

Testimony

on behalf of the

National Cattlemen's Beef Association

with regard to

Tax Policy in Farm Country

submitted to the

United States Senate - Committee on Finance

The Honorable Max Baucus, Chairman

submitted by

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**National Cattlemen's
Beef Association**

Good morning, my name is Terry Fankhauser, and I am the Executive Vice President of the Colorado Cattlemen's Association (CCA), and a member of the Executive Committee for the National Cattlemen's Beef Association (NCBA). Founded in 1867, CCA is the nation's oldest state cattlemen's association, serving its members by speaking out on behalf of Colorado's more than 12,000 beef producers. CCA is a state affiliate of NCBA. Producer-directed and consumer-focused, NCBA is the largest and oldest organization representing America's cattle industry, and it is dedicated to preserving the beef industry's heritage and future profitability through leadership in education, marketing and public policy. Thank you Chairman Baucus and Ranking Member Grassley for this opportunity to testify on the importance of our nation's grasslands and the need for a permanent disaster program in this country.

Rangelands and Grasslands

Our nation's rangeland and grasslands are an invaluable resource. America's ranchlands have long played a central role in supporting the nation's scenic beauty, wildlife habitat, and economy—they also support many cattle grazing operations, preserve water quality and quantity, and contribute significantly to our nation's food supply. Nationally, cash receipts for cattle and calves alone total \$40 billion annually, and these dollars contribute to the foundations for local economies by supporting businesses such as ranch implement dealers, veterinarian services, hardware and feed stores.

Like many states in the West, the state of Colorado is facing growing development and economic pressures. Recognizing the need to help our ranchers and farmers protect their agricultural lands in the face of these pressures, the Colorado Cattlemen's Association in 1995 formed the Colorado Cattlemen's Agricultural Land Trust (CCALT). CCALT's primary emphasis is to increase awareness among agricultural landowners about the use of conservation easements as a means of protecting land and as a tool for facilitating the inter-generational transfer of productive lands. A number of western state cattle associations have formed agriculture land trusts—together those land trusts have formed the Partnership of Rangeland Trusts (PORT).

It is no surprise that NCBA has long been a supporter of working lands programs. NCBA also supports voluntary conservation programs, which allow our producers to meet their conservation goals, as well as meet the growing regulatory requirements they face. Many of our members have been on the land for generations, and want their children and grandchildren to be able to continue ranching. NCBA believes that the goal of conservation programs should be to maintain a balance between keeping good, well-suited working lands in production, and providing for the conservation of species and natural resources.

The Grassland Reserve Program (GRP) is a relatively new conservation program established with the passage of the 2002 Farm Bill. The intent of the program was to designate the U.S. Department of Agriculture conservation monies for use in purchasing development rights—perpetual conservation easements—on a voluntary basis from grassland owners who desire to permanently preserve their ranchland as a working ranch. These landowners receive compensation for not converting their grasslands to crop land or residential, commercial or industrial development, while continuing to utilize their property for grazing. GRP also allows for shorter term easements and restoration agreements.

Upon implementation, GRP proved to be hugely popular. USDA's Natural Resources Conservation Service (NRCS) only held enrollments 2003 – 2005, and in those three years there was a backlog of 7,500 GRP applications, on over 5 million acres. The unfunded need in those

three years totals an estimated cost of \$1 billion. The need and desire for a program that helps preserve open space and working lands is strong.

Our ranches and grasslands keep open spaces open. Our producers, their families, and their communities keep rural America rural. And everyone in the cattle industry is striving to keep on-the-farm jobs on the farm. We need to keep our grasslands and ranchlands in tact, and we need tools—like the Grassland Reserve Program—to help keep our producers on the land and in business.

I would like to highlight the Saguache Creek Corridor Legacy Project as an example of how Farm Bill conservation programs helped to secure a bright future for a Colorado mountain ranching community.

