RECORD OF DECISION

Supplemental Environmental Impact Statement

For Emergency Conservation Program

U.S. Department of Agriculture

Farm Service Agency

I. The Decision

A. *Supplemental Environmental Impact Statement Proposed Action as the Basis for Expanding the Emergency Conservation Program*

Based on a thorough evaluation of the resource areas affected by the Emergency Conservation Program (ECP), a detailed analysis of the Proposed Action and No Action Alternative, and a comprehensive review of public comments on the Draft Supplemental Environmental Impact Statement (SEIS), the U.S. Department of Agriculture Farm Service Agency (FSA) has selected to implement the Proposed Action Alternative to expand ECP eligibility to other types of farmland besides cropland, hayland, and pastureland.

B. *Overview*

ECP provides emergency funding to farmers and ranchers who have suffered damage to their agricultural lands as a result of natural disasters, such as, severe wind erosion, floods, hurricanes, or drought. ECP is permanently authorized by Title IV of the Agricultural Credit Act of 1978 and is administered by FSA.

The goal of ECP is to provide assistance to agricultural producers to restore agricultural lands to a productive state following a natural disaster and to carry out emergency water conservation or water enhancing measures during periods of severe drought. Producers can apply for one time cost-share and technical assistance for authorized activities under the following emergency conservation (EC) practices:

- (EC 1) Removing Debris From Farmland
- (EC 2) Grading, Shaping, Releveling, or Similar Measures
- (EC 3) Restoring Permanent Fences
- (EC 4) Restoring Conservation Structures and Other Similar Installations
- (EC 5) Emergency Wind Erosion Control Measures

- (EC 6) Drought Emergency Measures
- (EC 7) Other Emergency Conservation Measures
- (EC 8) Field Windbreaks and Farmstead Shelterbelt Emergency Measures

C. Programmatic Changes to ECP

To implement the Proposed Action, FSA would incorporate the appropriate changes into the ECP regulations and revise the ECP Handbook. The proposed expansion would make ECP benefits eligible to producers for implementing approved practices on timberlands, farmsteads, farm buildings, roads, and feedlots. Land would still have to meet eligibility criteria outlined in the Handbook prior to approval of assistance.

II. Description of the Emergency Conservation Program

ECP was created in 1978 to provide financial and technical assistance to producers for restoring agricultural land to normal production following a natural disaster. Regulatory procedures for implementing ECP are addressed in 7 Code of Federal Regulations Part 701 and further outlined in the FSA Handbook for State and County Offices 1-ECP.

A. Eligible Disasters

A producer is eligible for ECP benefits if one of the following natural disasters has occurred:

- Hurricane or typhoon
- Tornado
- High winds, including micro-bursts
- Storms, including ice storms
- Floods
- High water
- Wind-driven water
- Tidal waves
- Earthquakes
- Volcanic eruptions
- Landslides
- Mudslides
- Severe snowstorms
- Drought
- Wildfire

- Other natural phenomenon

Following a disaster event, County Committees (COC) visit the site and make an assessment of the damage to ensure it meets the minimum ECP requirements. The COC then obtains concurrence from the State Committee (STC) before approving the disaster for cost-share assistance. During periods of severe drought the determination to implement the program is made by the FSA National ECP Manager. The damage must:

- Create new conservation problems which, if not treated, would impair or endanger the land;
- Materially affect the productivity of the land;
- Represent unusual damage that does not occur frequently; or,
- Be so costly to repair that Federal assistance is required to return the land to productive agricultural use.

B. Eligible Participants

A producer eligible for ECP must be a farmer or rancher who contributes part of the cost for implementing the approved practice and has an interest in the farm. An agricultural producer is defined as an owner, landlord, tenant, or sharecropper of a farm or ranch that is used to produce crops for food or fiber in a commercial operation that occurs on an annual basis. American Indian tribes or individuals that own eligible land are eligible for ECP benefits. Federal agencies, states, political subdivisions of states, state agencies, and districts with taxing authority are not eligible for ECP benefits.

