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Controls Over the Farm and Ranch Lands Protection Program in Michigan

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TO: Dave White
Chief
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ATTN: Lesia Reed
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Strategic Planning and Accountability

FROM: Gil H. Harden /s/
Assistant Inspector General
for Audit

SUBJECT: Controls Over the Farm and Ranch Lands Protection Program in Michigan

This report presents the results of the subject audit. Your written response to the draft report, dated August 4, 2011, is included in its entirety, with excerpts and the Office of Inspector General's position incorporated into the applicable Finding and Recommendation sections of the report. Based on your written response, we have accepted your management decision for all recommendations in the subject report, and no further response to us is necessary.

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Performance and Accountability Report. Please follow your agency's internal procedures in forwarding documentation for final actions to the Office of the Chief Financial Officer.

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

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Controls Over the Farm and Ranch Lands Protection Program in Michigan

Executive Summary

The Farm and Ranch Lands Protection Program (FRPP) is a voluntary program that helps farmers and ranchers keep their land available, in perpetuity, for agricultural use and is administered by the Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS). Through FRPP, NRCS provides Federal funds to organizations, known as cooperating entities,¹ to purchase conservation easements² in order to keep selected parcels of land from being developed for non-agricultural purposes such as housing. Federal funds are provided based on conservation easement appraisals of the fair market value of the land. In order to ensure the accuracy of appraisals, NRCS oversees technical or administrative reviews to verify that the appraisals are in accordance with the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA)³ and completed no more than 12 months before the time of closing. We initiated this audit after a USDA Office of the General Counsel (OGC) official, who was responsible for reviewing documents for conservation easements, contacted us with concerns that NRCS State officials in Michigan might be approving conservation easements even though the appraisals did not comply with standards and contained high land values. We performed this audit with the objective to review NRCS' appraisal process and evaluate the adequacy of the agency's controls over FRPP in Michigan. The Michigan NRCS State office processed 37 FRPP conservation easements, which consist of 34 closed and 3 pending, from October 1, 2005, through September 30, 2010.

Based on our review of the 34 closed conservation easements in Michigan, we found two issues with the validity of appraisals and the associated high land values. First, the NRCS State office accepted conservation easement appraisals, submitted by cooperating entities, even though they did not meet standards or were unsupported. We reviewed 6 of the 10 conservation easement appraisals that were required to be reviewed and had closed since fiscal year (FY) 2006,⁴ including those identified by the USDA official. We found that three of the six appraisals⁵ were approved for closure even though the appraisals did not conform to UASFLA or NRCS requirements: two of the three were performed by an appraiser who had not received the required training and the third was based on an unsupported appraisal theory.⁶ We therefore questioned the more than \$1.5 million that NRCS paid for the three conservation easements whose appraisals did not meet requirements. These errors went unnoticed because the NRCS State

¹ A cooperating entity may be a State, tribal, or local governmental entity or non-governmental organization.

² An FRPP conservation easement is a legally enforceable land preservation agreement between a landowner, a cooperating entity, and the Federal Government.

³ The UASFLA is one industry standard specifically mentioned in NRCS regulations. The 2008 Farm Bill now allows appraisers to follow UASFLA or the Uniform Standards of Professional Appraisal Practice. Regardless of which industry standard was followed, the appraisers must have received training in the standard they used to perform the appraisal.

⁴ NRCS had 34 conservation easements that closed during FY 2006 through FY 2010, but it implemented new procedures during the year that resulted in only the last 10 of those conservation easements appraisals being reviewed.

⁵ The other three of the six conservation easement appraisals were initially rejected during the NRCS review process for nonconformance issues but were corrected before the conservation easements were approved for closure.

⁶ NRCS' Chief Appraiser and a Department of the Interior appraisal reviewer confirmed our conclusion.

office staff did not verify or ensure that the appraisals were appropriately reviewed. In addition, the State Conservationist did not provide sufficient oversight to ensure his staff followed the required review process.

Second, though appraisals are not to be more than 12 months old at the time the conservation easements are closed, we found that the State Conservationist in Michigan failed to identify that 20 of 34 conservation easements (59 percent), closed since FY 2006, had appraisals that exceeded this time limitation. These appraisals averaged 20 months old at the time of closing, with seven of these being between 24 and 31 months old. Consequently, we questioned \$6.1 of the \$11.5 million paid for the cited conservation easements in Michigan since FY 2006.⁷ The State office staff was uncertain of whether they were still required to enforce the 12-month policy after NRCS removed that requirement from its FRPP manual but subsequently added it back to the cooperative agreement. Even though the State Conservationist signed off and approved the conservation easement closings, no action was taken to get updated appraisals. Further, although NRCS does require periodic reviews of a State's operations, which can include a review of more than one NRCS program, there was no evidence that FRPP in Michigan was ever reviewed.

Outdated appraisals can lead to inaccurate conservation easement values. Thus when we learned during our fieldwork that NRCS was going to provide its Michigan State office with an additional \$5.9 million to fund its backlog of 14 unfunded conservation easement applications, we issued a management alert on June 11, 2010. In that management alert, we recommended that NRCS issue an immediate notice regarding the 12-month time limit and update its FRPP manual. NRCS took immediate and appropriate action.

In addition to the controls over the appraisal process, our audit objectives also included determining whether NRCS' controls were sufficient to ensure both that FRPP participants met eligibility requirements and that NRCS adequately monitored land entering into FRPP to ensure it continued to be used for agricultural purposes. We reviewed participant applications for eligibility, and also performed onsite inspections of selected lands under easement to verify their use, and determined that there were no reportable issues regarding these objectives.

In total, we questioned \$7.6 of the \$11.5 million NRCS paid for conservation easements in Michigan from FY 2006 through FY 2010.⁸ We concluded that the NRCS State office needs to improve its oversight processes to ensure that payments are not made to cooperating entities using invalid appraisals. Furthermore, the State office needs to take timely action when a cooperating entity submits appraisals that do not meet standards.

⁷ This dollar amount includes 19 of the 20 cited easements, because 1 easement appraisal was both unsupported and more than 12 months old at closing. To avoid double counting the easement, the value of that conservation easement, \$851,300, was included in the previously mentioned \$1.5 million total and not included in the \$6.1 million total stated here.

⁸ We did not recommend collection of this amount because the errors that caused the overpayments were not made by the landowners receiving the funds. We believe that these individuals would have been unfairly penalized by a collection action.

Recommendations Summary

We recommend that NRCS review all pending FRPP conservation easement appraisals in Michigan to ensure that all have gone through the required review process and will be less than 12 months old at closing. Further, NRCS needs to assess the NRCS State office's appraisal review process and ensure the State office implements the appropriate corrective actions before approving any additional easements. NRCS also needs to monitor the State office's development and implementation of appraisal review procedures, including a checklist for the program staff to complete and the State Conservationist to review, until NRCS has assurance that the State Conservationist and his staff effectively verify that appraisals are adequately reviewed.

Agency Response

In their response, dated August 4, 2011, NRCS officials agreed with all the findings and recommendations in this report. NRCS' response to the official draft report is included in its entirety at the end of this report.