Saguache Creek Corridor Legacy Project:

The Colorado Cattlemen's Agricultural Land Trust (CCALT) has been working cooperatively with landowners and farm bill conservation programs in the Saguache Creek corridor since 1998. This partnership has been formed in order to aid multi-generational ranchers in this area in the perpetual protection of agricultural, historical, and habitat values through the purchase of conservation easements to willing sellers. The Saguache Creek corridor is located in southern Colorado and is situated in the northeast corner of the beautiful and agriculturally significant San Luis Valley. The corridor has a long history of sustaining productive ranches and is the longest remaining stretch of undeveloped highway in western Colorado. This area consists of a narrow ribbon of 19,000 acres of private land stretching 25 miles west from the town of Saguache. These fertile hay meadows and irrigated pastures are surrounded by approximately 350,000 acres of public land administered by the Bureau of Land Management and the Rio Grande National Forest, much of which is leased to private landowners in Saguache to use as pasture for livestock grazing.

In 1997, a small group of the private landowners in the Saguache Creek corridor area approached CCALT regarding ways to protect their ranches, and make sure that they remain in the family for generations to come. The landowners were looking for a way to keep their historic ranching area in tact and in agriculture in the face of growing development pressure. CCALT was very enthusiastic about being approached by such a unique cooperative group of landowners who all shared in the idea of conserving land in the Saguache Creek corridor. The importance of protecting such a large, agriculturally viable landscape in an area facing strong development pressures was immediately recognized by CCALT. CCALT held a workshop for the landowners about using conservation easements as an innovative tool to ensure that these historic ranches continue to remain agriculturally productive for many generations to come. By 2000, the landowners in this area enthusiastically agreed to work in partnership with CCALT to begin protecting their ranchlands with conservation easements.

In order to begin acquiring easements on such a large landscape, CCALT recognized the need by landowners to receive aid in funding in order to help pay the fees necessary to purchase an easement. CCALT approached multiple conservation-based agencies and began applying for grants and funds for easement acquisition from conservation-based programs. CCALT ended up receiving large amounts of funding from farm bill conservation programs including the Farm and Ranch Lands Protection Program (FRPP). CCALT also received funds from Great Outdoors Colorado (GOCO), the National Fish

and Wildlife Foundation (NFWF), and the Division of Wildlife (DOW) in order to aid in the financial costs of conservation easement acquisition.

Jim Coleman was the first landowner in the area to place an easement on his ranch. Jim stated, “The FRPP has provided ranchers with the financial incentive to use conservation easements as a tool for keeping the land in agriculture. The money helps, but it’s not all about the money, it’s about preserving open space and keeping it around for future generations.” Jim’s 15,000 acre ranch, the home place of Coleman Natural Meats was protected in 2001.

Tom Goodwin, the District Ranger and Field Office Manager in Saguache has been an important part of the support for this local effort, and recognizes the importance of funders who help landowners put easements on their land. He writes, “By protecting the agricultural lands in the corridor, we protect not only the beauty, but we ensure that the areas abundant wildlife herds of elk, mule deer, bighorn sheep, and pronghorn antelope are protected as well. I commend CCALT’s effort in working with Saguache Creek landowners to see that this spectacular landscape of working ranches, scenic vistas, and wildlife habitat is permanently protected.”

The Saguache Creek corridor represents a positive example of how private landowners, a land trust, and federal agencies can work together to achieve common goals. The financial aid that was provided by programs such as the FRPP has been a key contributor to the protection of over 9,000 acres of historical ranches in the Saguache Creek corridor. Through CCALT, ranchers, and the farm bill conservation program working in a cooperative effort, many valuable and long standing partnerships have been formed. Most importantly, a new bond has been formed between private landowners in Saguache County and the farm bill program because the landowners now know that the farm bill invests in the integrity of rural communities and agricultural lands in Colorado. Through a cooperative effort, the Saguache Creek corridor project has achieved the goal of protecting an intact and functioning landscape, one that is home to agriculture, wildlife, and recreation uses.

