Overview

- A total of 13 people attended the Northern California webinar
- A total of 19 people attended the Southern California webinar
- A total of 15 comments/questions were received during the two webinars
- A total of 39 comments were received by letter, email/or by phone
- Organization distribution: 14 land trusts, 3 consultants, 1 RCD, 9 local/regional governments and 7 non-governmental organizations

A total of 54 comments and questions were received during the FY 2017-18 Sustainable Agricultural Lands Conservation Program (SALC Program) Draft Guidelines comment period. Comments and questions were received from land trusts, local governments, non-governmental organizations and other stakeholders.

SALC Program Agricultural Conservation Easements

The comments on the Agricultural Conservation Easements section are broken down into 10 categories: Priority Populations, Eligibility Criteria, Selection Criteria, Risk Options, Restrictions, Match, Co Benefits, Public Notification, General and Strategy & Outcome.

Priority Populations: 4 comments

We are pleased to see the adaptation of AB 1550 into this program this year, replacing Disadvantaged Community Benefits standards from 2016/17. Would a community that meets the requirement for section (c) also be eligible for the 5% of funding allocated to section (b)? Or is it an either/ or proposition based on where the project is located within the ARB mapping tool?

Will a project claiming priority population benefits need to meet all of the three requirements listed on pg. 4 and 5 to be eligible for zero percent match funding? Please clarify in guidelines.

A significant portion of the state’s natural working lands exist in rural low-income communities of the state, as defined by AB 1550 (Chapter 369, Statutes of 2016). Because of this, climate investments in these areas offer the opportunity to boost resilience to future climate conditions on natural and working lands and inject much needed funding into low income communities. As a result, we recommend creating a low income and/or rural set-aside and/or target of 20% or greater than the amount required by CARB guidelines and SB862 on allocations to low income and disadvantaged communities. Although such rural communities exist in a geographic majority of the state, AB 1550 requires a minimum of only 5% of proceeds to be invested here. The grant guidelines for this program should expand the total amount of awards given to low income/rural communities to reflect the enormous geographic area of rural poverty not considered disadvantaged communities, including North and Central Coast, Inland Empire, Sierra Nevada and other regions.

Remove the duplication in Table 2.A-8- Under step 3 -Project Benefits, criteria C and D are the same- one should be removed to avoid duplication.
Eligibility: 2 comments

Not all regions have a Sustainable Communities Strategy. There is a concern about regions that have no climate plan and the lack of a political will to create a climate plan and how these applicants will be affected.

We are glad to see the removal of the language that “In most circumstances, the applicant will become the holder of the agricultural conservation easement…” The removal of that language could permit a broader range of applications to be submitted under the Program. If that is the intent, we suggest that you remove the statement that “the applicant who is in most cases will become the easement holder” on p. 17.

Selection Criteria: 13 comments

How will an applicant demonstrate an on farm management plan/conservation plan that meets the newly proposed selection criteria? Please clarify how this is defined. Plenty of farmers practice innovation on their property but do not have a management plan.

Please clarify the selection criterion that states the property is at risk from other risk options other than those defined in the nine risk options.

We are pleased to see that the criteria “the property is adjacent to other permanently protected property…” has been replaced with the word “within strategic proximity to other permanently protected property” in order to make the criteria less binary, and provide flexibility for high priority projects that are not directly adjacent to protected property. Do you foresee developing any definition of “strategic proximity”? Would a similar change to the criteria above it (“The property is surrounded by other parcels with sizes and land uses likely”) to something that reflects the idea that an area might have many properties with sizes and land uses likely to support long-term commercial agricultural production but the property in question may not be surrounded by those parcels.

