



United States Department of Agriculture  
Office of Inspector General





United States Department of Agriculture  
Office of Inspector General  
Washington, D.C. 20250



DATE: March 14, 2012

AUDIT  
NUMBER: 10703-0003-KC

TO: Dave White  
Chief  
Natural Resources Conservation Service

ATTN: Lesia Reed  
Deputy Chief  
Strategic Planning and Accountability

FROM: Gil H. Harden  
Assistant Inspector General  
for Audit

SUBJECT: American Recovery and Reinvestment Act, Emergency Watershed Protection  
Program Floodplain Easements, Easement Applications on Non-Agricultural  
Land

This report presents the results of our audit of the American Recovery and Reinvestment Act, Emergency Watershed Protection Program Floodplain Easements, Easement Applications on Non-Agricultural Land. The agency's February 23, 2012, written response to the official draft report is included in its entirety with excerpts and the Office of Inspector General's position into the relevant sections of the report. In its written response to the official draft report, the agency concurred with the findings and recommendations in the report. Based upon your response, we have accepted management decision for all recommendations in the report. Therefore, no further action by your agency to this office is required.

Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer. Also, please note that Departmental Regulation 1720-1 requires final action to be completed within 1 year of the date of management decision to preclude being listed in the Department's annual Performance and Accountability Report.

We appreciate the courtesies and cooperation extended to us by members of your staff during the review.



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# American Recovery and Reinvestment Act, Emergency Watershed Protection Program Floodplain Easements, Easement Applications on Non-Agricultural Land

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## Executive Summary

When Congress enacted the American Recovery and Reinvestment Act of 2009 (Recovery Act), it allocated \$145 million to the floodplain easement (FPE) component of Natural Resources Conservation Service's (NRCS) Emergency Watershed Protection Program. Through FPE, NRCS acquires conservation easements from eligible landowners in order to restore floodplains to their natural condition. NRCS also funds the restoration activities, which often involve removing impediments from the watershed that pose a risk to life or property during floods. NRCS received 4,252 applications for FPE projects totaling \$1.4 billion.

Through our previous audit, we ascertained that in three States—Alaska, Ohio, and West Virginia—NRCS acquired easements on some relatively small tracts of land in residential areas for a relatively high per acre cost.<sup>1</sup> We also concluded there were inadequate internal controls over the process of acquiring permanent easements, especially the acquisition of easements on lands that included substantial structures. Although NRCS typically acquires easements on frequently flooded agricultural lands, FPE eligibility is not limited to agricultural lands and these three States opted to use Recovery Act funds to purchase easements on lands that had houses on them. Due to potential concerns about the cost benefit of these easements, a lack of agency procedures specific to these types of transactions, and the requirement that Recovery Act-funded programs achieve a high degree of accountability for expenditures, we initiated this audit to further assess NRCS' policies and procedures for acquiring easements with residences and other structures on the land. We conducted field visits prior to the removal of buildings from the easement areas.

Overall, through our review of 17 easement sites located in Ohio and West Virginia and 18 case files from the three States, we found that NRCS' policy at the time it acquired these easements with buildings was inadequate. NRCS signed option agreements with landowners in which landowners agreed to convey buildings and fixtures to the United States for a set price, and the agreements prohibit the landowners from diminishing the property's values.<sup>2</sup> However, NRCS allowed seven landowners to strip fixtures and salvageable construction materials or remove buildings on easements in ways that raised questions about whether NRCS incurred any potential liability and whether the removal impacted valuation of the easements. This occurred because NRCS did not have an adequate policy that defined and restricted what landowners were allowed to remove from buildings situated on the easements after the price for these easements was established but before properties transferred to NRCS. As a result of deficiencies in NRCS'

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<sup>1</sup> Audit Report 10703-1-KC, "American Recovery and Reinvestment Act – Emergency Watershed Protection Program Floodplain Easements Phase 1," issued October 2010. The average small-tract easement cost to NRCS was about \$150,000 per easement or \$130,000 per acre. Generally, costs associated with easements average less than \$4,000 per acre.

<sup>2</sup> OIG will assess the effectiveness of fund use in a subsequent audit.

policies, for example, one landowner was allowed to, effectively, sell a \$197,000 house to NRCS, keep it by moving it to another lot, and also receive assistance from NRCS for the house-moving costs. We conclude that NRCS needs to develop internal controls over its processes for acquiring easements with buildings.

