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Food
Production
And
Conservation

Farm
Service
Agency

Washington State Farm Service Agency
11707 E Sprague Ave Suite 303
Spokane Valley, WA 99206

August XX, 2023

Dear Producer,

You are receiving this letter as you have a contract with the Farm Service Agency (FSA) under the Washington Conservation Reserve Enhancement Program (WA CREP).

A recent review was conducted by FSA of WA CREP Conservation Reserve Program (CRP) contracts within Whatcom County. Results of the review led to the discovery that several WA CREP practices from 2008 to the present were enrolled under erroneous land eligibility. Further, the design and review process of certain conservation plans for certain contracts did not meet the practice specifications of the Washington CREP agreement between FSA and Washington State, and FSA national CRP directives.

This letter is to inform you that because of the irregularities described above, FSA will need to modify or terminate your contract, and that there are options available to you as a result. FSA needs a response on your preferred option by September 29, 2023. As a CRP participant under the WA CREP, you will receive your full fiscal year 2023 annual rental payment, unless reductions are otherwise applicable to your contract. All contract modifications and/or terminations will be processed immediately after the end of the current federal fiscal year (September 30, 2023).

The Washington CREP agreement provides the following land eligibility criteria, by conservation practice (CP):

- **CP22, Riparian Buffer**

The CP22 practice is eligible on land adjacent to water bodies that provide, or have the potential to provide, important habitat for salmonids. The eligible water bodies (streams) are identified on a stream map which is available at FSA County Offices.

Note: *Eligible water bodies are identified using maps from the 1993 Salmon and Steelhead Stock Inventory Report (SASSI) or updates to SASSI maps carried out by local conservation districts with the concurrence of Washington Department of Fish and Wildlife (WDFW) and Tribal fisheries biologists. Regular updates to SASSI carried out by WDFW can also be used to identify eligible lands.*

Updates to eligible streams used for CREP, based on criteria outlined in Section IV.A. of the CREP agreement will be reviewed and approved annually by the Washington Conservation Commission and the Washington State FSA Committee, in consultation with the Washington State Technical Advisory Committee. In no case will the number of eligible stream miles exceed 10,000 miles for the CP22 practice.

- **CP23, Wetland Restoration**
CP23A, Wetland Restoration, Non-Floodplain
CP30, Marginal Pastureland Wetland Buffer
 CP23, CP23A, and CP30 practices are only eligible for wetlands hydrologically connected to CP22 Riparian Buffer designated streams.
- **CP22, Riparian Buffer Hedgerow**
 The CP22 hedgerow practice is eligible on land adjacent to a CP22 Riparian Buffer designated stream with a bank full-width of less than 15 feet or along small (less than 15' bank full-width) tributaries within 10 stream miles of a CP22 Riparian Buffer designated stream.
- **CP21, Filter Strip**
 The CP21 practice is eligible in a Water Resource Inventory Area (WRIA) that contains CP22 Riparian Buffer designated streams, but not along salmonid habitat designated streams.

Upon the discovery that practices in current contracts did not meet the practice specifications of the Washington CREP agreement and FSA CRP directives, FSA determined that it must terminate the contracts with erroneously enrolled practices and/or make contract modifications to correct the practice(s) to comply with the specifications required by program requirements and policy. As an impacted CRP participant, you are being notified of the need to modify or terminate your contract. We have worked diligently to find a solution that will have the least impact on you as a producer.

Although your contract may be modified or terminated, we have been given authorization from FSA's National Office to grant all impacted producers three options to provide the greatest flexibility in managing the ineligible land/practices. These options are provided to ensure equitable treatment of all CREP participants.

Regardless of which option is selected, impacted participants will receive their full fiscal year 2023 annual rental payment, unless reductions are otherwise applicable to the contract. All contract modifications/terminations will be processed immediately after the end of the current fiscal year (September 30, 2023).

Washington FSA has been authorized to provide you with the following options:

1. Partial or full contract termination of contracts for which practices do not meet land or practice eligibility criteria. Allow participants to offer land for an eligible Continuous Signup practice such as regular continuous CRP, Highly Erodible Land Initiative (HELI), or State Acres for Wildlife Enhancement (SAFE), if all other eligibility criteria are met.
 - No refunds or liquidated damages will be assessed to the participants on the erroneously enrolled contracts.
 - Participants will have new 10–15-year contracts.
 - Participants will have more continuous CRP practice options than the limited practices offered through CREP.
2. Terminate CRP contracts for practices that do not meet land eligibility criteria and cannot be enrolled/changed to a Continuous CRP Signup practice. Allow the producer to offer cropland acres under the next available General CRP Signup.

- FSA’s Deputy Administrator of Farm Programs (DAFP) is providing a land eligibility waiver to ensure acreage terminated is eligible to be offered in the next available General CRP Signup, if such acreage is otherwise eligible.
 - No refunds or liquidated damages will be assessed to the producers on the erroneously enrolled contracts.
 - Participants will have new 10-15 years contracts.
 - Participants will be allowed to enroll whole fields when the current contract is not eligible for any other continuous CRP practice.
3. Terminate CRP contracts for practices that do not meet land eligibility criteria.
- No refunds or liquidated damages will be assessed to the participants on the erroneously enrolled contracts that are terminated.
 - Participants are free to pursue enrollment with other agencies and partners in any program for which they may qualify.

For offers submitted under continuous signup under the terms of the memorandum issued to Washington State FSA, the FSA County Executive Director or FSA County Committee are authorized to approve CRP-1's through close of business, September 29, 2023. The participant must obtain an approved conservation plan from the Natural Resources Conservation Service (NRCS), ensure all environmental consultations are complete, and signatures are obtained on all required documents. The effective date of the new CRP-1 will be October 1, 2023.

Additionally, FSA is working with our partner agencies and technical service providers to determine whether there are other program opportunities available to those affected. As opportunities are discovered, they will be shared with producers.

Program oversight and quality controls are critical for identifying problems and assessing progress related to erroneous eligibility enrolments and ensuring the integrity of the programs we administer. FSA is taking actions to ensure that this type of eligibility problem does not arise again within the State of Washington. If you have further questions about one of your WA CREP contracts, we encourage you to contact your local FSA office to discuss at 360-354-5658. You can also contact the FSA District Director for your area, the program specialist within our state office or you can contact me directly at the state office at 509-323-3003.

Respectfully,

Jon C. Wyss
Washington State FSA Executive Director