We suggest removing or modifying the category for proximity to dense urban areas. Under the current draft guidelines, up to 10 points can be awarded to a proposal if the property is located within 2 miles of a city sphere of influence, or within 2 miles of a census designated place (CDP) with a population greater than 5,000. This criterion is weighted towards heavily urbanized areas of the state; in many rural parts of the state, most towns and urban centers have a population less than 5,000 and are not incorporated cities. For example, according to the Department of Finance, 8 of the 22 counties falling within the Sierra Nevada region either do not have any incorporated cities or have no incorporated cities with populations greater than 5,000. According to the U.S. 2010 Census, 11 counties in this region have no non-city CDP’s greater than 5,000. To achieve the program’s goals as well as equitable geographic distribution, this criterion should be expanded to include the possibility of instances where strategically placed easements in rural foothill or high-elevation valley areas can control urban/rural residential development. As much of the state’s natural and working lands are located in rural areas of the state near urban town centers and CDP’s of less than 5,000, we suggest modifying this criterion to the following: If the property is located within 2 miles of a city sphere of influence, within 2 miles of a census designated place (CDP) with a population greater than 5,000, or in rural areas within 2 miles of other protected lands.

SALC Program FY 2017-18 Draft Guidelines Comments
It is helpful to have the scoring criteria clearly outlined for the program. We appreciate this change to the program. However, we find some of the draft selection criteria to be duplicative. For example, several selection criteria highlight the co-benefits of soil and water conservation management. We suggest condensing that into one selection criteria. We also strongly encourage prioritizing the selection criteria to better reflect the aims of the program, which are to protect agricultural lands at risk of development and reduce related greenhouse gas emissions. We support the other co-benefits of the selection criteria but suggest simplifying and clarifying as much as possible to provide better guidance to the applicants. The following are suggested changes to the selection criteria listed by CalCAN: The property is at high risk of development as demonstrated in the Risk options as compared to the pool of applicants in this round; The property provides environmental conservation values or co-benefits (e.g. open space, viewshe, habitat, riparian corridor groundwater recharge, management to improve carbon sequestration); The property has no known agricultural constraints due to soil or water contamination and/or constrained water availability. We note that in our proposed selection criteria we dropped the criteria for properties that are in a conservation area protection plan, regional conservation program or mitigation plan. We believe this focus on improved land use planning and coordination is important but covered in the eligibility criteria (e.g. the proposal will support the implementation of an adopted or draft sustainable community’s strategy…. or regional plan).

We suggest providing examples in the guidelines of how applicants can demonstrate that their projects will successfully meet the selection criteria. For example, how can an applicant best demonstrate environmental co-benefits of their proposed project?

The Draft Agricultural Easement Grant selection criteria vetted by CalCAN partners that address “economic co-benefits” (retention of local jobs and revenues, etc.) and “additional co-benefits” (food security, ag-awareness, etc.) represent a total of 15/100 possible points to projects with viable/meaningful agricultural businesses. We support these.

We urge the Division of Land Protection to include selection criteria adding priority to projects addressing intergenerational succession, continued production, and the accessibility of these lands to future generations of farmers and ranchers. To meet the environmental; economic—including “Retention of local jobs and agricultural revenue” --and additional benefits--including “Contributions to the preservation of food security”

Add selection criteria for easements with affordability provisions- Innovative land trusts are beginning to strengthen their conservation easements, and are partnering with incoming farmers to ensure that land stays in production and in the hands of working farmers. With the relatively new SALC program, the Division has an opportunity to update current land conservation practices and help a new generation of farmers get started. We recommend amending the selection criteria through the following change (italicized): “The property is in active agricultural production, including cultivated and non-cultivated agriculture (e.g., rangeland and pasture), and the conservation easement includes a provision, such as the Option to Purchase at Agricultural Value, affirmative language or similar, that is designed to promote the continued presence of owner-operated farms, ensure the affordability of protected farmland to qualified farmers, and to discourage purchases of protected land by unqualified parties.”

The Option to Purchase at Agricultural Value (OPAV) provides the easement holder with the option to purchase, or assign the purchase of, the land at its agricultural value when it goes up for sale if it is not being sold to a qualified farmer or family member. The working farm easement tool has been used in Vermont for over a decade, resulting in the successful protection of
hundreds of farms for agriculture. In every instance where a farm protected under a working farm easement has changed hands, it has stayed in agricultural use. Affirmative language, added to easements in some cases through Mandatory Agricultural Use provisions, similarly helps keep farmland in farmer ownership by requiring active agricultural production on the land.