OIG Position

Based on NRCS' response, we have reached management decisions on all recommendations in this report.

Background & Objectives

Background

The Farm and Ranch Lands Protection Program (FRPP) was initially authorized by the Food Security Act of 1985 and was reauthorized in the 2002 and 2008 Farm Bills. The Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) administers the program nationwide. FRPP is a voluntary program that helps farmers and ranchers keep their land available for agricultural use. The goal of FRPP is to protect farm and ranch lands that contain prime, unique, Statewide, and locally important soils; or historic and archaeological resources from conversion to non-agricultural uses. Through FRPP, NRCS provides funds to organizations, known as cooperating entities, that have existing farm and ranch land protection programs to purchase conservation easements. The purchase of conservation easements prevents selected parcels of land from being developed and thus maintains them in agricultural or other designated use in perpetuity.

NRCS administers FRPP through written agreements signed with cooperating entities, such as State, Tribal, and local governments, as well as non-governmental organizations. A cooperating entity enters into these cooperative agreements with an NRCS State office to acquire conservation easements from landowners to assure that agricultural lands are protected from conversion to nonagricultural uses, such as housing subdivisions. NRCS provides cooperating entities matching funds of up to 50 percent of the fair market value, as stated in a valid appraisal, to purchase conservation easements.

As part of the acquisition process, a cooperating entity is responsible for ascertaining the fair market value of the conservation easement as determined through a valid appraisal that conforms to nationwide appraisal standards published in the Uniform Standards of Professional Appraisal Practices or the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA).⁹ The value of a conservation easement is determined by appraising a parcel of land that has full development rights¹⁰ and then subtracting from it the appraised value of the same land as if it did not have those development rights. NRCS' Chief Appraiser provided an example of a parcel of open farmland which, rather than being sold to a housing developer to turn into a subdivision, suddenly could no longer be developed; because of this missed opportunity, the expectation is that the land would drop in value.

To ensure the appraisal accurately reflects¹¹ the fair market value, NRCS requires that appraisals submitted for FRPP be subject to either a technical or administrative review. Of the 34 closed conservation easements we reviewed, only 10 were begun in or after 2006, thus requiring this review process. There was no appraisal review requirement for easements with cooperative agreements signed prior to FY 2006. An administrative review is performed by a non-appraiser who reviews appraisals according to general requirements, which include checking that criteria

⁹ Prior to the 2008 Farm Bill, the UASFLA was an industry standard that NRCS required to be followed and all appraisers were to receive training in the UASFLA before they performed the appraisal.

¹⁰ The rights to use real property, such as farmland, in ways that differ from the current use.

¹¹ Conservation Program Manual, Part 519.62 (F), dated August 2006.

such as math calculations, contract specifications, and location of the property are correct.¹² A technical review is more thorough and is performed by a qualified State Certified General Appraiser who assesses the quality of the appraisal report based upon industry standards, appraisal instructions, and appraisal theory and methodology.¹³ These technical reviews may be performed by NRCS or by a contracted agency's appraisers (such as the Forest Service or the Department of the Interior appraisal reviewers) who are qualified to conduct technical reviews. Because conservation easement values can and do change over time, NRCS requires that appraisals submitted for FRPP be no more than 12 months old at the time the conservation easement is purchased (i.e., closed).

NRCS State program staff is responsible for verifying the eligibility of cooperating entities and lands and ensuring appraisals are properly reviewed prior to submitting the conservation easement documents to the State Conservationist for signature. The NRCS State Conservationist holds signature authority for both the cooperating agreements and for approving conservation easements for closing. The State Conservationist is also responsible for implementing procedures to ensure that FRPP requirements are met and for supervising State program staff. The State Conservationist is in turn supervised by the Regional Conservationist, who provides direction to NRCS programs and activities consistent with NRCS guidance. NRCS Headquarters officials are responsible for developing policy, procedures, and guidelines to carry out FRPP.

Once the conservation easement is acquired, the cooperating entity retains title to it. The cooperating entities have the primary responsibility for holding, monitoring, and enforcing the terms of the conservation easement. NRCS State and program staff also monitor the conservation easements to ensure that the land under easement continues to be used for agricultural purposes only. NRCS retains a contingent right to protect the Federal Government's interests should the terms of the conservation easement be broken.

NRCS contracted with the USDA's Office of the General Counsel (OGC) to review FRPP closing documents in Michigan to ensure the Federal Government's interests were protected.¹⁴ During those reviews, an OGC official noticed that appraisals were routinely rejected by a Department of the Interior appraisal reviewer for not meeting standards. In addition, the official expressed a concern that the market value listed in those appraisals seemed to be high, considering that real estate values nationwide have been trending lower. An OGC official contacted the Office of Inspector General (OIG) with concerns that the NRCS State office in Michigan was approving conservation easements for closure with potentially invalid or inaccurate appraisals.

¹² The NRCS manual refers to these requirements as "broad business decision."

¹³ An appraisal theory and methodology can be tested and is generally accepted by the appraisal community.

¹⁴ NRCS' contract with OGC was allowed to expire on October 1, 2010, since the 2008 Farm Bill changed FRPP from an easement acquisition (with the Federal Government holding an ownership interest) to a partnership program with a third party right of enforcement. As a result, a title review by an OGC attorney was no longer needed.

Objectives

The objectives of our audit were to review NRCS' appraisal process and evaluate the adequacy of the agency's controls over FRPP in Michigan. Our audit evaluated whether NRCS controls were sufficient to ensure that the participants met eligibility requirements, that conservation easements were properly appraised to establish the fair market value of the easements, and that lands under easement were being monitored to preserve them for future generations.

Section 1: NRCS Controls Over Easement Appraisals

Finding 1: NRCS Approved Conservation Easements for Closure Based on Invalid or Unsupported Appraisals

Of the 34 easements closed between fiscal years (FY) 2006 and 2010, 10 required review.¹⁵ We reviewed the documentation supporting 6 of those 10 FRPP appraisals approved by the NRCS State office in Michigan and found that 3 of the 6 appraisals did not meet NRCS requirements or industry standards. This occurred because the NRCS State office staff did not follow the required appraisal review procedures and the State Conservationist did not provide a sufficient level of review to ensure compliance with NRCS procedures. In all, we questioned over \$1.5 million that NRCS paid for three conservation easements whose appraisals did not meet requirements.

Federal Regulations¹⁶ require that any FRPP appraisal submitted by a cooperating entity conform to the UASFLA.¹⁷ Likewise, the appraiser must receive training in these standards prior to the completion of an appraisal. Additionally, since FY 2006, NRCS Headquarters required that all appraisals for FRPP conservation easements undergo either an administrative or a technical review.¹⁸ The administrative review is limited to assuring contract specifications have been met,¹⁹ whereas a technical review is a more detailed examination performed by outside appraisers.²⁰

While the appraisal review process in the NRCS State office was effective in several instances, we also found that appraisals were sometimes not receiving necessary reviews, if any at all. We determined that three of the six appraisals the NRCS State Office approved did not conform to UASFLA standards or NRCS requirements: two of those three were performed by an appraiser who had not received the required training in the UASFLA standards and the third was based on an unsupported appraisal theory.²¹

(Appraisal 1) This appraisal did not meet standards because it was completed by an unqualified appraiser, who did not receive the required training and who used sales to government entities as comparable sales without documenting the required extraordinary verification. UASFLA requires that appraisers perform an extraordinary verification for

¹⁵ Conservation easements begun prior to FY 2006 did not require that appraisals receive an administrative or technical review. In total, 24 conservation easements were begun before FY 2006 and closed in FY 2006 and later.

