



United States Department of Agriculture



Rhode Island

Natural
Resources
Conservation
Service



RI NRCS Regional Conservation Partnership Program *Rhode Island Forest Health Works Project*

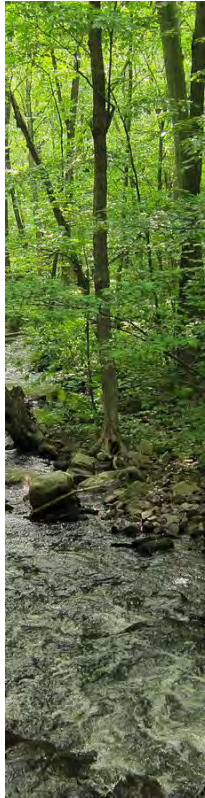
July 2022 Brunilda Velez and Joseph Bachand

Natural
Resources
Conservation
Service

nrcs.usda.gov/

Regional Conservation Partnership Program (RCPP) Basics

- Promotes coordination of NRCS conservation activities with partners that offer value-added contributions.
- RCPP is now a standalone program with its own funding.
- RCPP conservation activities include projects that may be implemented through:
 - Land Management/land improvement/restoration activities
 - Land rentals
 - Entity-held easements
 - United States held easements
 - Public works/Watersheds



Natural
Resources
Conservation
Service

nrcs.usda.gov/



Approved Project Details:

Project Name:

Rhode Island Forest Health Works Project

RCPP Type:

RCPP Classic

Primary Purpose:

Long term protection of Rhode Island Forests

Lead Partner:

[RIDEM-Division of Forest Environment](#)

Total Funds Allocated: \$2,898,033.61

Entity-Held Easements: \$1,100,000.00

US Held Easements: \$1,798,033.61



What are the paths for protecting land in this project?



US HELD

ENTITY-HELD



What is the difference?



US held

\$1,798,033.61

- Acquired and **held by the US**
- Must use one of the three easement Deeds (Highly Restrictive, Moderately Restrictive, Minimally Restrictive)
- Easements are **Perpetual**
- Mostly Agricultural **Forest Lands**
- RCPP funds **pay landowner**
- Easement values are determined by **appraisals**
- **No match required**

Entity-held

\$1,100,000.00

- Entities must apply for a RCPP Program Agreement
- Easement are **acquired and held** by eligible entities
- **Must** attach the minimum deed terms to the eligible entity's own conservation easement deeds
- Easements are **Perpetual**
- Mostly Agricultural **Forest Lands**
- **Cost Share is Required**
- Easement value determined by **appraisal**

What type of land is the project targeting for protection?

ELIGIBLE LANDS

- Forest Land

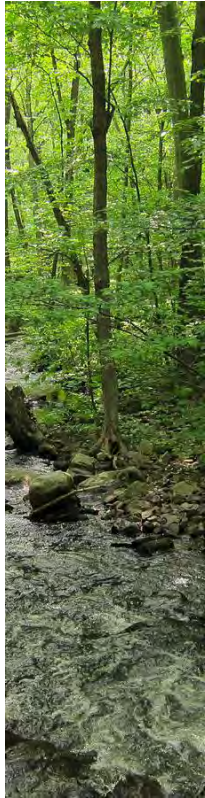
CONSERVATION VALUES

- Protect the forests' use and future viability; and related conservation values of eligible land. By limiting non-forested land uses, sustainability & improvements results for:
 - soil and water resources;
 - biological diversity (terrestrial and aquatic habitat);
 - aesthetic and scenic values;
 - recreational resources;
 - forest resources and health;
 - watershed values including water-quality protection;
 - protecting fish and wildlife habitat;
 - maintaining habitat connectivity and related values to ensure biodiversity;
 - protecting riparian areas;
 - maintaining natural ecosystem functions;
 - maintaining forest sustainability and the cultural and economic vitality of communities



Ineligible Land for all Easement Programs with NRCS

- As determined by NRCS, the offered area must not have any conditions that would render it ineligible or as follows:
- **Adverse Onsite or Offsite Conditions**
 - Potential presence of hazardous materials
 - existing rights of way, either onsite or offsite, that will adversely affect the long-term viability
 - Adjacent land uses that could impede the protection
 - Impacts to adjacent lands
 - Unacceptable Easement Configurations
 - Unacceptable Title or Access issues
 - Other conditions as determined by NRCS