When NRCS used Recovery Act funds to acquire easements on small non-agricultural lands with residential dwellings, it relied on its existing FPE policies and procedures, which were focused upon transactions on agricultural lands without residences. Subsequent to our field visits for this audit, NRCS developed its policies and procedures for non-agricultural lands. It did this in response to our prior audit (Audit 10703-1-KC, issued on September 8, 2010), in which we made a number of recommendations, to include establishing comprehensive procedures to address the purchasing of easements on residential home sites, consulting with the Office of the General Counsel to determine appropriate valuation procedures, and revisiting NRCS policy for purchasing easements on small tracts of land where the costs of acquiring and demolishing homes are high. The policies and procedures for non-agricultural lands that NRCS has since developed have clarified its policy for compensating landowners for the residential dwelling by requiring that a project sponsor must be willing to purchase the fee title of the land subject to the easement, and that an appraisal be conducted to determine the easement's value.

## **Recommendation Summary**

In addition to the changes already implemented, NRCS needs to consult with the Office of the General Counsel and reassess whether it is in the Government's best interest to determine that the removal of fixtures and salvageable materials from residences prior to easement closing is not in breach of its purchase agreement and whether such determination results in any liability for NRCS if the easement is not closed. Additionally, NRCS should reevaluate such policy in light of the potential savings to the Government if fixtures and materials remained in place and restoration contractors could lower their potential bid based upon the availability of salvageable materials.

NRCS should also review whether, in its determination that such removal is not in breach of the purchase agreement, certain additional restrictions or policy criteria should be adopted, including the establishment of comprehensive guidance that requires homes to be maintained in a safe condition; defining or restricting salvageable items; establishing threshold levels of value where NRCS would or would not authorize the removal of fixtures; and addressing reduced contract costs for demolishing and removing homes by allowing contractors to take possession of salvageable materials and benefit from their sale in order to lower bid prices.

## **Agency Response**

In its February 23, 2012, response to the official draft report, NRCS addressed actions taken and planned regarding each audit recommendation and the proposed completion dates on each of the recommendations. The NRCS written response to the official draft report is included at the end of this report with excerpts and the Office of Inspector General's (OIG) position incorporated into relevant sections of the report.

## **OIG Position**

Based on NRCS' response, we accept management decision on all of the report's three recommendations.



## Background & Objectives

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### Background

Within the United States Department of Agriculture, NRCS is responsible for managing and protecting floodplains in the interests of conservation and safety.<sup>3</sup> NRCS works with private landowners to help them conserve, maintain, and improve their natural resources. Through FPE, NRCS purchases rights to property in floodplains from landowners. With these property rights, the Government can better manage the floodplain, conserve natural values, and reduce the potential need for Federal disaster assistance payments on frequently flooded lands.<sup>4</sup>

Landowners who sell easements to NRCS voluntarily agree to transfer control of the surface estate of the land to the Government in exchange for compensation. The landowner reserves the right to record title, the right to control public access, the right to quiet enjoyment, the right to subsurface mineral rights provided access is from outside the easement area, and the right to undeveloped recreational use. Following the purchase of an easement, NRCS restores the land to its natural condition and function as much as is practicable. NRCS will reimburse up to 100 percent of the restoration costs. Restoring the land often involves removing impediments to the floodplain, and can include moving or demolishing structures on the land. Historically, structures on land selected for easements have tended to be relatively insubstantial, such as fences or sheds. However, when operating FPE with Recovery Act funds, NRCS offices in three States (Alaska, Ohio, and West Virginia) decided to purchase easements on lands that had substantial buildings on them.

In March of 2009, NRCS State offices began accepting applications from landowners who wanted NRCS to consider purchasing easements on their properties. NRCS' State offices ranked the eligible applications they received, developed project showcases to document the benefits of top-ranked projects, and then submitted their rankings to NRCS Headquarters, where final selections were made.

### Objectives

This audit assessed NRCS' process for acquiring buildings on easements from the time NRCS received FPE applications until Option Agreements to Purchase were signed.

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<sup>3</sup> The Watershed Protection and Flood Prevention Act of 1954, as amended, authorized NRCS to cooperate with States and local agencies to carry out works of improvement for soil conservation and for other purposes, including flood prevention, conservation, development, utilization and disposal of water, and proper utilization of land. The Federal Agriculture Improvement and Reform Act of 1996 amended the Emergency Watershed Program to allow NRCS to provide for the purchase of floodplain easements as an emergency measure. Public Law (P.L.) 104-127, section 382.