¹⁶ 7 Code of Federal Regulation 1491.4(E), dated July 27, 2006.

¹⁷ UASFLA is one industry standard specifically mentioned in NRCS regulations. The 2008 Farm Bill now allows appraisers to follow UASFLA or the Uniform Standards of Professional Appraisal Practice. Regardless of which industry standard was followed, the appraisers must have received training in the standard they used to perform the appraisal.

¹⁸ Conservation Program Manual, Part 519.62 (F), dated August 2006.

¹⁹ This includes checking that the land was appraised as required, the math calculations are correct, and the reviewer can understand the appraiser's logic to arrive at the easement value.

²⁰ Prior to October 1, 2010, conservation easement appraisals selected upfront for technical reviews were examined by appraisers from the Department of the Interior. Appraisals that initially received administrative reviews could also be technically reviewed by the NRCS Chief Appraiser.

²¹ NRCS' Chief Appraiser and Department of the Interior's Appraisal Reviewer confirmed our conclusion.

comparable properties sold to government entities used to support their appraisals' values. This extraordinary verification is intended to ensure that the comparable sales reflect market conditions. We also found that the appraisal was rejected during an NRCS State office administrative review and was required to be forwarded to NRCS' Chief Appraiser for technical review to ensure all nonconformance issues were corrected.²² However, NRCS State officials decided to approve the conservation easement for closure without the required technical review, stating that the risks resulting from not having a technical review seemed small, and that they wanted to close quickly since the conservation easement had already taken a very long time to obtain. They then forwarded the conservation easement documents to the State Conservationist, who approved the conservation easement without an adequate review. As a result, NRCS paid the cooperating entity \$851,300 for this conservation easement, even though the appraisal did not meet standards.

(Appraisal 2) We determined that the appraised value was unreliable because, like Appraisal 1, this appraisal was completed by an unqualified appraiser and lacked the required extraordinary verification of sales to government entities. Once submitted to the NRCS State office, this conservation easement did not receive either an administrative or technical review. During our audit, the State Conservationist stated that when he approved the closure, he was not aware that the appraisal his staff gave him had not first been reviewed. None of the NRCS State officials we interviewed could offer an explanation as to how this could have occurred. As a result, this conservation easement was approved with no assurance that the payment was based on an accurate appraised value. NRCS paid \$335,000 for this conservation easement.

(Appraisal 3) Our review noted major flaws with the third appraisal as well as with the technical review that was performed. These flaws included a lack of the required extraordinary verification for sales to government entities, and an inconsistent and unsupported appraisal methodology. We presented our analysis to NRCS' Chief Appraiser and to another qualified appraiser from the Department of the Interior. They both agreed with OIG that the appraisal lacked critical support and may have overvalued the \$1,810,000 conservation easement by \$500,000 or more. Although this appraisal did receive a technical review, we found that this was completed by a reviewer chosen by the cooperating entity. While the FRPP handbook permits this in such circumstances, the appraisal and appraisal review must be forwarded to NRCS' Chief Appraiser to verify that appraisal standards and requirements were met. However, an NRCS State program manager stated that he forgot to forward the documents on to the Chief Appraiser. Due to lack of oversight, this omission was not discovered prior to our audit. As a result, NRCS paid \$350,000 for this conservation easement based on an unsupported and overvalued appraisal. Based on our determination that the appraisal methodology was unsupported, we questioned the \$350,000 in Federal funds that NRCS paid to the cooperating entity for this conservation easement.

²² If the review discloses any nonconformance issues with a FRPP appraisal, it is the NRCS State office's responsibility to forward the appraisal to the NRCS Chief Appraiser for resolution. In addition, each NRCS State office is required to forward all completed appraisals and administrative or technical reviews to the NRCS Chief Appraiser for his records and possible review.

We obtained the NRCS Chief Appraiser's opinion on these three appraisals, and he stated that the first two appraisals were invalid and the third was an unsupported appraisal. These issues, along with the lack of extraordinary verification, should have been identified in the course of appraisal reviews.

The State Conservationist confirmed that these three appraisals were not properly reviewed for conformance with standards or NRCS requirements. In discussion with the State Conservationist, he said that he noticed that entities' appraisals routinely were not meeting industry standards as far back as 2007. Despite this, he said that he did not take any action to correct this problem because he trusted that the appraisal review process, including both technical and administrative reviews, would identify any nonconformance issues. However, this does not take into account instances when, as described above, the appraisal review process was not fully executed or implemented. After we informed the State Conservationist about the problems we found with the State's review process, he agreed that his oversight was insufficient and needed improvement.

Additionally, we found that while a review process is in place, the NRCS State office lacks specific procedures, such as a checklist, to ensure that the process is carried out. Though the NRCS FRPP handbook required NRCS State offices to review appraisals, it did not prescribe procedures on how to implement that requirement. NRCS Headquarters officials stated that they issue policy and expect States to implement that policy as best suits their needs.

Overall, we question more than \$1.5 million (see exhibit A) of the over \$11.5 million NRCS spent in Michigan since FY 2006.²³ The NRCS State office needs to improve its controls to review and monitor cooperating entities' conservation easement appraisals to ensure that payments are not made to entities using invalid or unsupported appraisals. By reviewing the NRCS State office's pending conservation easements, the national office can confirm that all appraisals meet standards prior to closing. The State office also needs to implement procedures that will ensure that all appraisals are reviewed according to NRCS policy. By monitoring the implementation of corrective actions and procedures, the national office can likewise assure that the NRCS State office's controls are effective and sufficient.

Recommendation 1

Review all pending FRPP conservation easements in Michigan to ensure that all appraisals have gone through the required review process, and that all issues identified by the reviews are addressed before the NRCS State office can approve conservation easements for closing.

Agency Response

In their response, dated August 4, 2011, NRCS officials stated that the NRCS National Appraiser is reviewing all pending FRPP conservation easement appraisals and appraisal review reports, beginning on July 1, 2011, and continuing until a 6-month period has passed in which the National Appraiser has found no issues related to the Michigan NRCS State Office's compliance with national

²³ We do not recommend recovery in these cases because NRCS approved the conservation easements for closing and the landowners fulfilled their contractual obligations.

FRPP appraisal policies. Furthermore, during this review period the Michigan State Conservationist will obtain the concurrence of the Regional Conservationist before making any FRPP payments. The State Conservationist will provide documentation through the National FRPP Program Manager to demonstrate that FRPP policies were followed. In addition, a qualified review appraiser under contract with the Michigan NRCS State Office is reviewing appraisals for all pending FRPP conservation easement transactions in Michigan. Technical reviews by qualified review appraisers are now required for all FRPP appraisals per national policy. Since October 2010, the Michigan NRCS State Office has procured technical appraisal reviews before FRPP easements closed. NRCS estimates completing this recommendation by December 31, 2011.