Natural
Resources
Conservation
Service

nrcs.usda.gov/





US HELD

US Held Details

Protection Level

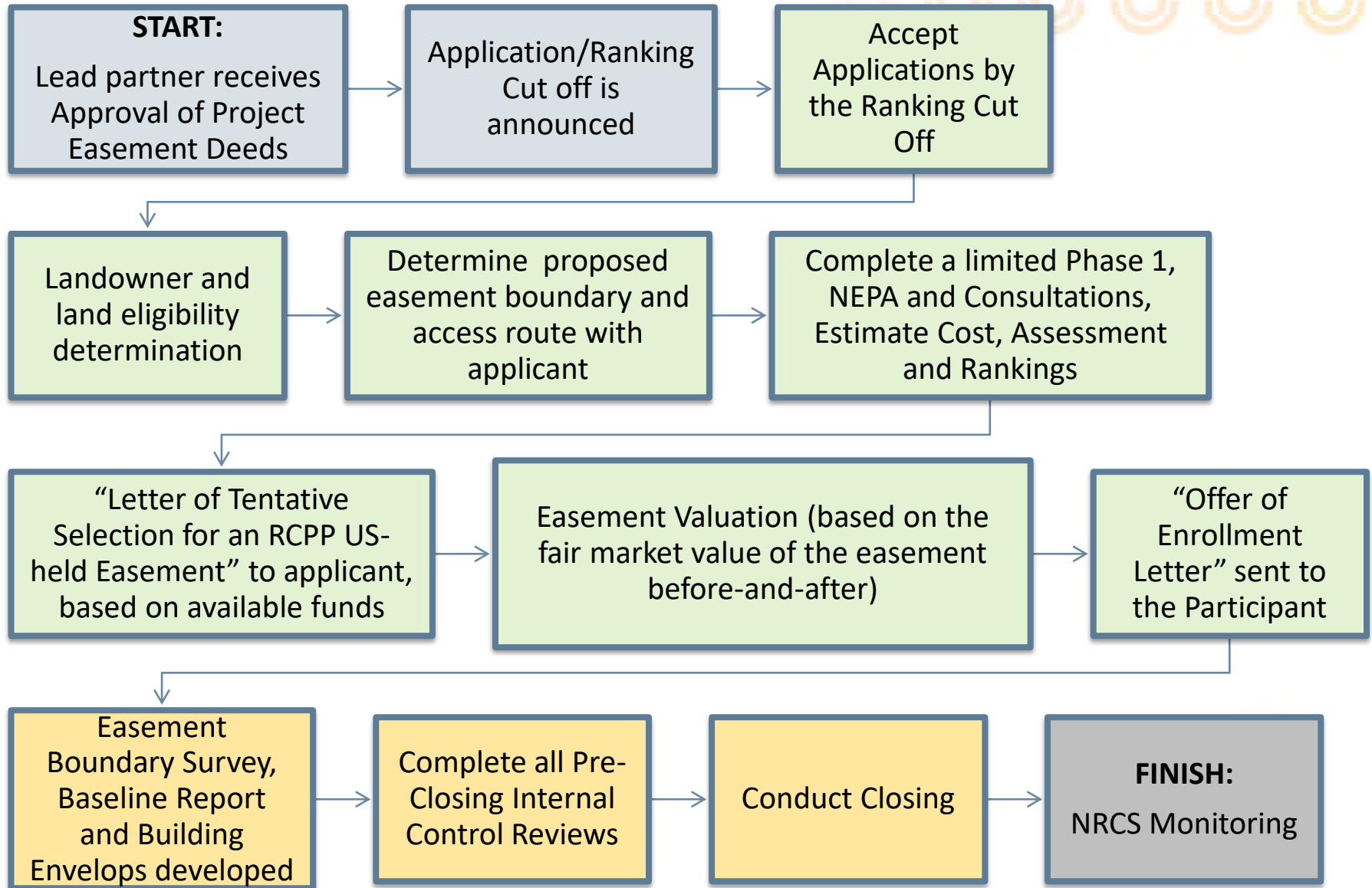
- **Permanent Protected Forest** Land that meets the project “Conservation Values”
- Interest conveyed by the **Easement Deed to the United States**

Key takeaways

- **Directly** with eligible producers on eligible land
- Must use one of the **standards deeds**
- **The most restrictive deed** allows participant to retain these rights:
 - *title,*
 - *quiet enjoyment,*
 - *control of access,*
 - *undeveloped recreational uses,*
 - *subsurface resources, and*
 - *water rights*



Voluntary Application Process and Eligibility Overview



How can I apply for the US Held Easements?

- **NRCS and RIDEM will SOON announce a program signup**
- **Interested participants must contact the local field office at:**
 - Northern Rhode Island Field Office**
Serving Providence County
Cassius Spears, District Conservationist
cassius.spears@ri.usda.gov
401-822-8833
 - Eastern Rhode Island Field Office**
Serving Bristol and Newport Counties
Ghyllian Conley, Soil Conservationist
ghyllian.conley@ri.usda.gov
401-822-8835
 - Southern Rhode Island Field Office**
Serving Kent and Washington Counties
Melissa Hayden, District Conservationist
melissa.hayden@ri.usda.gov
401-822-8847





ENTITY-HELD

Key Points

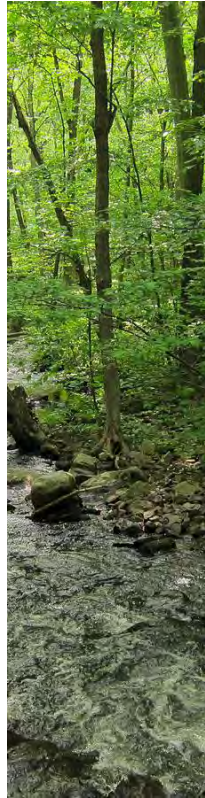
RCPP Entity-Held Easements

- **Types of land**
 - Private and tribal ag land, nonindustrial private forest land or associated land (e.g., riparian areas, floodplains, seasonal or flooded wetlands)
- **Easement Holder**
 - Eligible entity
- **Purchase Agreement**
 - Type IV Supplemental agreement to PPA (RCPP Program Agreement)
- **Deed Terms**
 - Eligible entity deed – attach or incorporate NRCS minimum deed terms (Highly restrictive, moderately restrictive, minimally restrictive)
- **Easement value**
 - Based on before/after appraisal
- **Easement Stewardship**
 - Eligible entity responsible for long-term stewardship of easements
 - US may have right of enforcement
- **Easement Term**
 - Perpetual (or maximum duration allowed under State law)



How are Entity-Held Easements Different?

