United States Department of Agriculture
Soil Conservation Service
P.O. Box 2890
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20013

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U.S. Department of Agriculture
SOIL CONSERVATION SERVICE
Morgantown, W. Va.

SUBJECT: WS - Flood Prevention - Public Law 534 - Federal Cost Sharing for Landrights in Flood Prevention Projects

TO: Craig M. Right, State Conservationist, SCS
Morgantown, West Virginia

This memorandum authorizes you to reimburse sponsors for landrights in Flood Prevention projects with the conditions set forth below.

The 1971 Agricultural and Related Agencies Appropriation Act authorizes the Secretary of Agriculture to reimburse local organizations for such proportionate share of the cost of landrights as the Secretary deems equitable in the 11 watershed projects authorized by the Flood Control Act of 1944. This legislation applies only to minimum landrights needed for the sole purpose of flood prevention. Minimum landrights are considered to be easements needed for installation, operation, and maintenance. Such easements constitute something less than full interest in real property and, in all cases, should have less value than would be vested in full property acquisition. In view of this, we interpret that sponsors may be reimbursed with watershed funds for their actual minimum landrights cost for single-purpose flood prevention measures. If something more than minimum landrights is acquired, reimbursement is limited to the value of easements for flood prevention only.

You are authorized to reimburse the sponsors for up to 100 percent of the cost for minimum landrights, obtained after the date of this memorandum, for single-purpose floodwater retarding structures in approved subwatershed work plans of Flood Prevention projects. This approval is contingent on the following conditions:

(1) The extent of minimun landrights required for the construction, operation, and maintenance is determined by the Soil Conservation Service.

(2) The landrights are acquired in the name of the sponsoring local organization by perpetual easement or in fee title.

(3) The amount of WF-03 fund reimbursement for minimum landrights is less than the value of fee title acquisition.

Prior to receiving Federal financial assistance for landrights costs, the sponsoring local organization is to:

(1) Comply with the 50 percent land treatment requirement explained in 4.03, Watershed Protection Handbook, for the entire hydrologic unit in which the structural measure is located.

(2) Assume full financial and other responsibility for the nonfederal share of landrights costs and all costs incidental to acquiring landrights, such as the difference in cost between a perpetual easement and acquisition in fee title (if the landright is acquired by the latter method), the cost of legal and engineering survey work, and the local administrative costs.

(3) Comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(4) Show evidence of financial capability and agree to operate and maintain completed works of improvement.

(5) Agree to prohibit, during the evaluated life of the project, the construction of private facilities on land for which landrights were acquired with Federal financial assistance.

(6) Agree that all landrights acquired or improvements installed with watershed financial or credit assistance will not be sold or otherwise disposed of except with the concurrence of, and in a manner prescribed by the Soil Conservation Service.

Subject to the conditions set forth in this memorandum, the landrights acquisition principles contained in Section 2000, Part 2, Administrative Services Handbook, are applicable. Please contact the Administrative Services Division if assistance is needed regarding landrights acquisition principles or landrights agreements to provide for sharing the cost of landrights as authorized by this memorandum.

We urge you to use this authority very judiciously, keeping in mind President Carter's Water Policy Directives of July 12, 1978, concerning cost sharing policies for flood prevention measures and the inconsistency it will create with cost sharing for landrights under the authority of Public Law 83-566.

R. M. DAVIS
Administrator

cc:
Cletus J. Gillman, Director, NTSC, SCS, Broomall, Pennsylvania