

Indian Country Priorities and Opportunities for the 2023 Farm Bill Title II: Conservation

Key Points and Recommendations

- Conservation programs provide essential financial support for producers who want to implement land stewardship activities on their lands, but these programs are often difficult for Indian Country to access and don't always incorporate traditional ecological knowledge (TEK).
- Natural Resources Conservation Service (NCRS) Programming must be enhanced for Tribal producers, including recognition of TEK and inclusion of Tribal priorities as Priority Resource Concerns.
- Alternative models of program delivery, from expansion of existing Alternative Funding Agreements (AFAs) to implementing "638" Self Determination and Self Governance, would significantly expand Tribal eligibility and access to conservation programs.

Background Information and Context

Indigenous people are the original stewards of land and waterways on this continent, yet Tribal lands suffer today due to lack of tailored federal legislation incorporating the challenges and unique nature of Tribal agricultural lands. The Conservation Title aids Native producers and landowners in implementing proven conservation practices based on technical standards on agricultural and forest lands. However, when federal policy continues to apply state and local standards to Indian Country lands where the same circumstances, markets, governance structures, and land holdings simply do not exist, Indian Country will continue to struggle with accessing critical conservation programs contained in this title. Flexibility in this title that opens up Tribal producer access and facilitates the inclusion of more indigenous management strategies.

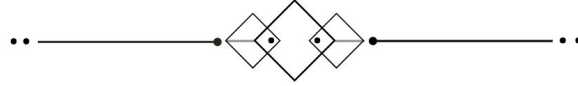
Opportunities for Indian Country in the Conservation Title

Conservation Reserve Program (CRP)

- Create a pilot program to explore the use of livestock to improve soil health in CRP fields and allow for rental rates over and above the CRP payment.

Beginning Producers in Conservation Programs

- Encourage and allow all beginning producers to participate in conservation programs and amend all conservation programs to incentivize beginning producers by removing the "one year of control" requirement.



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- Create a new title section to allow Tribal citizens who are beginning farmers and ranchers the ability to use CRP land or other lands engaged in conservation practices in ways that do not damage the land or resources.

Contract / Program Term Length Flexibility

- Authorize alternative term length of programmatic enrollment or contract terms for improved flexibility on Tribal lands, specifically including Tribal trust or individually held trust or restricted leased lands.

Alternative Models of Program Delivery – Alternative Funding Arrangements, 638, Other Flexibilities for Tribes

- Although the 2018 Farm Bill included alternative funding arrangements (AFAs) requirements, work needs to occur to ensure more Tribal governments receive AFA opportunities.
- Including “638” Self-Determination and Self-Governance opportunities would allow Tribes the ability to administer conservation programs directly to eligible Tribal producers and provide more local, tailored service.

Funding Flexibility

- Full and robust application of this option for any Conservation Title program that requires a match percentage would increase conservation opportunities previously unavailable to Tribes.

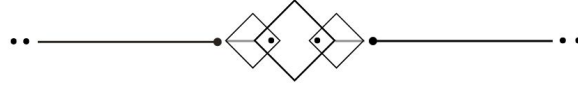
Soil and Water Resources Conservation

- Establish the National Technical Committee to advise NRCS and ensure Tribal agency representatives are included.

Extension and Enrollment Requirements of Conservation Reserve Program

- A request to designate a State Acres for Wildlife Enhancement (SAFE) would have required the Secretary to give priority to certain requests, including wildlife habitats for targeted species, where a commitment of funds for incentive payments is provided, and to maintain a regional balance when making designations.

Wildlife Management



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- Require the Secretary to provide technical and programmatic information regarding conservation practices that producers can implement.

Recognition of Traditional, Ecological, Knowledge-Based Conservation

- Develop a new section to explicitly allow a Tribe or a group of Tribes to develop traditional, ecological, knowledge-based (TEK) technical standards that will control implementation of all conservation projects allowed under the Farm Bill.

