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Application Instructions for Fiscal Year 2024 Funding Cycle

A landowner may apply at any time in the year. The County's application deadline for NRCS matching funds typically is in the beginning of October of each year.

Minimum property size: The Board generally will not consider properties under 20 acres but may consider special circumstances on a case by case basis, for example, parcels with exceptional conservation value that abut protected lands.

Preliminary Application Steps

When you have decided to convey a conservation easement on your property to the Jefferson County Farmland Protection Board, you may pick up our Program Book at our office at 1948 Wiltshire Road, Kearneysville, WV, or visit the website at www.jefferson.wvfp.org and view the Downloads section for the Program, application, and other pertinent information.

Next, make an appointment with the Program Director, Elizabeth Wheeler, to review the details of a conservation easement, the application process and to receive forms to complete the application.

At this stage, you will consider the details of the conservation easement and how it will be applied to your property, and whether to proceed with an application.

Legal and Financial Counsel: The Board strongly recommends that applicants to the Farmland Protection Program seek legal and financial counsel. The Board is unable to provide legal or financial advice.

Funding Options: The Jefferson County Farmland Protection Board typically selects the top-ranking applicants for funding and will pay up to fifty percent (50%) of the appraised value of the conservation easement. Funding decisions are made on a case-by-case basis. The Board also accepts donations of qualifying easements. If you are donating at least half the value of the easement, and no federal funds are involved, the Board can move more quickly to close the easement purchase.

If you are seeking full funding for the purchase of your conservation easement, there are two federal agencies that may fund easements in Jefferson County: The USDA Natural Resources Conservation Service and the American Battlefield Protection Program. Both agencies may pay up to fifty percent (50%) of the appraised value of the conservation easement.

We encourage you to familiarize yourself with the NRCS conservation easement terms, and the requirements. You may review the deed template posted on the NRCS website: www.nrcs.usda.gov/wps/portal/nrcs/main/wv/programs/easements/acep/. The Program Director can provide a paper copy. In addition, you may contact the NRCS District Conservationist Tim Canfield to request an assessment of the agricultural conservation practices that may be required for your property. The NRCS office phone: 304-263-7547 x3

Landowners with property in one of the five Civil War battlefields in Jefferson County may be eligible to apply to the American Battlefield Protection Program (ABPP). To learn more about the program you may request a copy of “*Protecting Land and Battlefields in Jefferson County, West Virginia: A Landowner’s Guide*” or view the electronic copy of the guide on the Board’s website: jefferson.wvfp.org.

Jefferson County Application Form Instructions

Answer questions as well as you can. The form may ask for information you may not know, such as soil types and natural features of the property. We will help research the unanswered questions and help you complete the application. Feel free to contact us with your questions.

Property Information: Consult your property tax bill to confirm the tax district, map and parcel numbers for your property. The Deed Book and Page number for your property deed verifying ownership must be correct.

- Every deed must have a survey or plat to go with it and accompanying metes and bounds. If the property is offered for application in its entirety and there is an existing, current plat then there is no need for a survey.
- The applicant must be the owner(s) of the property, as identified in the property deed. An applicant may apply with an option to buy the property, signed by the seller, which stipulates the timeframe for the purchase, and the purchase amount per acre.
- Please list all owners who are on the property deed. All owners must sign the application.
- If possible, provide mobile phone numbers and email addresses so we can contact you quickly.
- If the property is owned by a corporation, limited liability partnership or other entity, consult the business documentation to determine which individuals must sign. In addition, please provide a copy of your business documentation and documentation of signatory authority, such as a copy of a board resolution.

Property offered for a Conservation Easement: Please indicate the total acreage of the property, and the number of acres you wish to place under easement. If you plan to place the entire property under easement, the offered area and total area should be the same.

The Farmland Protection Board will typically consider the following as part of the easement:

- A residential parcel within the easement for an existing residence or for a residence to be built in the future.
- One or more farm complex areas to accommodate future construction related to the agricultural use of the land.

If you wish to exclude some portion of the property from the conservation easement, the Board will not pay for the exempt acreage and it will not be subject to the terms and conditions of the easement.

Be sure to check with the Planning and Zoning Office to confirm any subdivision rights you may have for your property.