<sup>4</sup> The Secretary of Agriculture is authorized to undertake emergency measures, including the purchase of floodplain easements, for runoff retardation and soil erosion prevention, in cooperation with landowners and land users. P.L. 81-516, section 216 (as amended); P.L. 83-566; P.L. 104-127, section 382.

We conducted this audit as one part of our overall Recovery Act-related effort to determine whether:

- programs are timely and effectively implemented;
- proper internal control procedures are established;
- program participants meet eligibility guidelines;
- participants properly comply with program requirements; and
- agencies establish effective compliance operations.

## Section 1: Floodplain Easements

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### Finding 1: NRCS' Ad Hoc Policy for Acquiring Easements with Buildings is Inadequate

Although NRCS and owners of land with buildings signed agreements that prohibited the devaluing of property where NRCS was purchasing an easement, NRCS allowed at least 7 of 17 owners to remove the building or parts of the buildings on these lands, thereby potentially affecting the value of the land subject to the easements.<sup>5</sup> This occurred because NRCS relied on its existing policies and procedures, which were geared to acquiring easements on agricultural lands without inhabited buildings, and permitted all building owners to remove anything they wanted from the buildings after the purchase price was set. Particularly, NRCS has not developed national procedures related to the issue of whether owners could remove fixtures from buildings prior to easement closing.<sup>6</sup> As a result of this lack of consistent comprehensive NRCS policy, some landowners removed fixtures from buildings optioned to NRCS for a set purchase price. For instance, some landowners stripped buildings of basic construction materials, including copper plumbing pipes and kitchen cabinets, with one landowner removing an entire house NRCS had purchased for \$197,000. Additionally, the removal of these fixtures and/or structures could create potential safety hazards and NRCS should clarify to landowners that any liability for such removal is theirs.

When landowners enroll a property in FPE by signing an Option Agreement to Purchase, they agree to a set price at which they will sell NRCS an easement to their land as well as all structures on the land, including buildings, fixtures, and fences. Aside from normal activities—the agreement mentions farming, pasturing, and grazing—landowners also agree not to take any action that would diminish the property's value. If both parties continue with the sale, the easement purchase concludes when the Warranty Easement Deed is filed (closing).<sup>7</sup>

Because NRCS recognizes that acquiring easements takes time and does not always reach completion, the agency has a formal policy that allows landowners to conduct activities they would normally undertake on land between the date it is enrolled in FPE and the date the easement purchase is complete.<sup>8</sup> All of the examples of “normal” activities mentioned in the policy relate to agricultural operations, such as farming. However, as owners moved out of houses that were subject to a pending offer from NRCS to purchase a conservation easement, how to address questions about pre-closing removal of fixtures by landowners became an issue.

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<sup>5</sup> Buildings are residential or commercial structures of greater significance than the fences and incidental farm structures that NRCS refers to in the Emergency Watershed Protection Program Manual Circular 2.

<sup>6</sup> NRCS has not detailed what items owners were allowed to remove from buildings. For the purposes of this report, “fixtures” refers to the items that landowners removed from these buildings. This is a loose definition, since landowners removed not just personal property but also attachments to the building including basic construction materials (i.e. fixtures attached to the house), as well as an entire building.

<sup>7</sup> Emergency Watershed Protection Program Floodplain Warranty Easement Deed (NRCS-LTP-20).

<sup>8</sup> Land is considered enrolled in the program when the Option Agreement to Purchase is signed. The transaction is complete after closing, and the filing of the Warranty Easement Deed. The interval between enrollment and closing can take weeks or even months.

Due to confusion about whether the Option Agreement to Purchase prohibited removing fixtures, a participant asked NRCS to clarify whether landowners could do so. In an email, an official at NRCS Headquarters responded: “They can take whatever they wish” prior to closing. The official stated that landowners were free to do this since the structures were to be demolished after NRCS acquired the easement. NRCS emphasized that removal activities needed to be complete prior to closing and stipulated that the agency would secure the property at closing. NRCS’ letter to this participant reaffirmed this policy and went further by implying that homeowners were free to salvage building materials from the houses.<sup>9</sup> This communication served as the basis for a national policy concerning the types of activities landowners with buildings were permitted to conduct between easement enrollment and closing.<sup>10</sup> NRCS indicated that allowing homeowners to remove items would lessen the amount of material that would end up in a landfill but did not consider that the salvaged material removed from the homes could have value to a demolition contractor.