- NRCS will work directly with **eligible entities** not participants
- **Entities will** hold, manage and monitor the easements in perpetuity
- Entities must first apply for an RCPP Program Agreement
- Entities must request funding by submitting the “Parcel Sheet for Entity Application for a RCPP Entity Held Easement Program Agreement
- **Entities ARE responsible acquisition cost including:**
 - Eligible entity cost for appraisals
 - Legal surveys
 - Access routes
 - Title clearance or title insurance
 - Legal fees
 - Phase I environmental site assessments (if applicable)
 - Closing services
 - Development of RCPP plans
 - Costs of easement monitoring
 - Other related administrative and transaction costs incurred by the eligible entity
- Entities must submit their draft conservation easement deeds for approval



Natural
Resources
Conservation
Service

nrcs.usda.gov/



RCPP Entity-Held Easement Eligibility

- **Entity Eligibility**
- Mirrors Agricultural Land Easement (ALE) entity eligibility – (528.32B)
 - State or local government
 - NGO that qualifies under Section 170(h)(4)(A) of the Internal Revenue Code
- **Must have**
 - **Authority** to purchase conservation easements
 - An **established** land protection program
 - Demonstrated commitment to the long term conservation of the types of land to be conserved
 - Capability and **staff capacity** to acquire, manage, monitor and enforce easements.

Types of Eligible Entities (ALE+RCPP)

State Agency

- Department of Agriculture
- Department of Natural Resources
- Farmland Preservation Board
- Land Resource Council

Local Government

- Soil and Water Conservation District
- Preservation Authority

Indian Tribe

- Federally recognized Indian Tribe
- Non-federally recognized Indian Tribe that meets the NGO criteria

Nongovernmental Organization

- Meet specific NGO criteria

Types of Eligible Entities (cont.)

Nongovernmental Organizations Criteria for ALE+RCPP

- Organized or and have been operated principally for one or more conservation purposes
 - Defined in clause (i) (ii) (iii) or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986
- An organization described in section 501(c)(3) tax exempt
- Described in 509(a) paragraph (1), (2) or (3)
 - Churches, educational organizations, medical organizations

NOTE: An NGO-entity self-certifies that they meet one of these NGO criteria on the “Entity Application” (NRCS-CPA-41)



RCPP Entity-Held Easements Minimum Deed Terms (MDT)

- There are three sets of MDTs; each with a version with or without a US Right of Enforcement
- Easement will be selected according to the most appropriate way to achieve project purposes
 1. Minimum Deed Terms for Agricultural Use (minimally restrictive)
 2. Minimum Deed Terms for Conservation Use with Compatible Agricultural Use Moderately restrictive (Moderately Restrictive)
 3. Minimum Deed Terms for Uses Limited for Protection of Conservation Values (Highly restrictive)



RCPP Entity-Held Easement Minimum Deed Terms

RCPP Entity-Held Easement Type	Typical Technical Land Eligibility Categories and Criteria
Highly Restrictive: RCPP MINIMUM DEED TERMS FOR USES LIMITED FOR PROTECTION OF CONSERVATION VALUES	ACEP-WRE land eligibility (440-CPM-528, Section 528.105)
Moderately Restrictive: RCPP MINIMUM DEED TERMS FOR CONSERVATION USE WITH COMPATIBLE AGRICULTURAL USES	HFRP land eligibility (440-CPM-511, Section 511.24(A)) ACEP-ALE grasslands of special environmental significance (440-CPM-528-528.33(B)(iii)) ACEP-WRE reservation of grazing rights as described in the States WRCG (440-CPM-528-528.131(B)(vii) and 528.162(A))
Minimally Restrictive: RCPP MINIMUM DEED TERMS FOR AGRICULTURAL USE	ACEP-ALE land eligibility (440-CPM-528-528.33(A)(3-6), (B), and (C))