If you intend to exclude acreage from the property you are offering for the easement, you must provide a drawing or map showing the location and acreage of the proposed exemption area. Please be aware that the Board typically will not accept an offer where a proposed exemption area is surrounded by the proposed easement (i.e. a “doughnut hole” or island).

Asking Price for the Easement: By law, the Board and its federal funding partners may not pay more than the appraised value for a conservation easement, which is determined by an appraisal that conforms to the Uniform Appraisals Standards for Federal Land Acquisitions (UASFLA or Yellow Book).

Restricted Use Appraisal: The applicant must obtain a restricted use appraisal from a certified appraiser when the application is first submitted (the applicant pays for this initial appraisal). This preliminary appraisal will determine the value that can be expected for the easement on the property. A qualifying “Yellow Book” appraisal (discussed later in this document) will be conducted if the application is accepted. The Board pays for the qualifying appraisal.

If the Board accepts your property for funding, it will pay the asking price submitted in your application provided that the qualifying appraisal supports that price. If your final appraisal results in a higher price than your asking price, the difference may be considered a donation. You are strongly encouraged to discuss this possibility with your tax advisor to determine if it could be used to reduce your federal taxes.

The Board reserves the right to make a counter-offer to the landowner in the event that adequate funds are not available to purchase all properties with outstanding offers. Such counter-offers shall be made in writing to the applicant. The applicant shall have sixty days to accept the offer through the submission of a revised offer in the form of a revised application. The absence of a revised application within the sixty days shall be deemed as a rejection of the counter-offer.

Farm Use Valuation Application: This is the document farmers must submit to the Jefferson County Assessor prior to September of each year in order to receive farm use valuation on their property. The form must be for the current year (2023) and must be approved by the Assessor’s office.

Mortgages and Liens: The Board needs to know about existing liens, including mortgages, that may involve your property. If your property is selected for funding, the lender must subordinate the lien prior to closing. This is not required for the application, but in order for the application to go forward for funding, it is important to confirm that your lender will agree to subordination.

Official Contact: If there are two or more owners of the property, one person must be authorized as the official point of contact. The Board expects that this individual will communicate all important information between the Board and the other property owners.

Signatures: For property owned by one or more individuals, everyone on the deed must sign and date the application form. If the property is owned by an entity such as a corporation or LLC, the authorized signatories must sign and date the application.

Applications for Federal Matching Funds

- If the property is accepted at the county level, and you are seeking full funding, the Board will submit an application for the property to NRCS for matching funding, or to ABPP, if applicable.

Natural Resources Conservation Service (NRCS)

- If applying for matching funds from NRCS for the **Agricultural Land Easement Program (ALE)** or the **Regional Conservation Partnership Program (RCPP)**: On or shortly after October 1, applicants must visit the FSA office on 3rd Avenue in Ranson to sign up to become “Farm Bill eligible,” (in other words, qualified to receive federal funds). ALL persons on the deed of the property or with an undivided interest in the property, or all persons having ownership in a corporation that owns the property must sign up for eligibility. FSA will assist with required forms including: CCC-902, CCC-941, AD-1026.
- **Regional Conservation Partnership Program (RCPP)** is a conservation program authorized by the 2014 Farm Bill. It is similar to the Agricultural Land Easement (ALE) program that the NRCS uses to purchase conservation easements on working farms. RCPP emphasizes conservation values that protect streams and creeks, springs, sinkholes and caves, and mature forests that help maintain good water quality – both for the Potomac River and its tributaries, as well as for the Chesapeake Bay.

The Board submits its county applications to NRCS by November 1st. Typically, NRCS announces its selections in June of the following year.

American Battlefield Protection Program (ABPP)

Qualified agricultural properties that lie within one of Jefferson County’s five Congressionally-recognized Civil War battlefields may be submitted for conservation funding through the ABPP. The ABPP considers properties on a rolling basis. ABPP easements allow farming practices but do not permit any construction on or significant alteration of the protected lands. Existing structures built after the Civil War must be excluded from the easement. Therefore, landowners must carefully consider what portions of their land they wish to submit for the application.

When Your Property is Selected for Funding:

After a property has been accepted at the county level for local funding or for application for federal matching funds:

1. After an easement application to the Board has been funded the Board will send an acceptance letter that the landowner must sign and return. Next, the landowner, if he or she chooses, may designate a co-holder (see co-holder policy on page 6.)