While this ad hoc policy clarified that NRCS did not have an interest in the housing fixtures, it does not provide sufficient clarity about whether removing fixtures impacts the ongoing real estate transaction. In particular, unless clarified that NRCS “authorization” is limited to a determination that the landowner would not be in breach of the Option Agreement to Purchase, landowners may presume that such authorization was equivalent to final NRCS concurrence on the easement transaction, thus creating potential liability if NRCS did not complete the easement transaction for title or other programmatic reasons. For instance, the legal boundary survey that must be accurately and acceptably completed on all enrolled easements prior to closing could provide information that could stop NRCS from deciding to continue, or additional environmental concerns could become known. If NRCS pulled out, landowners would face a loss, particularly if they had salvaged building materials which damaged the houses, as at least seven of the owners in our sample did. In effect, landowners, by proceeding to salvage building materials, might consider the NRCS determination as a guarantee that NRCS would not pull out of the financial transaction prior to closing.

Landowners acted upon NRCS’ determination in various ways, and for various interests. Some removed large appliances from the houses, as sellers sometimes do in housing sales. Others conducted more extensive salvage activities such as stripping their houses of fixtures including doors, furnaces, plumbing, etc. NRCS may be able to negotiate less costly contracts for structure removal if salvageable materials are left for the contractor. We found that the Federal Emergency Management Agency provides that debris removal contracts may allow the contractors to take possession of salvageable material and benefit from its sale in order to lower bid prices.

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<sup>9</sup> The letter suggested that the owner might use the services of a salvage company to dismantle parts of the buildings.

<sup>10</sup> We found copies of this exchange in other States, demonstrating that it had national policy force.



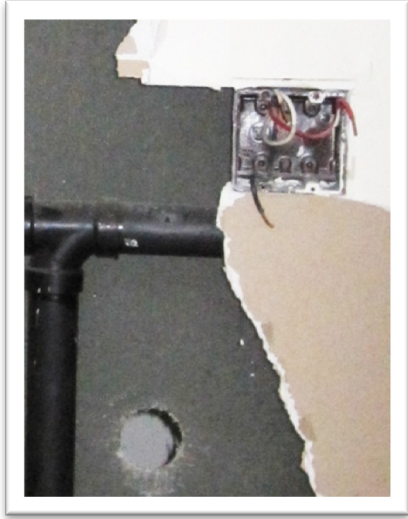


**Figure 1: building stripped of plumbing pipes**



**Figure 2: kitchen stripped of cabinets, with sink removed from counter**

Removal of fixtures from partially or completely damaged buildings may create a safety hazard to trespassers, and NRCS should clarify to landowners that they are liable for any accident that occurs on the property either pre- or post-closing (i.e. the landowner remains responsible for controlling public access even after easement closing, so they must institute reasonable safeguards to prevent trespassing, etc.). The conditions we observed during our on-site visits demonstrate that some salvage activities stripped houses so extensively that the homes were damaged to the degree they were potential safety hazards. We noted that the combined removal of items such as doors and drywall as well as the stripping of light fixtures may create a safety hazard, particularly since electrical wires were left damaged and exposed (see figures 3 and 4).



**Figure 3: open junction box with uncapped wires**



**Figure 4: damaged wires leading to open electrical outlet**

NRCS should consider reducing reimbursement for demolition and removal costs if valuable salvageable materials (copper pipes, doors, windows, cabinets, etc.) remain in the homes and can be professionally and safely removed by the demolition contractor.

Also, we found that one NRCS State office broadly interpreted this policy to allow a landowner to retain the entire home as salvageable material yet NRCS was obligated to pay the homeowner \$197,000 for the house value. NRCS also paid the landowner the amount it estimated it would pay a contractor to demolish and remove the home which facilitated the homeowners moving the entire house to another lot. NRCS believed that as long as it did not pay any more than it estimated for demolition and removal, this was a cost-neutral way for NRCS to restore the land to its original condition.