Natural Resources Conservation Service



Key Differences between ALE and RCPP Entity-Held Easements



Conservation Values



Land Eligibility



Minimum Deed Terms and Reviews



Federal Share



Valuation Timing



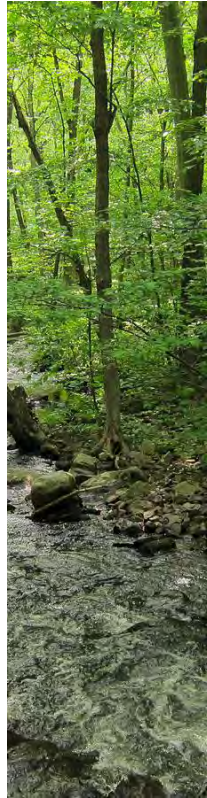
Ranking

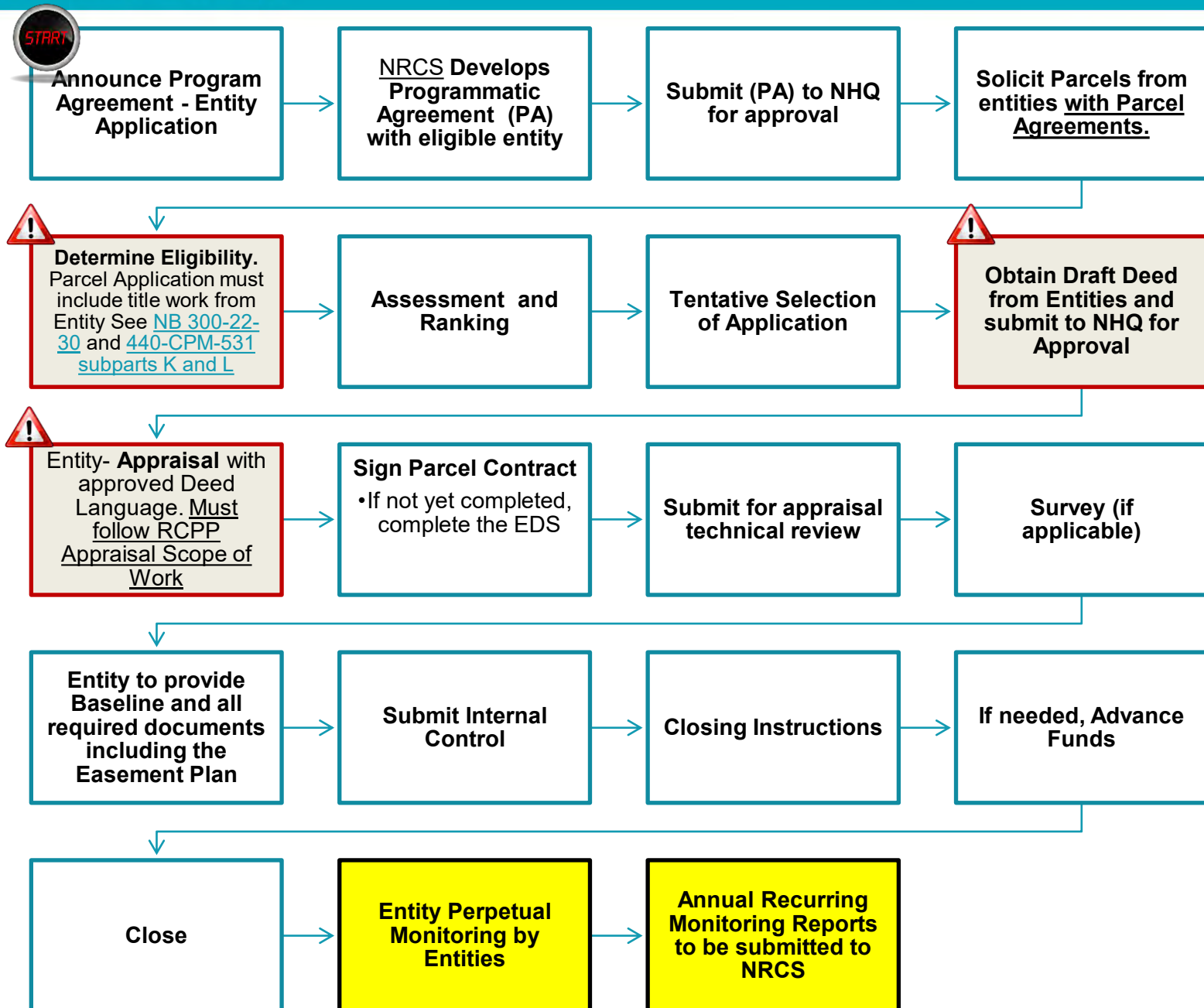


RCPP Entity-Held Easements

Valuation, Federal Share, Contribution

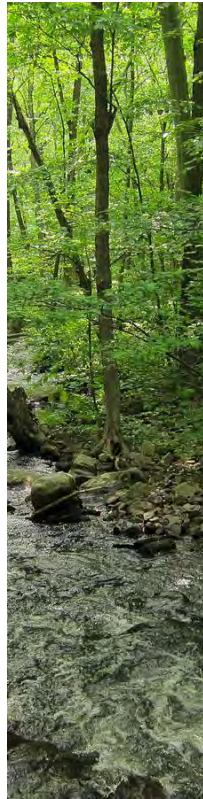
- **Easement value is based on a before & after appraisal obtained by the Eligible entity**
- **Federal share = NRCS maximum contribution**
 - 50% of Easement Value – for conservation easements with US ROE
 - 25% of Easement Value – for conservation easements without US ROE
- **Non-Federal Share**
 - Remainder of Easement Value
 - May be comprised of:
 - Eligible Entity cash for easement payment to landowner
 - Landowner donation or qualified contribution that reduces easement purchase price





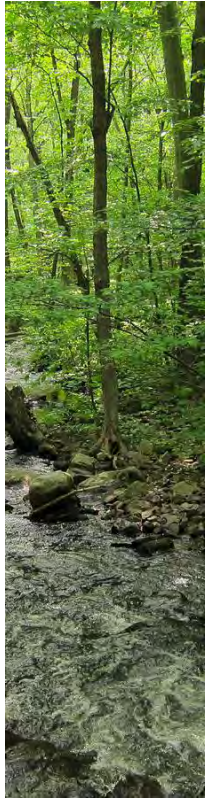
RCPP Entity-Held Easements Parcel Application

- RCPP **parcel applications** (NRCS-CPA-1275) can be accepted on a continuous basis during the life of the applicable PPA.
- **Can be submitted simultaneous with Entity Application**
- Identifies the following data -
 - Associated PPA and Program Agreement
 - Landowners and proof of ownership (title commitment)
 - Written pending offer from eligible entity
 - Conservation values
 - Level of restriction (i.e., minimum deed terms)
 - Estimated value
 - Map showing boundaries and legal access
 - Holders, co-holders and third-party right holders
 - Title Review
 - A title report should be included with the application absent extenuating circumstances.