Give weight to projects that support farmland access and transition- In addition, we recommend giving additional weight, where appropriate, to projects that utilize easement funds to facilitate the transition of the farm from one generation to the next and provide access to a young or beginning farmer: “The property is involved in a project that facilitates land transition to a young or beginning farmer through simultaneous sale of the conservation easement and the property, or similar; or,
the landowner has a succession plan in place.” The overarching challenge of farm transition is that many farm businesses are heavily capitalized and involve complex and nuanced management. For young, and first-generation, farmers in particular, navigating the economic, social, and technical aspects of farm transition can be daunting. With 33 percent of U.S. farmers over the age of 65 and two-thirds of farmland in the U.S. set to transition management in the next 25 years, now is a pivotal.

Offer additional points to land trusts that are accredited by the Land Trust Alliance.

Give additional points to rangeland conservation projects that restrict conversion to cultivated agriculture because increased GHG emissions are avoided at the time of conversion and from more intensive agricultural practices.

The Rangeland Trust supports the majority of the recommendations in the comment letter sent by the California Climate and Agriculture Network, but disagree with assigning 30 points to the proposed new selection criteria: The property is at high risk of development as demonstrated in the Risk Options as compared to the pool of applicants in this round. It is unclear how this would be interpreted and while some properties may not be at immediate risk, they can present an important opportunity. The Silacci Ranch comes to mind in this regard.

**Risk Options: 2 comments**

We suggest a change in in risk option #7 to say “Agricultural land up to five miles from land developed or zoned for rural residential use (one to forty acres) in the county General Plan.” Any property of 40 acres or less will be difficult to keep in active agricultural production, and residential development on properties of this size begins to erode the viability of the regional agricultural economy. We are concerned that some properties of limited acreage particularly early in a regional transition, might reveal rural residential risk but applicants would not yet have any concrete evidence (advertisements, comparable sales) required of risk option #8. Furthermore, we are glad to see criteria that provides opportunities to argue for added consideration of conversion risks beyond risk options (p. 12).

We continue to encourage the Department to consider the threat of rangeland conversion to cultivated or intensive agriculture to be an eligible risk option.

**Restrictions: 9 comments**
Will the size limit of a single family residence (3,000 sq. ft.) apply to an already existing home on the property? Please clarify in the guidelines.

What are the policy concerns to restrict the size of the house? As an aside, it has been my experience from a stewardship perspective, that a house size limitation (and other buildings) requires considerable amount of staff time to monitor construction (reviewing plans, confirming measurements etc.) and during the annual monitoring to confirm that any additions to the house do not exceed the limit. A limit on the size of development envelope could be a better method depending on DOC’s rationale for restricting the house size.

How is “living area” defined? Note, that a multistory house has a smaller footprint than a ranch style home.

Would the Department consider scaling the house size according to the acreage of the farm or ranch?

What are the restrictions on ag processing centers on ag properties that are funded under the easement program? Shipping costs to other areas are high and add to emissions. Are there any deed restrictions on ag processing required?

It was mentioned in the PowerPoint presentation on the program guidelines that there is a new single-family residence and secondary unit policy for the program. We would like to see that policy included in the guidelines and have the opportunity to follow up with staff with any questions we may have.

One consideration not included in the Draft_FY17-18 Guidelines is the conversion of rangelands to croplands. This activity of conversion can induce losses of soil organic carbon due to soil disturbance, such as tilling, and native vegetation removal. Some rangelands not previously considered for crop cultivation are now under threat due to changes in modern farming practices. An example of such change includes areas in Central and Northern California that are under significant threat of agricultural conversions for vineyards and cannabis cultivation. The conversion of rangelands to cropland can qualify as more GHG-intensive use. Protecting these rangelands under threat of conversion to row crops helps meet the Department’s goals of ensuring open space, food security, and smart developmental growth.

We would request that this language be changed to (change in bold): ‘For projects on irrigated cultivated lands, the easement will prohibit permanent restrictions of agricultural use on existing irrigated cultivated lands, except for those lands that are within or adjacent to riparian or wetlands areas or complexes. For projects on irrigated pasture, nonirrigated pasture, and rangeland, restrictions will only be allowed if the restrictions are required by the match funder(s), if the match funding is at least twenty-five percent (25%) of the funding for the easement acquisition, and if the restrictions do not substantially prevent agricultural uses on the property.’