C. Eligible Land

The land eligible for assistance must be located in the county in which ECP has been implemented, normally used for farming or ranching operations, and expected to have annual agricultural production. Eligible land is broadly defined as cropland, hayland, and pastureland. Additionally, land that is eligible under ECP includes land:

- Protected by levees or dikes built to U.S. Army Corps of Engineers, Natural Resource Conservation Service, or similar standards, that were effectively functioning before the disaster;
- Protected by permanent or temporary vegetative cover;
- Used for commercially producing orchards, citrus groves, and vineyards;
- Used for producing agricultural commodities;
- Where conservation structures are installed, including waterways, terraces, sediment basins, diversions, windbreaks, etc. not funded by other conservation programs.
- In Christmas tree plantations.

- Devoted to container-grown nursery stock if the nursery stock is grown commercially for wholesale purposes and is grown on land in containers for at least one year.
- In field windbreaks or farm shelterbelts where the practice is to remove debris and correct damages caused by the disaster.
- On which facilities are located in irrigation canals or facilities that are located on the inside of the canal's banks as long as the canal is not a channel subject to flooding.

D. Funding

ECP funds are held in reserve at the national level and allocated after a natural disaster determination has been made authorizing ECP designation. Funds are allocated to states based on an estimate of funds needed to begin implementing the program. The states then allocate funds to the appropriate counties. The funds are distributed to applicants on a first-come, first-serve basis until they run out.

Agricultural producers applying for ECP assistance can receive reimbursement for up to 75 percent of the cost of activities covered under the approved conservation practices. The total cost-share provided to an individual participant per natural disaster cannot exceed $200,000. Financial assistance cannot be provided for activities that receive cost-shares under other FSA emergency or conservation programs.

Provisions are included in ECP to assure that special consideration is given to limited resource producers in order that the most beneficial use of ECP may be obtained. The definition of a "limited resource producer" is any producer: with direct or indirect gross farm sales not more than $100,000 in each of the previous two years; and has a total household income at or below the national poverty level for a family of four or less than 50 percent of the county median household income in each of the previous two years. Limited resource producers can receive up to 90 percent cost-share for implementing approved practices under ECP.

*III. **Impacts Under the Alternatives***

A. No Action Alternative

Wildlife, Vegetation, and Protected Species. Removing debris, shaping and leveling land, reestablishing vegetation, and restoring conservation structures after a natural disaster would have long term positive impacts to vegetation and wildlife when compared to not implementing these activities after a natural disaster. Reestablishing permanent vegetation and conservation structures would ultimately improve local water quality and wildlife habitat promoting biological diversity. If protected species are present or suspected of being present, informal consultation with the U.S. Fish and Wildlife Service would occur during the site-specific environmental evaluation to ensure the protection of these species. Temporary negative impacts could occur with the use of heavy machinery to establish some practices but these effects would be

temporary and localized. The disturbance from heavy machinery would not be greater than the disturbance associated with normal agricultural practices.

Water Quality, Ground Water, Floodplains, and Wetlands. The goal of many of the practices is to restore agricultural land to prohibit further erosion and degradation of local water quality. Positive impacts to surface water quality, groundwater quality, floodplains, and wetlands would be realized from implementation of the practices. Removing debris, restoring vegetation, repairing conservation structures, reestablishing windbreaks, and releveling the land would all provide erosion control and limit runoff potential. The use of heavy machinery could temporarily increase runoff and erosion potential. These impacts would be localized and cease once construction has ended.

Soil Resources. Positive impacts to local soils are expected since most practices are designed to increase soil stability. Reestablishing vegetation, windbreaks, wind control measures, and removing gullies all reduce erosion potential. The use of heavy machinery during implementation of some of the practices could compact soils impairing water infiltration and vegetation growth.