RCPP Entity-Held Easements Valuation

- **Easement valuation**
 - **Prior to entering into Parcel Contract** – entity must either provide:
 - **Defensible estimate of easement value** (including methodology); or
 - Obtain an appraisal of the easement parcel using the appraisal specifications attached as an exhibit to the Program Agreement
 - Whether an appraisal is obtained prior to or after entering the parcel contract – the draft deed must be submitted to NRCS for review prior to the appraisal
 - **Effective date of appraisal = no more than 6 months prior to the date the individual parcel contract is executed**



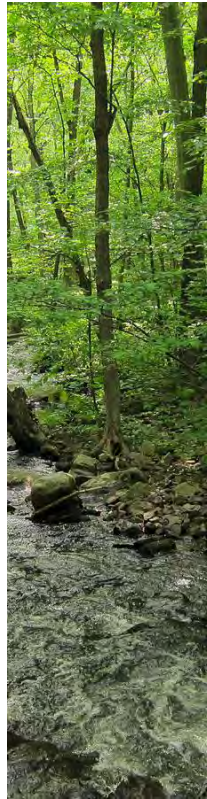
Natural
Resources
Conservation
Service

nrcs.usda.gov/



RCPP Entity-Held Easement Deed Reviews

- All deeds (attached or incorporated) must be submitted for national review
- **Deeds must be reviewed prior to commencing the appraisal**
- If the deed incorporates the minimum deed terms – the approved deed must be attached to the parcel contract either initially or after obligation through a modification.



Natural
Resources
Conservation
Service

nrcs.usda.gov/



RCPP Entity-Held Easements

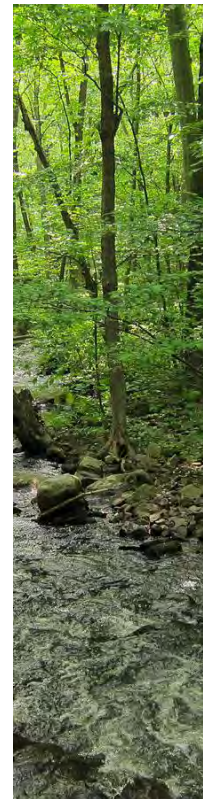
Pre-closing

NRCS WILL

- **Title Review and Certificate of Use and Consent (LTP-23)**
- **Preliminary Certificate of Inspection and Possession (LTP-27)**
 - Must be dated within one year of closing
- **Environmental Records Search and review**
 - Must be dated within one year of closing

Entities Will

- **Baseline Documentation Report**
 - Must be submitted by entity no later than 90 days prior to closing
- **RCPP Easement Plan (optional for minimally restrictive)**
 - Must be completed no later than 90 days prior to closing
- **Survey of parcel (if applicable – same standard as ALE)**



Natural
Resources
Conservation
Service

nrcs.usda.gov/



Wetland Reserve Easements - WRE Agricultural Conservation Easement Program



Natural Resources Conservation Service



Overview of the Wetland Reserve Easements (ACEP-WRE)

Purpose:

The ACEP-WRE purpose is to restore, protect, and enhance wetlands on eligible private or Tribal lands while maximizing wildlife habitat benefits.

CPM 440 Part 528.100

528.100 Overview of the Wetland Reserve Easement (WRE) Component

Enrollment Option	Duration	Eligible Applicant
30-Year Contract	30 years	Acreage owned by Indian Tribes only
30-Year Easement	30 years or the maximum duration allowed by State law if less than perpetual	Private landowners or Indian Tribes (including Native Corporations)
Permanent Easement	Perpetuity	Private landowners or Indian Tribes (including Native Corporations)



ACEP-WRE: Objectives



To protect **private lands** to restore and enhance the functions and values of wetland ecosystems to attain:

- Habitat for migratory birds and other wetland-dependent wildlife
- Protection and improvement of water quality
- Attenuation of floodwater
- Recharge of ground water
- Protection and enhancement of open spaces
- Protection of native flora and fauna
- Contribution to educational and scientific scholarship
- Provide producers a viable option for marginal lands



WRE – Reserved Interest Deeds



What is the US buying?

- The USDA is purchasing **ALL of the development and surface rights** of the enrolled property except those specifically reserved to the landowner.
- A warranty easement deed (WED) is recorded which defines the US rights and the landowners' rights.

What does the landowner reserve?