OIG Position

We accept NRCS' management decision.

Recommendation 2

Assess the NRCS State office's appraisal review process to determine why the review process was not followed by the staff and take the appropriate corrective action before the State office approves any additional conservation easements.²⁴

Agency Response

In their response dated August 4, 2011, NRCS officials stated that they have assessed the Michigan NRCS State Office's appraisal review process and determined that key personnel changes, as well as policy and procedural changes, occurred at the same time, resulting in the appraisal issues identified by the Office of Inspector General. Corrective actions included training for the Michigan NRCS State Program Manager, clarification by NRCS headquarters of FRPP appraisal policy, creation of a Michigan FRPP Tracking Tool, and assignment of a program analyst to serve as a backup for the State Program Manager. In a subsequent emailed response on August 16, 2011, NRCS officials stated that some of the training included the National NRCS Easement Program Workshop for State Conservationists, held in early 2011, of which one session focused on FRPP. The Assistant State Conservationist for Programs and State Program Manager attended the 2008 Farm Bill Rollout training for FRPP, FRPP manual training, and an FRPP Informational Meeting in 2009. NRCS officials stated that the National FRPP Program Manager will compare the documentation submitted for approval to close FRPP easements to the information in the new Michigan FRPP Tracking Tool to determine if data within the tool is accurate and current. NRCS estimates this process will be completed by December 31, 2011.

OIG Position

We accept NRCS' management decision.

²⁴ NRCS paid \$1,536,300 for the three conservation easements with appraisals that were not reviewed.

Recommendation 3

Require the State Conservationist to develop procedures to review conservation easement files, such as in the form of a checklist, to ensure that appraisals meet standards and FRPP requirements.

Agency Response

In their response dated August 4, 2011, NRCS officials stated that the Michigan State Conservationist developed the Michigan FRPP Tracking Tool which includes information on appraisal dates, the date the appraisal is sent to the technical reviewer, the date of approval, and the deed approval date. This system utilizes a “red, yellow, green” indicator to flag critical dates. National policy now requires all FRPP appraisals to be technically reviewed by a qualified appraiser. In addition, during the review period (July 1, 2011, through December 31, 2011) the Michigan State Conservationist will obtain the concurrence of the Regional Conservationist before making FRPP payments. The State Conservationist will provide documentation, through the National FRPP Program Manager, to demonstrate that FRPP policies were followed. In a subsequent emailed response on August 16, 2011, NRCS officials stated that documentation submitted for approval to close FRPP easements will be compared by the National FRPP Program Manager to the Michigan FRPP Tracking Tool to determine if data within the tool is accurate and current.

NRCS estimates that the new procedures, and the Regional Conservationist’s concurrence, will be completed by December 31, 2011.

OIG Position

We accept NRCS’ management decision.

Recommendation 4

Monitor the State office’s implementation of the corrective actions and new procedures until it has assurance that the State Conservationist and his staff effectively verify that appraisals are adequately reviewed and issues corrected before approving a conservation easement for closure.

Agency Response

In their response dated August 4, 2011, NRCS officials described several steps to ensure that the State office complies with appraisal review requirements. In a subsequent emailed response on August 16, 2011, NRCS stated that a new procedure has been implemented to monitor the Michigan NRCS State Office’s implementation of corrective actions through December 31, 2011. The Easement Program Division (EPD) staff will analyze the data from the FRPP Cooperative Agreement Tracking Tool before closing any FRPP easements.

The Michigan NRCS State Office will notify the National FRPP Program Manager at least 2 weeks prior to any scheduled closing. EPD staff will complete their final review of documentation and, if there are any errors, will refer the package back to the State office to

address. After EPD's approval, the complete package will be submitted to the Regional Conservationist for approval before the easement is cleared to close. NRCS officials estimate that this additional monitoring will be completed by December 31, 2011.

OIG Position

We accept NRCS' management decision.

Finding 2: The NRCS State Office Approved the Closing of Conservation Easements Based on Outdated Appraisals

From FY 2006 through FY 2010, the NRCS State Conservationist in Michigan approved for closing 20 of 34 FRPP conservation easements whose values were based on outdated appraisals.²⁵ These 20 conservation easements had appraisals that were between 13 and 31 months old at closing (see exhibit B). The State office staff was uncertain of whether they were still required to enforce the 12-month policy after NRCS removed that requirement from its FRPP manual but subsequently added it back to the cooperative agreement. Even though the State Conservationist signed off and approved the conservation easement closings, no action was taken to get updated appraisals. Further, the NRCS National Office had not conducted any form of review of FRPP in Michigan. As a result, appraisal values may have reflected values significantly different from their current fair market values. In two instances, when the State office did obtain updated appraisals, the value of the land had decreased between 30 and 50 percent. Consequently, we questioned \$6.1 of the \$11.5 million paid for the cited conservation easements in Michigan since FY 2006.²⁶

To ensure that conservation easement values reflect current market conditions, the NRCS manual required, prior to FY 2006, that conservation easement appraisals be no more than 12 months old at the time a conservation easement closed.²⁷ In 2006, NRCS amended its FRPP manual by removing the time limit, but 1 year later included it in the cooperative agreements that must be signed by NRCS and the cooperating entity for each FRPP conservation easement. The NRCS State office, particularly the State Conservationist, is required to review FRPP conservation easement documents to ensure all program requirements, including those listed in the cooperative agreement, are met prior to closing.²⁸ The Regional Conservationist provides leadership and supervision to State conservationists in the region and gives necessary guidance to ensure that agency policies and procedures are met.

Although the cooperating entities met their requirements by submitting timely appraisals, NRCS State officials did not ensure those appraisals were still less than 12 months old at closing. Our audit disclosed that the NRCS State Conservationist approved easements with outdated appraisals primarily because he did not sufficiently review the files. The State Conservationist stated that he did not know the appraisals were more than 12 months old because he trusted his

²⁵ An additional three easements were still pending as of September 30, 2010, for which funds had been obligated.

²⁶ This dollar amount includes 19 of the 20 cited easements, because 1 easement appraisal was both unsupported and more than 12 months old at closing. To avoid double counting of this easement, the value of that conservation easement, \$851,300 was included in the \$1.5 million total as stated in Finding 1.

²⁷ Conservation Program Manual, Part 519.62 (H), dated June 2003.

²⁸ Conservation Program Manual, Parts 519.11 (C) (3) and 519.6 (J), dated June 2003.

staff to ensure that FRPP requirements were met. We also found that even though the NRCS State Conservationist certified that he reviewed the conservation easement files, he did not have any documentation to support that a review was performed. Based on our findings, the State Conservationist agreed that he should have reviewed appraisal dates prior to certifying the conservation easement for closing.