Include Tribal Priorities in Definition of Priority Resource Concerns

- Amending the Priority Resource Concern's definition to include Tribes would provide Indian Country inclusion and facilitate NRCS funding addressing more Tribally driven concerns.

Allow Lands Held in Common and by Tribal Entities to Access Conservation Programs

- Create a new section in the Conservation Title so that lands held in common, such as reservation lands that are controlled and farmed / ranched by groups of individuals can participate in all Conservation Title programs.

Priority for Enrollment of Tribal Lands in the Conservation Reserve Program

- Tribal lands falling under the jurisdiction of the Bureau of Indian Affairs, Tribal governments, Tribal agricultural entities, and individual Tribal producers, landowners, or land operators should receive mandatory priority consideration for all conservation programs authorized in the upcoming Farm Bill.

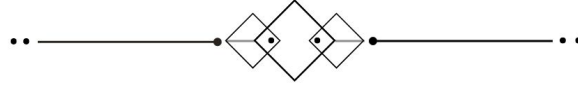
Notice Regarding Conservation Activities and ARMP Compliance

- Ensure conservation activities will be required to be in conformance with the Tribal government's Agricultural Resource Management Plan (ARMP), if one is in place, and that proper individuals or officials receive adequate notice of conservation activities.

Recognizing Tribal Law Parity

- Amend any reference to "state law" in the Conservation Title to say "State law or Tribal law" and any reference to "State technical committee" to "State technical committee or Tribal Technical committee."

Tribal Technical Committee



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- Require each state conservationist to establish a separate Tribal technical committee, should any Tribal headquarters exist within their state boundaries, or any land exist under the jurisdiction of Tribal governments or the BIA.

No additional Compensation for Expired Conservation Measures

- Do not require individual Tribal citizens, Tribal governments, or Tribal entities to compensate the former lessee of the Tribal lands for the installation or maintenance of such practice, since those practices have already been the subject of cost share with the federal government

NRCS Report on Natural Resource Inventory Investments Needs on Tribal Lands

- Require NRCS to immediately develop a report to be delivered to all Tribal governments and individual Indian producers identifying which Tribal lands still need proper Natural Resource Inventory funding support to perform soil and range surveys to create a baseline report of needs for said lands.

Traditional Ecological Knowledge Consideration for Conservation Compliance

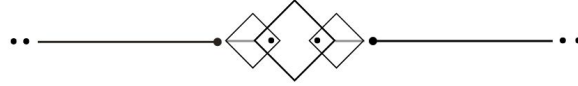
- Consider traditional ecological knowledge whenever the Secretary determines the level of compliance of landowners who have lands or resources enrolled in any of the Conservation Title programs, particularly when determining whether a meaningful stewardship threshold has been reached

BIA Actions Responsible for Non-Compliance, Deemed Approved Enrollment

- Do not determine any Tribal landowner or operator of lands in violation of any term of a conservation program enrollment requirement when the BIA can be established as the cause for any alleged non-compliance, whether through delay in action, other non-action in decision-making requirements, or any other reason.

Environmental Quality Incentives Program (EQIP) – Tribal Priority and Reduced Barriers to Access

- Give priority considerations to Tribal governments, Tribal entities, and individual Tribal landowners and operators to participate in EQIP program activities, in addition to the 5% Tribal set-aside.



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- Tribal and individual Indian landowners and operators shall be entitled to additional priority for any activities related to organic and organic transition practices on their farms and ranches.

Tribal Parity in the Conservation Title

- Include a provision in all sections of the Conservation Title allowing Tribal governments, Tribal producers, and Tribal entities or organizations created for conservation and natural resource protection purposes to have full access to every program allowed under the Conservation Title.

Technical Assistance Funding for Tribal Governments and Organizations

- Give the Secretary the authority to create a permanent fund within the available technical assistance funding authorities, appropriations, and programs to ensure that Tribal governments, Tribal organizations, and Tribal landowners and producers throughout Indian Country-including in all Tribal areas of Alaska and Hawaii-have specialized technical assistance available on a continual basis.