- Convey, Transfer, or Alienate Title
- Quiet Enjoyment
- Control of Access
- Undeveloped Recreational Use
- Extract Subsurface Resources subject to the WED
- Certain Water Rights



WRE: Eligible Land Types



Farmed or Converted
Wetlands

Croplands or
Grasslands

Hydric Soil Minor
Components
(Inclusions and
Atypical Situations)



Riparian Areas

Lands in Conservation
Reserve Program
(CRP)



Wetlands Restored or
Protected under a
Private, State, or
Federal Program



Adjacent Lands



ACEP-Farmed/Degraded Wetland Examples



Damage by Cattle/Horses, livestock or cropping



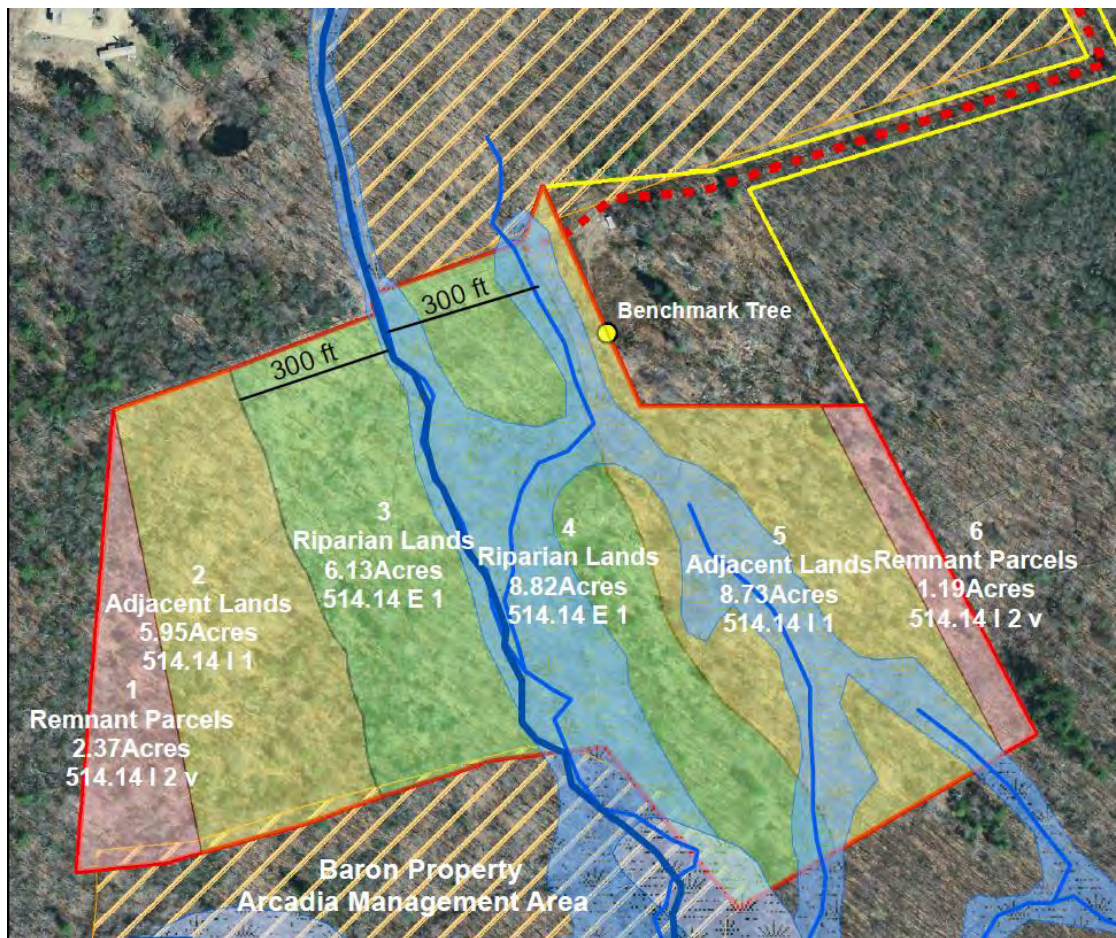
Damage or alterations on the Forest



Salt Marshes Can be degraded wetlands

ACEP-Wetland Reserve Easement

Typical Riparian Area in Rhode Island



E. Riparian Areas

(1) Riparian areas along streams or other waterways are eligible, provided that the offered riparian area links wetlands that are currently protected, such as a State or Federal wildlife management area.

I. Adjacent Lands

(1) (i) The adjacent lands will contribute significantly to the wetland functions and values or practical administration of the enrolled area. (ii) Acres must not exceed otherwise eligible land to be enrolled.

(2) State Conservationist may wave one-to-one limitation if -
(v) Strict application of the ratio would leave areas of land remaining outside enrolled area creating uneconomic or unmanageable remnant parcels for the landowner.



Natural
Resources
Conservation
Service

nrcs.usda.gov/





ACEP



Agricultural Conservation Easement Program

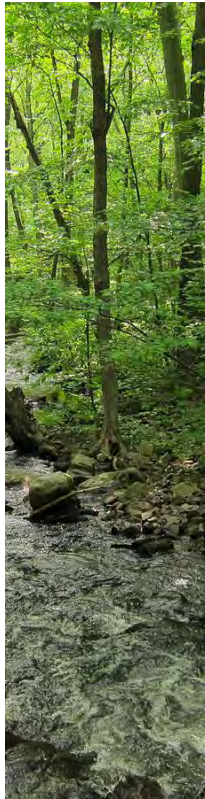


Natural
Resources
Conservation
Service

nrcs.usda.gov/

ACEP – ALE Land Eligibility

- Basic ALE Land Eligibility Requirements:
 - Private or tribal land that is agricultural land
 - **Subject to a written pending offer** from an eligible entity
 - Meets one of the ALE land eligibility criteria
 - NRCS will perform an onsite review is required for land eligibility!