NRCS allowed the State Conservationist to implement his own procedures for reviewing and certifying the documents contained in a conservation easement file without periodically performing oversight reviews to determine whether those procedures were implemented or followed. Although NRCS does require periodic reviews of a State's operations, which can include a review of more than one NRCS program, there was no evidence that FRPP in Michigan was ever reviewed. The Regional Conservationist is responsible for performing oversight reviews to ensure that the State Conservationist was fulfilling the requirements of FRPP. Since there was no evidence that FRPP in Michigan was reviewed and with 59 percent of the appraisals not meeting the time limit requirement, we concluded that oversight reviews were not performed. Oversight reviews hold the State Conservationist and his staff accountable for not only ensuring program requirements are met but also for identifying the guidance and training needs of State officials.

Further, based on discussions with NRCS State officials, we determined that they did not know whether they were still required to enforce the 12-month policy. In FY 2006, NRCS Headquarters decided to remove the time limit on appraisals from its FRPP policy manual.²⁹ Even though NRCS eventually reinstated the 12-month limit on appraisals for FY 2007 and subsequent years, it updated only the cooperative agreement templates to reflect this change, not its FRPP manual. A NRCS State program official stated that since the national office did not provide guidance on which requirement to follow, he decided to follow the FY 2006 manual because he believed it took precedence over what was reflected in the template. However, the NRCS national office's revision of the cooperative agreement template appears to be indicative of its intent to reinstitute the 12-month limit.

The 12-month limit on appraisals is necessary, particularly during times of rapidly rising or declining land values, to ensure a fair market value on the easement. As the time between appraisal and closing increases, there is a greater opportunity for disparity between prior and actual value.

We found that for two FRPP conservation easements we reviewed, more timely updated appraisals were ordered by a NRCS State official.³⁰ These two conservation easement appraisals showed significant differences in market value when reappraised several months later.

²⁹ This was in response to an OIG audit which noted that easements had closed with appraisals that were more than 12 months old, Audit 10601-3-KC, *Natural Resources Conservation Service Compliance with the Improper Payments Information Act of 2002*, dated January 2005.

³⁰ Due to additional costs OIG would have incurred, we did not obtain more timely second appraisals for the 20 cited conservation easements to determine the extent to which easement values may have changed between the dates of the appraisals and the closing dates.

One conservation easement application had an appraisal dated November 2007 and listed the easement value at \$4 million, but this easement was rejected as being too old during a December 2009 review by a USDA attorney; the new appraisal, completed in January 2010 (26 months after the original appraisal), reflected an easement value of only \$2.1 million, a reduction in value of nearly 50 percent. The second conservation easement, initially appraised in April 2006 for \$1.7 million, was found to have declined by nearly 30 percent to \$1.2 million when it was reappraised 30 months later in October 2008.³¹

Outdated appraisals can result in NRCS paying more than the fair market value of a conservation easement during a declining real estate market. Conversely, during a rising real estate market, an outdated appraisal may not reflect current fair market values and may discourage land owners from participating in the FRPP.

According to NRCS' Chief Appraiser, over the last 3 years, residential real estate values have declined both nationwide and in the State of Michigan. Because a conservation easement's value is essentially the difference between residential and agricultural land values, residential real estate values directly impact the value of conservation easements.³² Based on our analysis of residential real estate and agricultural land values published by Michigan State University, we have estimated that conservation easement values in Michigan have decreased by 45 percent between 2007 and 2009.³³ We also analyzed conservation easement values since 2003 and found that land values have fluctuated between 3 and 30 percent over 12 months, as demonstrated in the chart below. In the 3 years that it took some easements to close, Michigan experienced a drop in conservation easement values by over 42 percent. Because 20 of the conservation easements that NRCS funded between FYs 2006 and 2009 had appraisals that far exceeded the 12-month limit, we question almost \$6.1 million that NRCS paid for these easements.

³¹ NRCS required the conservation easement to be reappraised due to the age of the first appraisal.

³² A conservation easement's value is determined by taking the difference of the land at its highest and best use and subtracting the value of land if used for agriculture. The highest and best can vary from residential or commercial to agricultural use, but according to NRCS' Chief Appraiser, most appraisals submitted for FRPP cite residential use.

³³ We presented our analysis to NRCS' Chief Appraiser who concurred with our methodology.

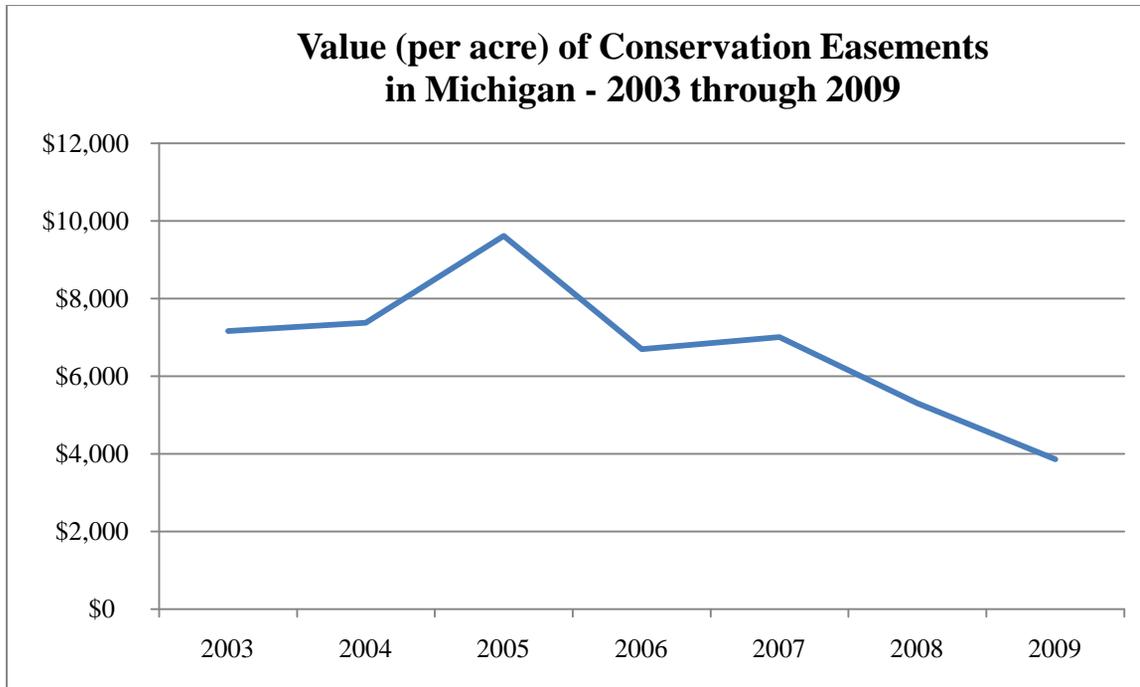


Chart 1: The chart above represents conservation easement values (between \$2,000 and \$12,000 per acre) for calendar years 2003 through 2009.

During our fieldwork we learned that NRCS was going to provide its Michigan office with an additional \$5.9 million to fund its backlog of 14 unfunded conservation easement applications. Because NRCS had previously approved easements in Michigan whose values were based on outdated appraisals, we issued a management alert on June 11, 2010, recommending that NRCS issue an immediate notice regarding the 12-month time limit and update its FRPP manual. Although none of the appraisals associated with Michigan NRCS' backlog of conservation easement applications were out of date at that time, many had appraisals already several months old. NRCS took immediate action by issuing a notice and on June 30, 2010, distributed a draft FRPP policy manual, which included a 12-month limit on appraisals. The FRPP policy manual was issued in final on September 30, 2010. However, the updated FRPP policy manual does not contain procedures for the State Conservationist to follow, which could have helped the State Conservationist to identify the 20 outdated appraisals.