Cultural Resources. Removing debris, releveling land, and establishing wind erosion measures on lands with historic significance would have beneficial effects to these areas by restoring access and removing potential contaminants that would threaten the integrity of the site. The use of heavy equipment could negatively affect historic properties through ground disturbance. Site specific environmental evaluation in accordance with 1-EQ would determine the presence of a specific property included or eligible for inclusion on the National Register of Historic Places and provide compliance with Section 106 of the National Historic Preservation Act.

Socioeconomics. The program provides financial assistance to producers to restore lands to normal farming production. Without the assistance of the program, these lands might be too costly to repair. The producer and the local economy experience a slightly positive economic impact as a result of the program.

Environmental Justice. The program provides funding to a producer at a time when it is most needed and helps to maintain the local economy. A low income producer would benefit the most from the program since they may not be financially able to restore the land without the assistance and are eligible for a higher cost-share. Potential impacts to the natural environment would not be considered significant under the current program, therefore, there are no environmental justice concerns.

B. Proposed Action

Wildlife, Vegetation, and Protected Species. Expanding the current program to include timberlands and other areas within the farmstead would have the same long term positive impacts as the current program. With the addition of timberland, there is a higher likelihood for encountering previously undisturbed land. Removing debris, shaping and leveling land,

reestablishing vegetation and restoring conservation structures in these areas would promote vegetation growth and wildlife diversity. Protected species that occur or have the potential to occur would be protected through informal consultation with the U.S. Fish and Wildlife Service during the site-specific environmental evaluation. Temporary negative impacts from the use of heavy machinery could occur with some practices. Establishing access roads in timberland areas would temporarily remove vegetation in the immediate area.

Water Quality, Ground Water, Floodplains, and Wetlands. Similar to the current program, expanding the program would improve local water quality, floodplains, and improve nearby wetlands for newly eligible areas. Impacts to groundwater within timberlands are not expected since it is unlikely that any of the practices associated with wells would occur in timberlands. The use of heavy machinery in timberlands could temporarily increase runoff and erosion potential. These impacts would be localized and cease once construction has ended.

Soil Resources. Potential impacts to soils in timberlands would be similar to those described for the current program with the exception that practices could be implemented in areas where soils have not been disturbed from routine farming activities. Reestablishing vegetation, wind control measures, and releveling land would all reduce erosion potential and protect the area from soil loss. The use of heavy machinery, especially in timberland areas, could compact soils impairing water infiltration and vegetation growth.

Cultural Resources. Expanding the program eligibility to timberland, farmsteads and farm buildings would increase the potential for encountering a historic property. Potential beneficial and adverse impacts to these sites would be the same as those described under the current program. Site specific environmental evaluation would determine the presence of a specific property included or eligible for inclusion on the National Register of Historic Places and provide compliance with Section 106 of the National Historic Preservation Act.

Socioeconomics. Expanding the eligibility of the program would have similar socioeconomic impacts as the current program. The budgeted amount for the program and the individual operator cap of $200,000 would remain unchanged. Therefore, increasing the land eligible for cost-share assistance would either (1) allow for higher payment to a producer, not to exceed the cap, or (2) allow more producers to apply for assistance.

Environmental Justice. Similar to the current program, expanding the eligibility provides funding to producers at a time when it is most needed. Low income producers would continue to be eligible for a higher cost-share. Potential impacts to the natural environment would not be considered significant under the proposed expansion; therefore, there are no environmental justice concerns.

IV. Rationale for Decision

The Proposed Action Alternative allows ECP benefits to be spread across different types of agricultural land and potentially provide financial assistance to more producers. Restoring land

to agricultural production after a natural disaster provides long term positive impacts to water quality, improves soil stability, restores wildlife habitat, and helps to stabilize the local economy.

FSA will implement ECP in a manner that provides the greatest amount of benefits to the environment while causing the least amount of adverse impacts. FSA will ensure that impacts are minimized through a process of completing site specific environmental evaluations for each application consistent with FSA Internal Guidance.

Approved: _____ 7/9/10

Signature **Date**

Katina D. Hanson

Name

ECP Program Manager

Title