Natural
Resources
Conservation
Service

nrcs.usda.gov/



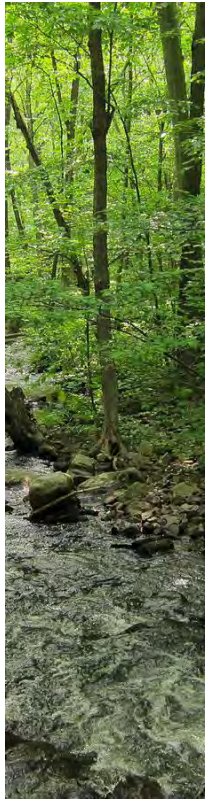
ALE: Land Eligibility Criteria

- Has prime, unique or other productive soils (Soils)
- Contains historical or archaeological resources
- Enrollment would protect grazing uses and related conservation values by restoring and conserving land (Grassland)
- Further a State or local policy consistent with the purposes of ACEP



ALE: Ineligible Lands 528.34

- Federally owned lands
- Fee title by a State or local government
- Owned by a NGO whose purpose is to protect ag use and conservation values
- Similar protection or deed restriction on land as ALE
- Onsite or offsite conditions undermine program purposes
- Unacceptable exceptions to clear title or access
- Mineral rights harm or interfere with achieving ALE purposes



Natural
Resources
Conservation
Service

nrcs.usda.gov/



ALE: Entity Eligibility Requirements

- **Entity must provide sufficient documentation for NRCS to determine that the entity has the:**
 1. Authority to purchase and hold conservation easements
 2. An established farmland protection program that **purchases easements** for **ALE purposes**
 3. Demonstrated commitment to long-term conservation of agricultural lands
 4. **Availability of funds at the time of application** sufficient to meet the entity's contribution requirements



ALE: Entity Eligibility Requirements (cont.)

- **Entity must provide sufficient documentation for NRCS to determine that the entity has the:**
 5. Authority and capability to acquire, manage, and enforce agricultural land easements or their equivalent
 6. Staff capacity dedicated to monitoring and easement stewardship
 7. Ability to meet the requirements of the program
 8. Be entered in SCIMS, have a DUNS number, and be registered in SAM



ALE: Entity Ineligibility

- Entities that do not meet the eligibility criteria or do not submit the required eligibility documents are ineligible
- ALE or FRPP cooperating entities that are delinquent or deficient in satisfying terms of existing agreements or easements.
- **Deficiencies such as:**
 - Failing to conduct or provide annual monitoring reports
 - Providing annual monitoring reports that are insufficient or late
 - Existing agreements with funds remaining more than 2 years after the execution date without any expenditures or actions towards closings in the third year

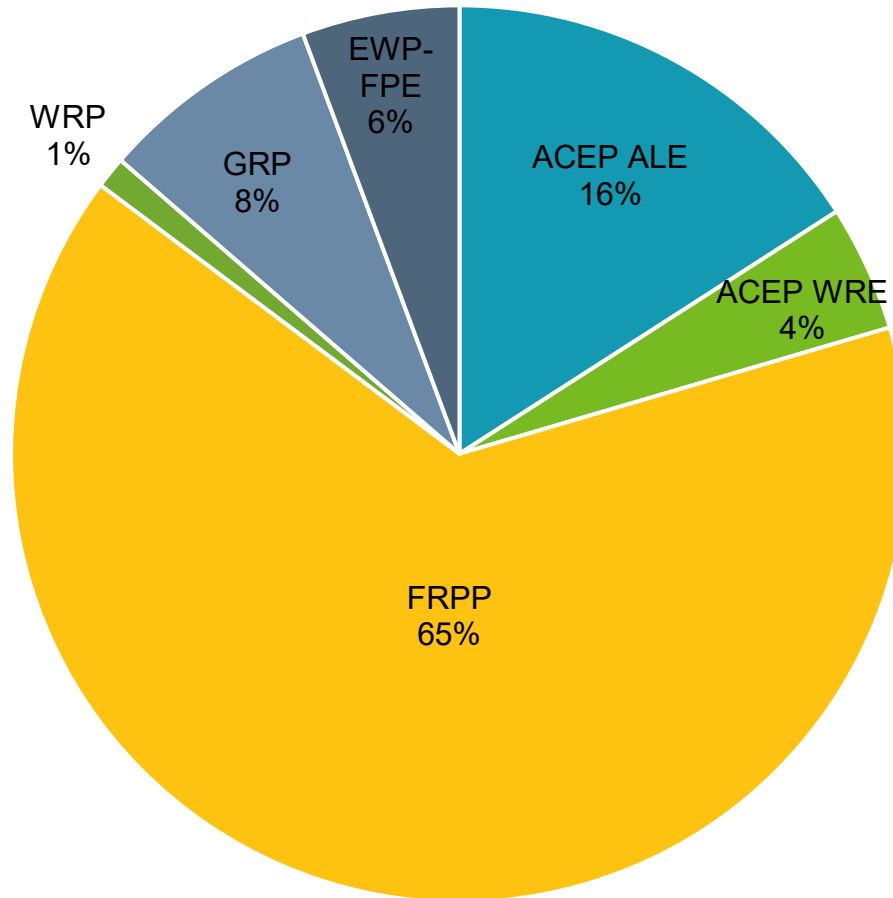


ALE: Entity Responsibilities

- Ensure proper acquisition and recordation of easements
- Pay all costs of easement valuation and procurement
- Hold title of easement
- Meet the cooperative agreement requirements
- Submitting complete and timely documents for NRCS review in accordance with performance deadlines in cooperative agreement
- Conduct monitoring annually
- Enforce terms of easement
- Carry out responsibilities in cooperative agreement
- Provide FSA SCIMS information
- Maintain DUNS and SAM registration