As a result of the NRCS State office's ineffective oversight, we question almost \$6.1 million (see exhibit A) of the \$11.5 million paid for the cited conservation easements in Michigan since FY 2006.³⁴ Until NRCS takes the appropriate measures to detect and follow up to ensure that appraisals are 12 months old or less at closing, the NRCS State office risks approving conservation easements with outdated appraisals that do not reflect the fair market value. Real estate values and associated conservation easements can significantly change over 12 months. NRCS' Chief Appraiser stated that even a 12-month old appraisal may not always accurately reflect a conservation easement's current fair market value, and should therefore be considered a

³⁴ We do not recommend recovery in these cases because NRCS approved the conservation easements for closing and the landowners and cooperating entities fulfilled their contractual obligations.

maximum time limit only. For this reason, other government agencies and the real estate industry limit appraisals to between 3 and 6 months. The Chief Appraiser stated, however, that due to the time it takes NRCS to get an easement processed, a 3 to 6-month age limit would not be practical, but admitted that 12 months should be the maximum. By ensuring that the State Conservationist in Michigan implements procedures to better adhere to key FRPP requirements, and by providing additional guidance and oversight for the State Conservationist and his staff, NRCS can gain the assurance that the value of FRPP conservation easements in Michigan reflects current fair market values. Once this has been confirmed, the State Conservationist can then approve the closing of any future easements without the increased oversight from NRCS headquarters.

Recommendation 5

Require the State Conservationist to develop and implement a process to document the review of conservation easement files to ensure key FRPP requirements, such as appraisal dates, are met.³⁵

Agency Response

In their response dated August 4, 2011, NRCS officials stated that the Michigan State Conservationist has established a quality assurance process within the State, and FRPP is a part of the process. The Michigan NRCS State Office will follow its own quality assurance procedures to review FRPP during regularly scheduled program reviews. In addition, the Michigan State Conservationist developed the Michigan FRPP Tracking Tool which includes information on appraisal dates, the date the appraisal is sent to the technical reviewer, the date of approval, and the deed approval date. This system utilizes a “red, yellow, green” indicator to flag critical dates. In a subsequent emailed response on August 16, 2011, NRCS officials stated that FRPP quality assurance reviews in Michigan are conducted twice each fiscal year. Documentation submitted for approval to close FRPP easements will be compared by the National FRPP Program Manager to the Michigan FRPP Tracking Tool to determine if data within the tool is accurate and current. The estimated completion date for these processes and review is December 31, 2011.

OIG Position

We accept NRCS’ management decision.

Recommendation 6

Monitor the State Conservationist’s implementation of the new process until the State Conservationist can provide the Regional Conservationist evidence that program requirements, particularly appraisal dates, are met.

³⁵ NRCS paid \$6,090,771 for 19 of the 20 conservation easements with appraisals that were more than 12 months old at closing. There was one additional appraisal that was also more than 12 months old at closing, but we excluded the \$851,300 that NRCS paid for that easement because its value was included in the total for Finding 1.

Agency Response

In their response dated August 4, 2011, NRCS officials stated that the NRCS National Appraiser is reviewing all pending FRPP conservation easement appraisal and appraisal review reports, beginning on July 1, 2011, and continuing until a 6-month period has passed in which the National Appraiser has found no issues related to the Michigan NRCS State office's compliance with national FRPP appraisal policies. Furthermore, during this review period, the Michigan State Conservationist will obtain the concurrence of the Regional Conservationist before making FRPP payments. The State Conservationist will provide documentation through the National FRPP Program Manager to demonstrate that FRPP policies were followed. NRCS will monitor the State Conservationist's implementation of the new process through December 31, 2011.

OIG Position

We accept NRCS' management decision.

Recommendation 7

Until such time that a permanent process as stated in the above recommendations is in place, require the Regional Conservationist to review and assure that conservation easement files in Michigan contain appraisals that are less than 12 months old at closing.

Agency Response

In their response dated August 4, 2011, NRCS officials stated that a permanent process already has been put in place that will assure that conservation easement files will contain appraisals that are less than 12 months old at closing. To ensure that the process is working as anticipated, the NRCS National Appraiser is reviewing all pending FRPP conservation easement appraisal and appraisal review reports, beginning on July 1, 2011, and continuing until a 6-month period has passed in which the appraiser has found no issues related to Michigan NRCS State Office's compliance with national FRPP appraisal policies. Furthermore, during this review period, the Michigan State Conservationist will obtain the concurrence of the Regional Conservationist before making any FRPP payments. The State Conservationist will provide documentation through the National FRPP Program Manager to demonstrate that FRPP policies were followed. NRCS estimated the completion of the corrective action to be December 31, 2011.

OIG Position

We accept NRCS' management decision.

Scope and Methodology

We performed our audit at NRCS Headquarters in Washington, D.C., and at one State office in East Lansing, Michigan, and conducted site visits at conservation easements. The Michigan NRCS State office processed 37 FRPP conservation easements, which consist of 34 closed and 3 pending from October 1, 2005, through September 30, 2010. During that period, the NRCS State office obligated \$13.9 million, paying \$11.5 million with an additional \$2.4 million obligated but unliquidated at close of FY 2010. These Federal funds were obligated to 11 cooperating entities.

We judgmentally selected 7 of the 37 (19 percent) FRPP conservation easements to include in our sample: 6 closed and 1 pending.³⁶ A USDA OGC official specifically requested that five of these seven easements be reviewed as potentially overvalued. This group of five conservation easements included two of the top three easements with the highest appraised value per acre. We selected two of the seven conservation easements because one of them closed without an appraisal review and the other because NRCS' contribution had exceeded \$1 million. According to records maintained by the State office, in total, our sample covered \$4.1 of the \$13.9 million in FRPP funds that NRCS paid or obligated in the State of Michigan. Our sample covered 3 of the 11 cooperating entities in that State.

NRCS did not maintain a separate information system to record or track FRPP conservation easement data. Instead, the agency recorded FRPP conservation easement data using a spreadsheet software program. We did not rely on the information contained in this program or assess the validity or accuracy of the data recorded in that program.

To accomplish our audit objectives we:

- Reviewed applicable laws, regulations, policies, and procedures pertaining to FRPP conservation easements;
- Interviewed NRCS national, regional, State, and local (e.g., district) officials to determine their oversight of FRPP conservation easement acquisitions. We also interviewed cooperating entity personnel, landowners, and the appraisers that prepared the conservation easement appraisals;
- Analyzed NRCS' listing of funded FRPP easements nationwide that closed from FY 2006 through FY 2009, and the listing of easements for the State of Michigan that closed or were pending through FY 2010, to identify trends and select conservation easement files for review;
- Performed site visits to seven conservation easement sites to observe NRCS' monitoring procedures and to ensure the land was still used for agricultural purposes;

³⁶ We reviewed this pending easement because OGC requested it. However, since the easement had not closed, we did not include it as part of our results of this report.