This adjustment would help to ensure the long-term conservation and protection of sensitive wetland communities, such as vernal pool and seasonal wetland complexes, on rangelands throughout California. These ecosystems rely on intact hydrology of their immediately surrounding upland communities, and therefore the protection of these adjacent upland areas are an important component to preserving wetland function. If these areas are deep-ripped for agricultural conversion, the hydrology of the site is deeply damaged, making it nearly impossible to restore wetland function.
The preservation of California’s rangelands that support vernal pools and seasonal wetlands can provide a valuable contribution toward maintaining undeveloped areas, and thereby reducing GHG emissions that would otherwise occur from conversion to residential development. Conservation of these areas can be expensive, and is often accomplished through multiple grants (as many as four or five) from a variety of sources. Some of these programs may require more restrictions than SALCP. For this reason, we would request that SALCP consider reducing the match funding restriction requirement to 25%.

**Match: 1 comment**

We are happy to see there is no match required for easements that qualify for priority populations benefit status. While we understand the requirement of a 25% match required for projects that do not meet the requirements for priority populations status, we would encourage a transition to no match required (but points for match). This program has been unpredictable in its annual timing and the funding available, making it challenging for applicants to align this program and its potential funds with other programs and funding sources. We are grateful that applicants now have nine months from Council approval to secure committed match.

**Co-Benefits: 2 comments**

Overall, we are pleased to see new co-benefits added to the draft guidelines this year that emphasize the environmental and climate benefits of land conservation and protection including Protection of land of special environmental significance; Protection of watershed health; Protection of source water; Protection of open space and viewsheds; and Protection of ecosystem services.

As an incentive for sustainable land management we suggest including “establishing ecosystem services markets” as either a new implementation program area, a program goal/objective, or at the very least an eligible co-benefit for projects.

**Public notification: 1 comment**

We appreciate the change in the local government notification requirements.

**General: 17 comments**

There may be circumstances in which a property is at risk of conversion, its protection will promote agricultural sustainability, and the project can provide multiple co-benefits, but the unique circumstances surrounding the project require a protection tool outside of an easement. Public resources Code §75212(h) states that projects eligible for funding through the AHSC program include: “Acquisition of easements or other approaches or tools that protect agricultural lands that are under pressure of being converted to nonagricultural uses, particularly those adjacent to areas most at risk of urban or suburban sprawl or those of special environmental significance.” If a project requires protection in fee but closely aligns with the priorities outlined in (h), we hope that the SALC Program could expand to include flexible tools for protection including funding for deed restrictions and fee interest.
Thank you for allowing appraisals to be submitted prior to close of escrow (instead of within five months of grant agreement).

Please consider lowering the amount of Worker’s Compensation Insurance from $1 million to $500,000 for smaller organizations. In connection with the Haag Walnut Orchard, we had to increase our existing (obtained through the LTA insurance program) insurance policy limit to meet the State’s new requirement.

The definition of fully burdened rate is unfair to an all-volunteer land trust who would not receive any payment for the work, and to small land trusts who generally are unable to pay market rate salaries. The disparity is evident when comparing what a consultant is paid per job with what the consultant would make as an employee at the same rate. For example, if a consultant is charging $125 an hour to prepare a baseline report, an employee with a fully burdened rate of $100 an hour (assuming a 20% surcharge for benefits) would be making $200,000 annually. None of our staff make that kind of salary. Land trusts should be able to utilize their employees and receive comparable payment for comparable work.

Is there a regional allocation of funding for the state or priorities based upon non-attainment or high emission areas?

In Riverside there is a deficit of new farmers and funding for agricultural training is needed.

In the Riverside area there is development pressure on the remaining ag land and a lack of food system infrastructure. Funding is needed to develop agricultural infrastructure to support farming activities and improve access to healthy food. Local food system infrastructure could reduce trucking miles as food is primarily delivered from the Central Valley.

Is the appraisal value based on the current development allowed on the property?

Are there funds available to establish or improve farmworker housing? Consider funding ag farmworker housing in the future to meet the need.

If future revisions of the Guidelines are released which version of CalEnviroScreen (CES) would apply?