Rhode Island NRCS Easement Portfolio

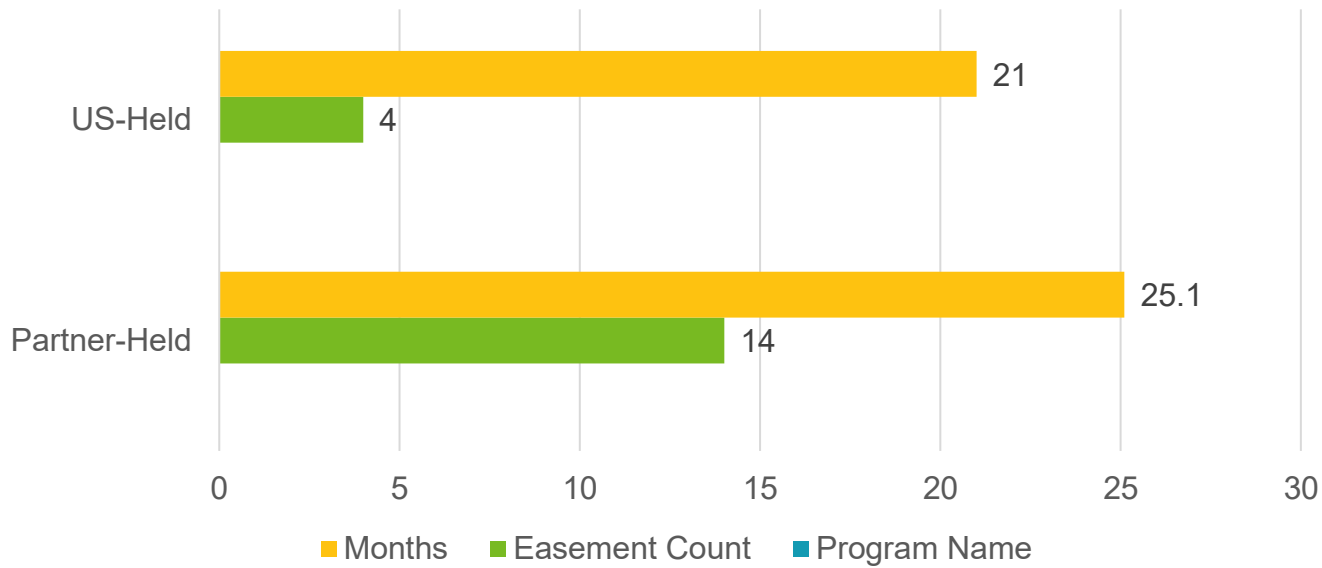


Program	Easements	Acres (ac)
ACEP ALE	15	273.41
ACEP WRE	6	147.64
FRPP	56	2865.93
WRP	1	30.5
RCPP-HFRP	1	142.24
GRP	7	118.7
EWP-FPE	5	110.86
Total	93	3689.28

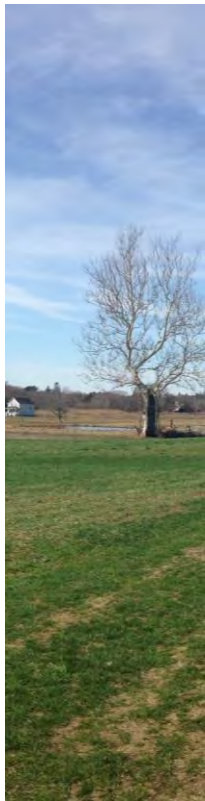
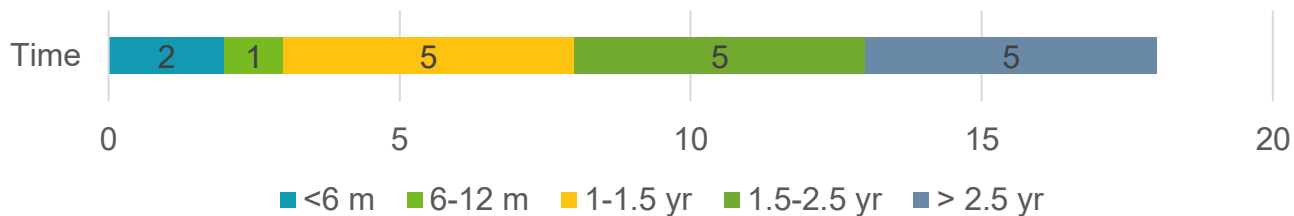


Typical “Time to Close” Comparison

Average Time To Close in Months



Distribution of Easements by “time to closing”



Natural Resources Conservation Service

nrcs.usda.gov/



I am ready to start a Program Agreement, what should I do?

- **NRCS and RIDEM will SOON announce a program signup**
- **Interested participants must contact the Rhode Island NRCS State Office:**

Joseph Bachand

joseph.bachand@usda.gov

401-822-8818

Brunilda Velez

Brunilda.velez@usda.gov

401-822-8820





United States Department of Agriculture

Thank You



USDA NRCS
60 Quaker Lane, Suite 46
Warwick, RI 02886

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA.



Natural
Resources
Conservation
Service

nrcs.usda.gov/