If NRCS intends to allow landowners to salvage household components from houses it acquires, it needs to be proactive in developing a policy that defines and restricts building-related activities permitted during the various stages of the easement acquisition process. Without clear guidelines about who owns the components of the buildings that NRCS acquires with easements, and about removing them, significant aspects of the easement acquisition process are ambiguous. Parties risk having the values of their property diminished, and buildings can become hazardous. Clarifying NRCS' easement acquisition policy and procedures would strengthen its ability to protect the interests of all parties involved. Furthermore, we recommend that NRCS seek the Office of the General Counsel's assistance in developing policy related to the removal of items from property being acquired by NRCS prior to easement closing and clearly defining liability issues.

## **Recommendation 1**

Consult with the Office of the General Counsel on the development and review of policy regarding removing fixtures and salvageable materials from a safety, valuation, and liability perspective.

### **Agency Response**

NRCS will review its policy regarding the removal of fixtures and salvageable materials in consultation with the OGC [Office of the General Counsel], and make appropriate policy adjustments in response to any legal advice related to safety, valuation, or liability concerns by June 30, 2012.

### **OIG Position**

We accept management decision for this recommendation.

## **Recommendation 2**

Reassess NRCS policy to determine whether 1) it is not a breach of the easement purchase agreement for the landowner to remove fixtures or items of value in dwellings prior to the easement closing; 2) such determination imposes any liability on NRCS if fixtures/materials are removed prior to easement closing in the event that NRCS does not close the easement; and 3) revisions are needed to the Option to Purchase Agreement executed by NRCS, to clarify what can and cannot be removed from the property prior to easement closing and to address landowner liability and assumption of risk for such salvage activities, if allowed.

### **Agency Response**

NRCS believes this recommendation is a more detailed version of Recommendation 1 as it relates to the valuation and liability concerns identified above. NRCS will revise its easement purchase agreement by September 30, 2012, to: 1) identify when the removal of fixtures or other salvageable materials prior to closing is a breach of the easement purchase agreement; 2) limit the salvageable materials to those items that have little value, and do not further impinge the integrity of the structure; 3) specify that if authorized, the removal of such fixtures or other salvageable materials is at the risk of the landowner should the easement purchase not be completed; and 4) provide that the landowner is responsible for any liability resulting from the landowner's activities, including whether the removal of fixtures and other salvageable materials creates a hazardous or otherwise dangerous condition on the easement area to be purchased.

### **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 3**

Establish comprehensive guidance that requires homes to be maintained in a safe condition; defining or restricting salvageable items; establishing threshold levels of value where NRCS would or would not authorize the removal of fixtures and materials; and addressing reduced contract costs for demolishing and removing homes by allowing contractors to take possession of salvageable materials and benefit from their sale in order to lower bid prices for home demolition.

### **Agency Response**

NRCS will establish comprehensive guidance in the Emergency Watershed Protection Program Manual, currently under development, regarding the acquisition of conservation easements on land that has residential structures by September 30, 2012. The guidance will identify criteria to evaluate easement offers on land with residential structures and determine whether the enrollment of such land furthers the applicable conservation purposes. Additionally, the manual updates will consider whether NRCS should determine that a landowner who removes fixtures or other salvageable materials prior to easement closing is in breach of their easement purchase agreement, and if determined not to be a breach of the agreement, establish threshold levels of value or other criteria for determining when such determination of non-breach is appropriate. In the development of such thresholds or other criteria, NRCS will consider whether easement restoration costs would be effectively reduced if NRCS could solicit bids from contractors who were able to take possession of salvageable materials prior to the demolition of the structure.

### **OIG Position**

We accept management decision for this recommendation.



## Scope and Methodology

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In order to assess NRCS' management controls over acquiring buildings on easements, we evaluated NRCS' process for acquiring buildings on easements from the time it received an FPE application until the Option Agreements to Purchase were signed.

We conducted our audit at NRCS Headquarters in Washington, D.C.; NRCS State offices in West Virginia and Ohio; and NRCS' area office in Beckley, West Virginia. At the audit sites, we interviewed NRCS' national, State, and area officials about the program's resources, and about Recovery Act-related compliance activities, internal controls, and procedures for approving applications for easements purchased with Recovery Act funds. We also obtained information from the applicable county tax assessment offices. We performed our audit fieldwork from February 2010 through April 2011.

We identified that 30 easement projects with buildings in three States – Alaska, Ohio, and West Virginia—were active at the time of our audit. We selected 16 projects for case file reviews and on-site visits, judgmentally selecting them based on travel considerations. We also judgmentally selected one case file in Alaska for review, and one non-building easement in Ohio for review and an on-site visit.

