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August 15, 2006

Ms. Robin Heard
Acting Director
Easement Program Division
Natural Resources Conservation Service
P.O. Box 2890
Washington, DC 20013-2890

Dear Ms. Heard:

The Society of American Foresters (SAF), representing over 14,000 forestry professionals in all segments of employment, supports the restoration and enhancement of private forestlands. The Healthy Forests Reserve Program (HFRP) (7 CFR Part 625) as authorized by the Healthy Forests Restoration Act of 2003 (Public law 108-148) and the subsequent interim final rule published in the *Federal Register* on May 17, 2005, provides incentives for landowners to promote the recovery of threatened and endangered species and increase biodiversity on their forestlands while at the same time encourage carbon sequestration and maintenance of working forests.

Private forests play an important role in the protection and recovery of most listed species. Thus it is essential that private forest owners be given incentives to enhance and conserve threatened or endangered species and their habitats and at the same time maintain working forests and sequester carbon. Various reports and studies have highlighted the threats to private forests, as development pressures and forest health problems increase and markets for forest products shift to a more global industry. The HFRP, in addition to conserving species habitat and biodiversity, can also address these issues, ultimately helping ensure a number of benefits like clean water, carbon sequestration, and wood products are also sustained on private forests.

SAF supports the landowner incentives, including cost-share assistance and landowner protection provisions, incorporated in the HFRP. Cost-share assistance encourages landowners to undertake forest management projects which help to promote the recovery of listed species, improve biodiversity, and enhance carbon sequestration. Safe harbor agreements and other landowner protection provisions included in HFRP will benefit listed species while providing private landowners protection from potential restrictions of Section 9 of the Endangered Species Act. The following are suggestions for improving the interim final rule to better address the needs of forest landowners.

Establishing priority for enrollment in HFRP

We support a state priority setting process for HFRP, to ensure that the limited funds are used where they will have a significant impact on the ground. We strongly



encourage NRCS to work with State forestry agencies and the private sector to establish state priorities, and how they could complement other forestry activities by these entities.

We believe the priority process set out in Section 625.6 of the interim final rule should also account for the relative risk to the forestland, whether it's from development pressures which could lead to conversion to non forest uses or fragmentation of habitat, forest health, or another pending risk to retaining intact and healthy private forests. These risks will ultimately threaten endangered and threatened species habitat and where both the issues of risk and forest retention can be addressed simultaneously, the desired outcome will be most beneficial..

Compatible Uses of the Easement Area

The flexibility to maintain and ensure forest health should be included in the compatible uses of the easement area. The language in Section 625.11 should be adjusted to ensure landowners can maintain both forest health and working forestlands.

Landowner incentives such as those included in the Healthy Forests Reserve Program not only promote species recovery and biodiversity, but are also an important tool for conserving our nation's private forestlands. We look forward to working with you to conserve and manage private forests

Easement Deeds

SAF supports the preferred option in the interim final rule to utilize negative restrictive easements rather than reserved interest easements. Negative restrictive easements are beneficial for retaining working forestlands under the easement while at the same time specifically restricting any activities that are contrary to the goals of the easement. Additionally, this type of easement places the burden primarily on the government to identify in advance what activities will be restricted, giving the current and future landowners clear guidelines and knowledge of their rights under the easement. While reserved interests easements may be appropriate in certain circumstances, we believe negative restrictive easements will better achieve the goals of the Program and at the same time maintain working forests.

Actual vs. Average Costs for Cost-Share Assistance

SAF recognizes the complications associated with determining reimbursable value of cost-share assistance provided through conservation programs. While it is important for federal agencies to have efficient and equitable means of establishing cost-share rates, it is also important that other public agencies and private-sector foresters are reimbursed properly for their services. Due to the limited forestry expertise within NRCS, it is critical that assistance from non-NRCS employees remain a viable option. Reimbursement for services rendered must be on par with the market value of the services to ensure external forestry experts can assist with program implementation.

Thank you for your consideration.

Sincerely,



Marvin D. Brown
President