

Part 519 – Farm and Ranch Lands Protection Program

Subpart J – Exhibits

519.113 Letter from the State Conservationist to the Cooperating Entity on Closing Agent Requirements

Letter from State Conservationist to Cooperating Entity Concerning the Closing Agent Instructions for the Farm and Ranch Lands Protection Program

Date:

Dear [Name of Cooperating Entity Representative]:

Re: Landowner Name: _____
Land: _____ (*short description of land*)
Commitment for Title Insurance Policy: _____ (*describe*)
Federal Funds: \$ _____

NRCS requires that the closing agent provide the following information to you with a copy to NRCS. The closing agent must certify that he or she meets the requirements to ensure that the Federal funds received are used to assist in purchasing the subject easement and are handled in a manner that protects the interests of the United States of America. These instructions are in addition to any closing instructions provided by the cooperating entity.

The closing agent must—

- Acknowledge that the closing agent has current knowledge of the requirements of State law in connection with closing real estate transactions and title clearance.
- Certify that the closing agent is an approved agent licensed to engage in title insurance business in the State.
- Certify that the title insurance company that has issued the commitment and which will issue the policy is approved by the State insurance commissioner.
- Provide coverage in the form of a closing protection letter or fidelity insurance, either of which must be approved in advance by NRCS in consultation with OGC as sufficient, to protect the Federal funds from loss arising out of fraud, dishonesty, or negligence of the closing agent in handling the funds or documents in connection with the closing and arising out of the closing agent's failure to comply with the written closing instructions issued by NRCS or the cooperating entity.
- Certify that the closing agent will not close on an easement purchase when the closing agent is an individual and a spouse, children, partner(s), or business associate(s) have a financial interest in the real estate to be covered by the proposed easement or when the closing agent is an entity and any employee, officer, director, or a spouse, child, partner, or business associate of any employee, officer, or director has a financial interest in the real estate to be covered by the proposed easement.
- Agree that the USA's portion of the purchase price for the acquisition (i.e., Federal funds) will be sent to the closing agent from the U.S. Treasury by electronic fund transfer (EFT) prior to closing in the amount of \$ _____ (to be inserted by the cooperating entity).
- Agree that the Federal funds will be deposited into an account at a federally-insured financial institution and that the deposited Federal funds will be fully insured against loss due to bank failure while on deposit at that financial institution.
- Acknowledge that the closing agent will close the transaction and record the deed within 3 business days of receipt of the Federal funds.

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- Certify that the closing agent will ensure that the following will occur:
 - (1) The real estate records covering the time from the effective date of the commitment to the date of closing will be examined immediately prior to closing to determine that no adverse change in title has occurred and that there are no intervening matters affecting the title that might result in a new title exception on the policy. If any such changes or matters are discovered, the closing, the recording of the deed, and the disbursement of funds will be delayed pending consultation with NRCS and the cooperating entity.
 - (2) The closing agent will obtain at closing a properly executed deed from the Landowner.
 - (3) The closing agent will obtain at closing properly executed curative documents, if any, which may be required by the commitment or the closing instructions.
 - (4) All items required to be removed, released, subordinated, or otherwise handled as required by the cooperating entity or NRCS in closing instructions will be completed and the applicable curative documents recorded.
 - (5) All taxes, homeowners assessments, etc. will be paid to the date the deed is recorded or provision for payment acceptable to NRCS will be made.
 - (6) Comply with any listed title commitment requirements.
- Acknowledge that the closing agent knows that costs to clear title are the responsibility of the cooperating entity or the landowner.
- Agree to provide a copy of the proposed settlement statement to the cooperating entity and the NRCS for review and approval at least 3 days prior to closing.
- Certify that, immediately following closing, the closing agent will issue policies of title insurance on a standard ALTA owner's policy in the total purchase price as of the time and date of the recording of the deed to the cooperating entity, (with the United States also named as an additional insured¹). Said policy of title insurance will be free and clear of any and all encumbrances (exceptions) to the title except those that the cooperating entity, in consultation with NRCS, have decided are acceptable.
- Certify that the closing agent will deliver the following to the cooperating entity immediately following closing²:
 - 1. A copy of the executed settlement statement covering the agreed upon closing costs
 - 2. Original Policy of Title Insurance on the standard ALTA owner's policy form
 - 3. Original, recorded deed
 - 4. Recorder's certified copies of any curative documents, including subordination agreement
 - 5. Completed IRS Form 1099
- Acknowledge receipt of this letter and will act in accordance with its terms by promptly signing and returning to the cooperating entity a signed copy.
- Indicate that the closing agent will provide a projected closing date and the name, address, and account number of the financial institution where electronic funds are to be deposited.

As the cooperating entity's representative, we ask you to certify that you concur with the closing agent's qualifications.

[Name of State Conservationist]
STATE CONSERVATIONIST

¹ Note that for 2008 Farm Bill funds, the United States is not listed as a co-insured so this is not applicable.

² The Cooperating Entity will provide NRCS with a copy of these documents.