During on-site visits, we accompanied NRCS floodplain easement program coordinators as they visited the 10 easements with buildings in West Virginia, and 6 easements with buildings and 1 non-building easement in Ohio.

To accomplish our objectives, we

- reviewed the program's Recovery Act plan, pertinent regulations, policies, procedures, internal and external guidance (e.g., agency handbooks and Office of Management and Budget publications), and internal controls;
- interviewed 15 program participants in Ohio and West Virginia;
- interviewed officials at State and national NRCS offices;
- reviewed a total of 18 case files; and
- conducted 17 site visits.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Abbreviations

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FPE.....	Floodplain Easements
NRCS .....	Natural Resources Conservation Service
OIG .....	Office of Inspector General
P.L.....	Public Law
Recovery Act .....	American Recovery and Reinvestment Act of 2009
USDA.....	Department of Agriculture



**USDA'S**

**NATURAL RESOURCES CONSERVATION  
SERVICE**

**RESPONSE TO AUDIT REPORT**



United States Department of Agriculture



Natural Resources Conservation Service  
P.O. Box 2890  
Washington, D.C. 20013

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February 24, 2012

SUBJECT: SPA - Natural Resources Conservation Service (NRCS) Responses to American Recovery and Reinvestment Act, Emergency Watershed Protection Program Floodplain Easements, Easement Applications on Non-Agricultural Land Audit (10703-3-KC)

TO: Gil H. Harden File Code: 340  
Assistant Inspector General for Audit  
Office of Inspector General

Attached are NRCS' responses to Audit - 10703-3-KC, American Recovery and Reinvestment Act, Emergency Watershed Protection Program Floodplain Easements, Easement Applications on Non-Agricultural Land Audit (10703-3-KC), official draft report. The responses address the actions taken and planned regarding each audit recommendation and the proposed completion dates.

If you have questions, please contact Leon Brooks, Director, Compliance Division, at (301) 504-2190, or email at [leon.brooks@wdc.uds.gov](mailto:leon.brooks@wdc.uds.gov).

/s/

Dave White  
Chief

Attachment

cc: (w/attachment)

Homer L. Wilkes, Acting, Associate Chief, NRCS, Washington, D.C.

Anthony J. Kramer, Deputy for Programs, NRCS, Washington, D.C.

Lesia A. Reed, Deputy Chief, Strategic Planning and Accountability, NRCS, Beltsville, MD

Leon Brooks, Director, Compliance Division, NRCS, Washington, D.C.

Laurie Ristino, Acting, Director, Easement Programs Division, NRCS, Washington, D.C.

**Agency Response - Report Title and Number: American Recovery and Reinvestment Act, Emergency Watershed Protection Program Floodplain Easements, Easement Applications on Non-Agricultural Land, Audit 10703-3-KC**

**Recommendation 1**

Consult with the Office of the General Counsel (OGC) on the development and review of policy regarding removing fixtures and salvageable materials from a safety, valuation, and liability perspective.

**Agency Response:**

NRCS will review its policy regarding the removal of fixtures and salvageable materials in consultation with OGC, and make appropriate policy adjustments in response to any legal advice related to safety, valuation, or liability concerns.

**Estimated Completion Date:**

June 30, 2012.

**Recommendation 2**

Reassess NRCS' policy: 1) that determines that it is not a breach of the easement purchase agreement for the landowner to remove fixtures or items of value in dwellings prior to the easement closing; 2) whether such determination incurs any liability on NRCS if fixtures/materials are removed prior to easement closing in the event that NRCS does not close the easement; and 3) if revisions are needed to the Option to Purchase Agreement executed by NRCS to clarify what can and cannot be removed from the property prior to easement closing and addressing landowner liability and assumption of risk for such salvage activities, if allowed.

**Agency Response:**

NRCS believes this recommendation is a more detailed version of Recommendation 1 as it relates to the valuation and liability concerns identified above. NRCS will revise its easement purchase agreement to: 1) identify when the removal of fixtures or other salvageable materials prior to closing is a breach of the easement purchase agreement; 2) limit the salvageable materials to those items that have little value, and do not further impinge the integrity of the structure; 3) specify that if authorized, the removal of such fixtures or other salvageable materials is at the risk of the landowner should the easement purchase not be completed; and 4) provide that the landowner is responsible for any liability resulting from the landowner's activities, including whether the removal of fixtures and other salvageable materials creates a hazardous or otherwise dangerous condition on the easement area to be purchased.

