



FmHA AN No. 1785 (1955)

August 15, 1988

SUBJECT: Recording of Easements on Inventory Farms

TO: State Directors, District Directors,  
and County Supervisors

ATTN: Farmer Program Chiefs and State Environmental Coordinators

PURPOSE/INTENDED OUTCOME

The purpose of this AN is to rescind AN No. 1762 (1955) dated June 16, 1988, subject as above. AN No. 1762 (1955) is replaced and should be removed.

COMPARISON WITH PREVIOUS AN

This AN rescinds the provision in AN No. 1762 (1955) for recording conservation easements for floodplain and wetland protection prior to the sale of the property. Also, this AN repeats and reinstates other provisions of AN No. 1762 which are not rescinded.

IMPLEMENTATION RESPONSIBILITIES

On FmHA inventory farms located in special areas or having special characteristics, it is required, in accordance with FmHA Instruction 1955-C, §1955.137, and various sections of FmHA Instruction 1940-G, that an easement(s) be delineated and obtained before the farm is offered to the former owner(s) or operator(s). Purposes for which easements are required include: wetlands, floodplains, endangered or threatened species, critical habitats, designated or proposed wilderness areas, designated or proposed wild

EXPIRATION DATE: July 31, 1989

FILING INSTRUCTIONS:  
Preceding FmHA  
Instruction 1955-C



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or scenic rivers, historic or archaeological sites listed or eligible for listing on the National Register of Historic Places, coastal barriers included in Coastal Barrier Resource Systems, natural landmarks listed on National Registry of Natural Landmarks, and sole source aquifer recharge areas as designated by the Environmental Protection Agency.

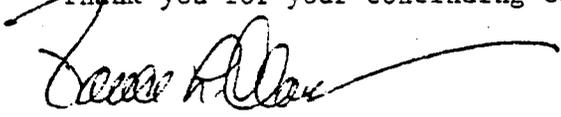
After all leaseback/buyback rights have been exhausted, the broader types of conservation easements, as listed in FmHA Instruction 1955-C, §1955.139, can be considered. These easements are not mandatory, but are at the discretion of FmHA. When it is determined that a discretionary easement will be executed under the authority of Section 1955.139, FmHA will record the easement as soon as the terms of the easement are agreed to rather than waiting until the time the property is conveyed. By recording the easement prior to the sale, it will eliminate the use of other agreements, such as caretaker agreements, that the prospective easement holder would have wanted to be signed while the property is still in FmHA inventory.

However, wetland and floodplain conservation easements in the format of Exhibit 1 of AN No. 1727 (1955) dated February 12, 1988 cannot be recorded until the property is sold. This results because these easements are a reservation of rights by the Government as opposed to a transfer of rights to a third party or easement holder. If based upon our earlier guidance you have recorded any of these easements prior to sale, you should ensure at the eventual time of sale that the deed clearly references all relevant recording provisions including the date of the reservation and the book and page number where recorded in the local recording office. Obtain the assistance of your Regional Office of General Counsel (OGC) in doing this.

Although we will no longer be recording wetland and floodplain conservation easements prior to sale, you should continue to meet the processing objectives contained in our memorandum of July 11, 1988, entitled, Completing Conservation Easements on Inventory Property. Although not recorded, the easement should be typed, included in the property's docket for later filing with the deed, and a copy provided to the easement manager.

If easement managers for wetland and floodplain conservation easements desire to initiate restoration or management activities prior to sale of the property, this can continue to be done under a caretaker agreement as explained in response to question A.6 in Exhibit 2 of AN No. 1727 (1955), dated February 12, 1988. This agreement need not be complex or lengthy. A suggested format is contained in Exhibit 1 to this AN.

Thank you for your continuing cooperation.



VANCE L. CLARK  
Administrator

Attachment