2. A title search will be conducted. Any problems with mortgages or liens or other encumbrances on the property must be addressed by the property owner before the funding can be transferred. If there is a loan on the property, the lien holder must subordinate the loan, and the subordination agreement document will be recorded with the deed.

When the funding commitment is made to purchase the easement on the property:

1. A Deed of Conservation Easement will be prepared by the Board (and the federal funding partner, if involved) detailing the rights and restrictions concerning the permanent conservation easement. The landowner (and landowner's legal counsel) will review the document, and work with Board on specific terms of the easement particular to the property. If there is a co-holder, they will also review the document.
2. A thorough "**Baseline**" documentation of the property will be completed which provides a description of the conservation values and condition of the property at the time the easement is placed on it to be used for future monitoring. Once a property is under easement, it will be monitored once a year to note legal changes and /or to confirm that no violations have occurred. The Board will pay for the Baseline report.
3. A current and thorough appraisal that conforms to Uniform Appraisal Standards for Federal Land Acquisition (UASFLA or "Yellow Book") will be completed by an appraiser certified to perform conservation appraisals. Qualifying appraisals are good for one year. The Board will pay for the Yellow Book appraisal. If the appraisal expires before closing, the Board will pay for subsequent re-appraisals.
4. The appraisal is sent for review and approval to a qualified independent appraiser. This review is required to ensure that proper standards are met, and that the property is eligible for protection. The appraisal figures are NOT final until after the review approval is received.
5. The deed, survey and description will be approved for recordation by the Jefferson County Planning and Zoning Department and the County attorney.
6. The above documentation will be examined by the attorney for the Board and a thorough and detailed title search will be conducted with the goal of obtaining title insurance for the Board. All the above documentation will be reviewed and approved by the Board, the NRCS or ABPP and the County Commission.
7. Funds provided by the Board will be transferred to an escrow account set up by the closing attorney. Funds provided by the NRCS or through the State Agricultural Lands Protection Authority will be ordered by Form SF270 and when approved will also be transferred to the escrow account. A draft settlement sheet will be required to submit with the form SF270.
8. When the above approvals have been secured, a closing date will be set for all parties involved to sign the appropriate documents, including the Deed of Easement, the Baseline Documentation, and other required documents.
9. Funds will be distributed by the Board's attorney from the escrow account. The funds will be distributed according to instructions given by the property owners.

Co-holder Policy

The Board's Deeds of Conservation Easement are held and administered locally, here in Jefferson County. The Board may include a co-holder on each easement it holds. A co-holder is an easement holder that jointly holds title to an easement with another holder; the easement can be enforced by either holder. The Board is the lead, or primary, holder on most of its easements. In some cases, the Board may serve as the co-holder. The Board's co-holders are non-governmental, nonprofit conservation organizations, recognized by the State of West Virginia and licensed to operate in the state.

After an easement application to the Board has been funded the Board will send an acceptance letter that the landowner must sign and return. The landowner may elect to designate a co-holder. In order to accept the responsibility of defending the easement in perpetuity, the co-holder will ask the applicant to provide a one-time contribution to defray future legal expenses related to the property. The fee depends on the size and complexity of the property, but typically is \$3,000. The fee is tax-deductible.

While the Board's primary focus is to protect agricultural land, many of the properties that it holds contain a variety of conservation values, such as important water resources, significant natural habitat, or battlefield lands. In such cases, the Board may collaborate with co-holders that focus on protecting these conservation values. Each co-holder has its own policies and procedures for fulfilling its stewardship responsibilities.

Holder (Formal Definition): A grantee in the Deed of Conservation Easement defined as (a) a governmental body empowered to hold an interest in real property under the laws of the state of West Virginia; or (b) a charitable corporation, charitable association or charitable trust registered with the Secretary of State and exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, or other federal or state statutes or rules, the purposes or powers of which include retaining or protecting the natural, scenic, agricultural or open-space values of real property; assuring the availability of real property for agricultural, forest, recreational or open-space use; protecting natural resources and wildlife; maintaining or enhancing land, air or water quality; or preserving the historical, architectural, archaeological or cultural aspects of real property.