**Estimated Completion Date:**

September 30, 2012.

### **Recommendation 3**

Establish comprehensive guidance that requires homes to be maintained in a safe condition; define or restrict salvageable items, establishing threshold levels of value where NRCS would or would not authorize the removal of fixtures and materials, and addressing reduced contract costs for demolishing and removing homes by allowing contractors to take possession of salvageable materials and benefit from its sale in order to lower bid prices for home demolition.

#### **Agency Response:**

NRCS will establish comprehensive guidance in the Emergency Watershed Protection Program Manual, currently under development, regarding the acquisition of conservation easements on land that has residential structures. The guidance will identify criteria to evaluate easement offers on land with residential structures and determine whether the enrollment of such land furthers the applicable conservation purposes. Additionally, the manual updates will consider whether NRCS should determine that a landowner who removes fixtures or other salvageable materials prior to easement closing is in breach of their easement purchase agreement, and if determined not to be a breach of the agreement, establish threshold levels of value or other criteria for determining when such determination of non-breach is appropriate. In the development of such thresholds or other criteria, NRCS will consider whether easement restoration costs would be effectively reduced if NRCS could solicit bids from contractors who were able to take possession of salvageable materials prior to the demolition of the structure.

#### **Estimated Completion Date:**

September 30, 2012.



Informational copies of this report have been distributed to:

Chief, NRCS

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Office of Management and Budget	(1)
Office of the Chief Financial Officer	
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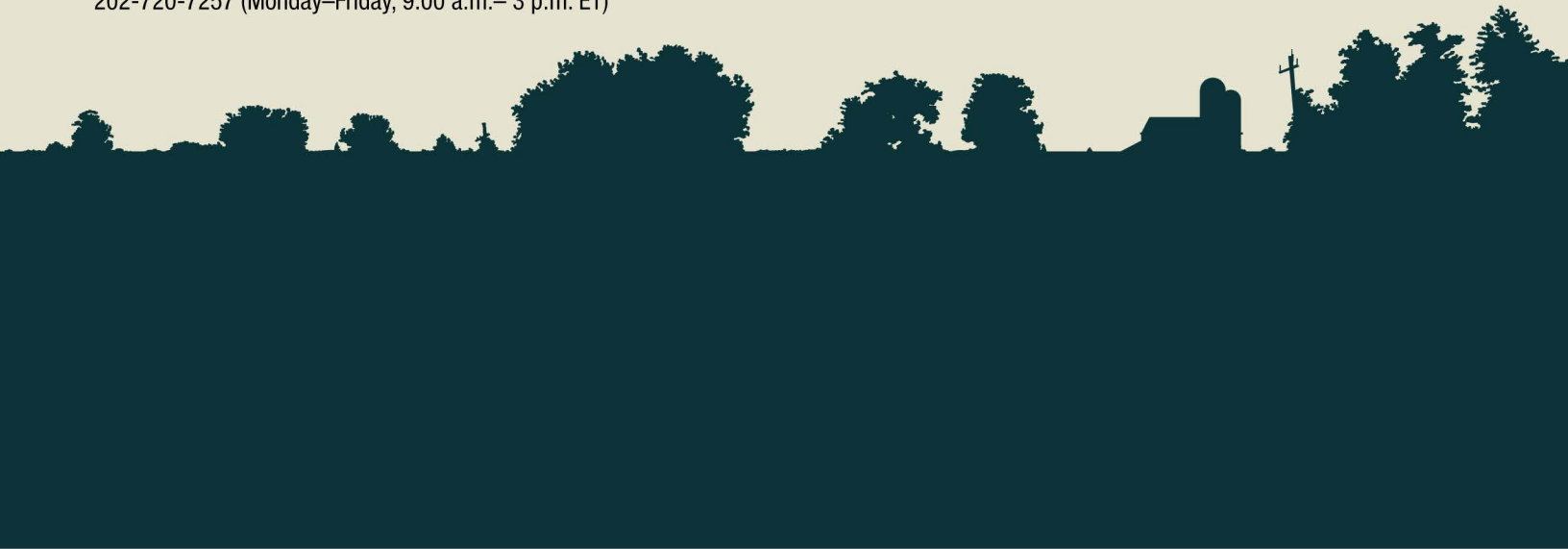
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