Fee title (or fee simple) acquisition is an important method used by many agencies and conservation organizations to preserve natural resources, especially those with high conservation value. Fee title ownership is not ideal for all lands. For example, some properties have important habitat crossing through a portion of the property, while the remaining portion is used for residential or agricultural purposes. These types of land are often best preserved through a conservation or agricultural easement. However, for many types of land, including land preserved for wildlife habitat and/or scenic values, or land with public access issues, fee title ownership is a very valuable preservation tool. In some cases, as when a seller will only sell through fee title, or when an easement negotiation may be particularly time intensive, technical, and complex, it is preferable to acquire land through fee title and then later transfer the land to a suitable owner with a conservation easement. Another example is the “Sierra Nevada Checkerboard,” a mosaic of public and private land resembling a checkerboard, which includes many parcels of private land liable to be converted to rural sprawl – fee title acquisition would allow local partners to protect this land in collaboration with the U.S. Forest Service, eliminate patchwork land management, and enable holistic management that preserves the watershed, wildlife, and restoration of these headwater acres. According to the Public Resources Code,
Section 75212 (h) authorizes the Strategic Growth Council to invest in projects that meet the goals of SB 862 through the “acquisition of easements and other approaches or tools that protect agricultural lands that are under pressure of being converted to nonagricultural uses, particularly those adjacent to areas most at risk of urban and suburban sprawl or those of special environmental significance.” The SALC program should allow flexibility for the full range of possible transactions that can enable conservation organizations to preserve land at the urban-wild interface, and specify fee title acquisitions as an eligible cost.

We suggest explicitly including data collection, the use of spatial models, and training on how to use those models as eligible project costs for both strategy and outcome grants and easement grants. This will build the applicant’s technical capacity and thereby facilitate project effectiveness.

At close of escrow, the title insurance company must be able to insure title to the interest being recorded. Associated costs for purchase of the easement will be paid on a reimbursement basis, after escrow has closed and all final documents have been received. We suggest including this information in the budget section on page 15 of the program guidelines, in addition to page 36, as this reimbursement policy may be challenging for some small land trusts.

In the program guidelines on page 16, under SALCP conditions, land trusts must have Terra Firma insurance. We would like the insurance language to allow land trusts that have the capacity to enforce and defend conservation easements, but have opted not to participate in Terra Firma, to maintain eligibility for SALCP funding. We suggest changing the language to the following: If the acquiring entity is a Land Trust, either it will acquire Terra Firma or provide DOC with alternative documentation demonstrating that the Land Trust has the legal and financial resources available to ensure the permanence of their conservation work. We would like it clarified that non-land trust applicants (e.g. special districts) do not have to have Terra Firma insurance. We suggest adding the following language: Entities other than Land Trusts are exempt from this requirement.

We support the Department in developing the “third phase” of SALCP, first proposed 2014, to include on-farm management incentives to encourage farmers and ranchers with conservation easements on their land to improve management practices and reduce greenhouse gas emissions. We encourage the Department to work with Strategic Growth Council staff to hold a workshop this year to begin the conversation with stakeholders on this third and important phase of SALCP, which can help the state meet its ambitious, but necessary 2030 GHG emissions reduction targets.

We suggest changing the 180-day limit for reimbursable expenses prior to the executed grant agreement to the period after the award letter is issued. The uncertainty as to when the grant agreement will be executed can delay the initiation of some pre-acquisition tasks. This suggested change would eliminate the uncertainty and facilitate the earlier completion of easement transactions.

**Strategy and Outcome Grants**

**Eligibility: 2 comments**
Is an established greenbelt designated to preserve agricultural land eligible to apply for a Strategy and outcome grant? Or is it already considered to be protected and not under threat?

We recommend that the eligible recipients for these grants be expanded to include open space districts and other special districts that can adopt programs like easement purchase programs. Allowing special districts to participate in the program can improve the program’s reach and impact.

**Reimbursement: 2 comments**

Will existing strategy and outcome grants be eligible for the quarterly reimbursement policy change?

We support the change in reimbursement policy that will allow Strategy and Outcome grant recipients to receive quarterly reimbursement for their project expenses. We hope this change will encourage more applications for this important component of the program.