GRP Recommendations

NCBA supports continued funding for the GRP program to help conserve our nation’s working grasslands. NCBA also seeks a number of programmatic changes to make GRP more landowner friendly. Unfortunately, many ranchers are skeptical of participating in GRP because they simply don’t trust the government. To solve this problem, the 2007 Farm Bill should give USDA more flexibility to allow private land trusts to not only hold GRP easements, but also negotiate the terms of the easements. A major benefit of this approach is if a private land trust negotiates and holds an easement, they can enforce and manage the easement at no ongoing cost to the public. The interest in conservation from the ranching community is tremendous – we just need more flexibility in current programs to make them workable.

We also believe that third parties should be able to use their own easement template for a GRP easement, as long as it includes the necessary grassland conservation restrictions. This would make the program more acceptable to landowners, allow land trusts to apply their expertise in perpetual easement management and administration, and enable GRP dollars to potentially be combined with dollars from other conservation programs.

GRP easements should have the ability to be transferred to other qualified organizations in the event of dissolution or if they are unable to fulfill their easement monitoring responsibilities.

GRP easements should be allowed to transfer to non-profit organizations before reverting to the government in cases where the original easement holder is unable to fulfill its monitoring and enforcement duties. Landowners have proven to be very wary of an easement that defaults automatically to the government, if the land trust is unable to fulfill their monitoring and enforcement obligations. We understand that the government must protect their interest in the easement, but we hope that the Committee will build the flexibility into the program to allow the easement to be transferred to another qualified land trust before it reverts to the government.

The Grassland Reserve Program has been very successful in helping landowners restore and protect grassland while maintaining the acres for grazing and haying. This is in huge contrast to programs that take land out of production, such as the Conservation Reserve Program or CRP.

Conservation Easement Tax Incentives

In 2006, Congress changed the tax incentive for voluntary conservation donations – donations by private landowners that retire development rights to protect significant wildlife, scenic, and historic resources. That change enables family farmers, ranchers, and other moderate-income landowners to get a significant tax benefit for such donations, which simply was not possible under prior law.

That opens the door to voluntary, landowner-led conservation on millions of acres of land across the country. Most such donations are made to local, community-based charities dedicated to keeping land in agriculture, conserving important wildlife habitats, and protecting important open space and historic resources.

Thank you, Chairman Baucus and Ranking Member Grassley, for introducing legislation (S. 469) to make the 2006 incentive a permanent part of tax law. The bill currently has 17 cosponsors, and enjoys bipartisan support. We look forward to seeing S. 469 move through the Finance Committee and be enacted permanently into law, to give landowners certainty as they work through the huge decision of whether to put a portion or all of their property into a conservation easement.

Disaster Assistance

One issue that consistently lingers as a concern to all agricultural producers is the devastating blow that Mother Nature can deal in the form of an unexpected weather event such as a hurricane, wildfire, tornado, blizzard, flood or even prolonged drought. Due to the nature of agricultural production, farmers and ranchers are uniquely vulnerable to these natural disasters, and over the years livestock producers have suffered tremendous losses as a result. As an example, a slew of snowstorms devastated many cattle producers in south-eastern Colorado early this year, and I can tell you that disaster assistance is certainly top of mind for Colorado cattlemen and women.

Before delving into the issue of disaster assistance programs, though, I would like to first thank those members of the Committee that played an instrumental role in bringing about an alteration to Section 1033(e), which provides for deferment of proceeds from weather-related sales of livestock. In a letter to Treasury Secretary Paulson on August 2, 2006, you outlined the need to extend the deferment period for these involuntary conversions to allow producers to replace breeding animals they were forced to sell as a result of natural disasters at a time that is feasible for their operation. The ensuing decision, IRS Notice 2006-82, provides critical flexibility to producers struggling to cope with the effects of drought by allowing them to replace livestock they were forced to liquidate only after the first drought free year for their county. While the primary goal is to prevent the forced sale of livestock due to disaster conditions – I will discuss

potential avenues to help us accomplish this goal later in my testimony – this provision is nonetheless extremely helpful to those producers that can no longer hold onto their animals.