- Evaluated all case file documents for seven easements, including the appraisals used to support the fair market value of the conservation easements to ensure they complied with NRCS requirements and appraisal standards;
- Evaluated the case file documents for 34 easements to verify that the appraisal ages met NRCS requirements at the time of closing;
- Consulted with NRCS' Chief Appraiser and the contracted appraisal reviewer from the Department of the Interior to obtain their opinion of the appraisals in our sample and whether they concurred with our assessments of the validity of those appraisals or the appraisal review process;
- Reviewed participant eligibility and land usage and did not note any reportable issues;
- Compared the appraisal dates to the easement closing dates for all 37 easements, but reported only on the 34 closed easements as of September 30, 2010;³⁷ and
- Verified whether appraisals were rejected during the initial appraisal review relating to four additional closed easements.

We conducted this 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 conclusion 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.

³⁷ We did not include the three pending conservation easements in the findings of this report.

Abbreviations

EPD	Easement Program Division
FRPP	Farm and Ranch Lands Protection Program
FY	Fiscal Year
NRCS	National Resources Conservation Service
OGC	Office of the General Counsel
OIG	Office of Inspector General
UASFLA	Uniform Appraisal Standards for Federal Land Acquisition
USDA	Department of Agriculture

Exhibit A: Summary of Monetary Results

FINDING NUMBER	RECOMMENDATION NUMBER	DESCRIPTION	AMOUNT	CATEGORY
1	2	NRCS paid for easements based on invalid and unsupported appraisals	\$1,536,300	Questioned Costs - No Recovery Recommended
2	5	NRCS paid for easements that did not have current appraisals	\$6,090,771	Questioned Costs - No Recovery Recommended
TOTAL	MONETARY	RESULTS	\$7,627,071	

The table above represents the \$7,627,071 in questioned costs, no recovery recommended.

Exhibit B: Listing of 20 Michigan NRCS FRPP Conservation Easements with Appraisals More Than 12 Months Old at Closing

Easement Number	Effective Date of Appraisal	Closing Date	Age (in months) of Appraisal at Closing ³⁸	NRCS Cost Share
1	4/20/2006	10/29/2008	31	See footnote ³⁹
2	3/31/2005	9/28/2007	30	\$215,000
3	3/25/2005	9/7/2007	30	\$790,000
4	7/21/2004	11/1/2006	28	\$698,500
5	2/23/2005	5/21/2007	27	\$154,800
6	4/12/2007	5/28/2009	26	\$355,000
7	8/15/2005	9/27/2007	26	\$259,000
8	4/20/2004	3/23/2006	23	\$176,060
9	4/23/2004	3/17/2006	23	\$187,762
10	11/3/2004	7/5/2006	20	\$135,000
11	1/19/2008	5/29/2009	17	\$680,000
12	4/18/2007	8/18/2008	16	\$296,250
13	9/16/2004	1/11/2006	16	\$272,500
14	2/18/2005	4/12/2006	14	\$289,049
15	12/20/2006	1/31/2008	14	\$142,000
16	3/22/2005	4/26/2006	13	\$207,200
17	12/29/2006	1/31/2008	13	\$51,750
18	3/29/2005	4/26/2006	13	\$583,900
19	7/24/2007	8/19/2008	13	\$357,000
20	8/31/2006	9/21/2007	13	\$240,000
TOTAL				\$6,090,771

³⁸ For the sake of calculation, we measured one month as 30 days.

³⁹ NRCS' cost share for Easement 1 was valued at \$851,300 which was included in the total of \$1,536,300 identified in Finding 1. We did not include that amount in Finding 2 and removed it from this chart to avoid double counting.

USDA'S

**NATIONAL RESOURCES
CONSERVATION SERVICE**

RESPONSE TO AUDIT REPORT

United States Department of Agriculture



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

August 4, 2011

SUBJECT: MGT - Natural Resources Conservation Service (NRCS)
Response to Audit 10099-3-Ch, Controls over the Farm and
Ranch Lands Protection Program in Michigan

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

File Code: 330-12

Attached are NRCS' responses to Audit 10099-3-Ch, Controls over the Farm and Ranch Lands Protection Program official draft report. The responses address the action taken and planned on 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.

/s/

Dave White
Chief

Attachments

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NRCS Responses for Audit 10099-3-CH Controls over the Farm and Ranch Lands Protection Program (FRPP) in Michigan

Finding 1. NRCS approved Conservation Easements for closure based on invalid or unsupported appraisals

Recommendation 1

Review all pending FRPP conservation easements in Michigan to ensure that all appraisals have been through the required review process, and that all issues identified by the reviews are addressed before the NRCS State office can approve conservation easements for closing.

Agency Response:

The NRCS National Appraiser is reviewing all pending FRPP conservation easement appraisals and appraisal review reports which began on July 1, 2011, until a 6 month period has passed in which the National Appraiser has found no issues related to Michigan NRCS following national FRPP appraisal policies. Furthermore, during this review period, the Michigan State Conservationist will obtain the concurrence of the Regional Conservationist before making any FRPP payments. The State Conservationist will provide documentation through the National FRPP Program Manager to demonstrate that FRPP policies were followed. In addition, a qualified review appraiser under contract with Michigan NRCS is reviewing appraisals for all pending FRPP conservation easement transactions in Michigan. Technical reviews by qualified review appraisers are now required for all FRPP appraisals per national policy. Since October 2010, Michigan NRCS has procured technical appraisal reviews before FRPP easements closed.

Estimated Completion Date:

December 31, 2011.

Recommendation 2

Assess the NRCS State office's appraisal review process to determine why the review process was not followed by the staff and take the appropriate corrective action before the State office approves any additional conservation easements.

Agency Response:

NRCS assessed the Michigan NRCS appraisal review process and determined that key personnel changes, as well as policy and procedural changes, occurred at the same time, resulting in the appraisal issues identified by the Office of Inspector General. Corrective actions included training for the Michigan NRCS State Program Manager, clarification by National Headquarters of FRPP appraisal policy, creation of a Michigan FRPP Tracking Tool, and assignment of a Program Analyst to serve as a backup for the State Program Manager.

Estimated Completion Date: Completed

Recommendation 3

Require the State Conservationist to develop procedures to review conservation easement files, such as in the form of a checklist, to ensure that appraisals meet standards and FRPP requirements.

Agency Response:

The Michigan State Conservationist developed the Michigan FRPP Tracking Tool which includes information on appraisal dates, the date the appraisal is sent to the technical reviewer, the date of approval, and the deed approval date. This system utilizes a “red, yellow, green” indicator to flag critical dates. National policy now requires all FRPP appraisals to be technically reviewed by a qualified appraiser. In addition, during the review period referenced in the agency response to recommendation 1, the Michigan State Conservationist will obtain the concurrence of the Regional Conservationist before making FRPP payments. The State Conservationist will provide documentation, through the National FRPP Program Manager, to demonstrate that FRPP policies were followed.

Estimated Completion Date

December 31, 2011.

