensitivity and respect for both the landowner and the land. They possess an immense awareness of the larger picture and the unparalleled potential of land conservation in Colorado. They are truly representative why past Farmbill programs have been so successful in this state.

I am grateful for the opportunity to address our concerns about GRP. I appreciate the opportunity for ongoing dialogue regarding the Grasslands Reserve Program and look forward to further discussion that will guide its ability to be a force in not only protecting this nation's grasslands but in the preservation of the culture and management skills of the individuals who inhabit them.

Most sincerely,

Lynne Sherrod
Executive Director
Colorado Cattlemen's Agricultural Land Trust