Recommendation 4

Monitor the State office’s implementation of the corrective actions and new procedures until it has assurance that the State Conservationist and staff effectively verify that appraisals are adequately reviewed and the issues corrected before approving a conservation easement for closure.

Agency Response:

The NRCS National Appraiser is reviewing all pending FRPP conservation easement appraisal and appraisal review reports which began on July 1, 2011, until a 6 month period has passed in which the National Appraiser has found no issues related to Michigan NRCS following national FRPP appraisal policies. In addition, a qualified review appraiser under contract with Michigan NRCS is reviewing appraisals for all pending FRPP conservation easement transactions in Michigan. Technical reviews by qualified review appraisers are now required for all FRPP appraisals per national policy. Since October 2010, Michigan NRCS has procured technical appraisal reviews before FRPP easements closed.

Estimated Completion Date

December 31, 2011.

Finding 2. The NRCS State office approved the closing of Conservation Easements based on outdated appraisals

Recommendation 5

Require the State Conservationist to develop and implement a process to document the review of conservation easement files to ensure key FRPP requirements, such as appraisal dates, are met.

Agency Response:

The Michigan State Conservationist has established a Quality Assurance process within the State, and FRPP is a part of the process. Michigan NRCS will follow its own Quality Assurance procedures to review FRPP during regularly scheduled program reviews. In addition, the Michigan State Conservationist developed the Michigan FRPP Tracking Tool which includes information on appraisal dates, the date the appraisal is sent to the technical reviewer, the date of approval, and the deed approval date. This system utilizes a “red, yellow, green” indicator to flag critical dates. National policy now requires all FRPP appraisals to be technically reviewed by a qualified appraiser. In addition, a qualified review appraiser under contract with Michigan NRCS is reviewing appraisals for all pending FRPP conservation easement transactions in Michigan. Technical reviews by qualified review appraisers are now required for all FRPP appraisals per national policy. Since October 2010, Michigan NRCS has procured technical appraisal reviews before FRPP easements closed.

Estimated Completion Date: Completed

Recommendation 6

Monitor the State Conservationist’s implementation of the new process until the State Conservationist can provide the Regional Conservationist evidence that program requirements, particularly appraisal dates, are met.

Agency Response:

The NRCS National Appraiser is reviewing all pending FRPP conservation easement appraisal and appraisal review reports which began on July 1, 2011, until a 6 month period has passed in which the National Appraiser has found no issues related to the Michigan NRCS State office following national FRPP appraisal policies. Furthermore, during this review period, the Michigan State Conservationist will obtain the concurrence of the Regional Conservationist before making FRPP payments. The State Conservationist will provide documentation through the National FRPP Program Manager to demonstrate that FRPP policies were followed. In addition, a qualified review appraiser under contract with the Michigan NRCS State office is reviewing appraisals for all pending FRPP conservation easement transactions in Michigan. Technical reviews by qualified review appraisers are now required for all FRPP appraisals per national policy. Since October 2010, the Michigan NRCS State office has procured technical appraisal reviews before FRPP easements closed.

Estimated Completion Date

December 31, 2011.

Recommendation 7

Until such time that a permanent process as stated in the above recommendations is in place, require the Regional Conservationist to review and assure that conservation easement files in Michigan contain appraisals that are less than 12 months old at closing.

Agency Response:

A permanent process already has been put in place that will assure that conservation easement files will contain appraisals that are less than 12 months old at closing. To ensure that the process is working as anticipated, the NRCS National Appraiser is reviewing all pending FRPP conservation easement appraisal and appraisal review reports which began on July 1, 2011, until a 6 month period has passed in which the appraiser has found no issues related to Michigan NRCS following national FRPP appraisal policies. Furthermore, during this review period, the Michigan State Conservationist will obtain the concurrence of the Regional Conservationist before making any FRPP payments. The State Conservationist will provide documentation through the National FRPP Program Manager to demonstrate that FRPP policies were followed. In addition, a qualified review appraiser under contract with Michigan NRCS is reviewing appraisals for all pending FRPP conservation easement transactions in Michigan. Technical reviews by qualified review appraisers are now required for all FRPP appraisals per national policy. Since October 2010, Michigan NRCS has procured technical appraisal reviews before FRPP easements closed.

Estimated Completion Date

December 31, 2011.

NRCS-Michigan FRPP State Quality Assurance Procedures

The State FRPP Coordinator will have primary responsibility in managing the FRPP program, including:

- Eligibility
- Ranking
- Selection
- All appropriate inquiries (field level responsibility)
- Preparing cooperative agreements
- Deed review
- Title review
- Conservation planning (field level responsibility)
- Appraisal technical review
- Tracking
- Field office area appraisals

The Michigan FRPP Coordinator will use the FRPP Cooperative Agreement Tracking Tool to ensure that all required steps and procedures have been completed.

- NHQ must review the conservation easement deed prepared by the cooperating entity before the easement is closed. If a conservation easement deed or deed template has been approved by National Headquarters (NHQ) on a previous parcel submitted by the same entity for a parcel that is the product of the same year's cooperative agreement, the same deed or template may be used for subsequent conservation easement deeds without a required approval.
- All appraisals used for acquisition of FRPP easements must undergo a technical appraisal review.
- Any appraisal report with value opinions that will result in NRCS acquisition costs in excess of \$1 million must be sent to NRCS staff appraiser with the completed technical review for post review and acceptance prior to any commitment by NRCS or closing.
- The effective date of the appraisal can be no more than 12 months from the date of closing.
- All title evidence, such as public land records, must be reviewed to ensure that a good and legally sufficient title in the property is obtained. The parcel must be free and clear of any and all encumbrances on the title except those that the cooperating entity and NRCS decide are acceptable.
- NRCS will conduct an on-site visit of the offered parcel, complete the Hazardous Materials Substance Worksheet (Exhibit 519.97), and perform a Hazardous Materials Database Search within 120 days of the execution of the cooperative agreement.
- The entity must provide NRCS with a signed statement verifying the appraised fair market value and purchase price of the conservation easement, as well as the landowner and cooperating entity's contributions (Exhibit 519.110, "Confirmation of Matching Funds (2008 Farm Bill)").
- In cases where the FRPP investment in a property exceeds \$50,000, an onsite review by the NRCS State office is required prior to the NRCS NHQ reviewing the conservation easement deed, appraisal, and appraisal review.

- Where highly erodible croplands are included in the conservation easement, a conservation plan must be developed using the procedures and specifications outlined in the local NRCS Field Office Technical Guide and the National Planning Procedures Handbook.

State Conservationists must submit, for review to the NHQ Deputy Chief for Management, cooperative agreements exceeding \$100,000. The Michigan contracting officer will assist the FRPP program coordinator in preparing cooperative agreements, including the review and approval for any over \$100,000. Technical reviews and Hazardous Materials Database Search will be completed through contracting at the State level using a Blanket Purchase Agreement.

The Michigan program staff's Program Analyst will assist in review of the tracking tool and assist with title review.

The Michigan Assistant State Conservationist for Programs will review all obligations, easement deeds, payments, and sign off on a memorandum that has been reviewed and determined to be accurate and in accordance with the FRPP policy before submitting cooperative agreements, easement deeds, and payments to the State Conservationist for signature.