Returning to disaster assistance programs, over the past several years Congress has moved to pass disaster assistance on an ad hoc basis in an effort to help those impacted by these catastrophic events; however, it has become abundantly clear that this ‘touch and go’ system of addressing agricultural disasters is no longer an effective or viable means of providing timely aid to those in need. By requiring that the programs be funded on an ad hoc basis, producers are left to struggle with the uncertainty that accompanies these situations, including decisions regarding the management, movement and possible sale of animals, as well as purchases of hay and feed. Clearly a different approach is needed. Appreciating that natural disasters will continue to occur, and that prudent fiscal planning could serve the interests of both the Congress and producers on the ground, the establishment of a permanent disaster assistance program would be a beneficial course of action.

Member-driven policy of NCBA supports pursuing adequate funding for livestock disaster assistance programs to aid producers adversely impacted by disaster conditions, and calls for the Secretary of Agriculture to be allowed the authority to quickly obtain funding sufficient to swiftly implement livestock disaster assistance programs. The impact of natural disasters is particularly stinging for cattle producers, because they not only lose feed resources but also the foundation of their business – the factory if you will. Cattle can not be replaced on a whim and for this reason appropriate and timely assistance is especially important. With this in mind, cattle producers would urge the construction of a permanent disaster assistance program that includes three particular Farm Service Agency (FSA) programs: the Livestock Indemnity Program (LIP), the Livestock Compensation Program (LCP), and the Emergency Conservation Program (ECP).

Livestock Indemnity Program: LIP is the only FSA program that has been established to offset death losses suffered due to natural disaster, and for that reason it is of paramount importance for inclusion in any permanent disaster assistance program. LIP is crucial to cattle producers because it provides reimbursement for a percentage of the applicable market value of livestock lost (above normal mortality rates) as a result of the disaster. Producers who’ve lost livestock as a result of wildfire, blizzard, flood, etc. would be hard pressed to continue on with their business if LIP assistance was unavailable.

Livestock Compensation Program: LCP was originally created in 2002 as an emergency FSA initiative to provide immediate assistance, in the form of direct payments, to livestock producers for damages and losses resulting from natural disaster. In situations where a producer is having significant difficulty in obtaining feed for their animals, such as in the case of a flood or drought, LCP payments offer crucial assistance by providing the producer with funds to secure additional feed. Consistent with this concept, the payment rates for this program have historically been calculated based upon standard feed consumption data.

Emergency Conservation Program: ECP provides emergency funding and technical assistance to farmers and ranchers to rehabilitate lands damaged by natural disasters and of particular interest to beef producers, program funds can be used to provide water to livestock in drought situations. Barns, fences and other infrastructure are absolutely essential to running a farm or ranch operation, and timely assistance to restore any damaged and/or demolished property can make the difference between the dissolution of an operation and its continued success.

Cattle producers firmly believe that in implementing any disaster assistance program the distribution of any funds should be directed to ONLY those producers directly impacted by disaster conditions. Additionally, eligibility criteria for all livestock assistance and compensation programs should be based on livestock and/or forage production losses and these losses should be the foundation of any funding distributed. With regards to LIP, LCP and ECP, FSA has historically required that a loss threshold be met. For example, FSA has previously required that a producer must have suffered a loss of grazing production in an eligible county equivalent to at least a 40-percent loss of normal carrying capacity for a minimum of 3 consecutive months during the production year in order to qualify for disaster assistance program benefits. This is in line with the beliefs of cattle producers, and I would submit that these are vital components for any permanent disaster assistance program.

It is also important to note that beef producers have actively sought out measures to mitigate their risk of loss in the case of weather related disasters. Newly developed programs could hold the key to a universally effective means of accomplishing this goal. The Pasture, Rangeland and Forage (PRF) Insurance Pilot Program, announced by the Risk Management Agency (RMA) last summer, provides livestock producers with the ability to insure against weather related losses in the forage production that their operation depends upon. The PRF program - consisting of a Rainfall Index Pilot which is based on rainfall indices as a means to measure expected production losses, and a Vegetation Index Pilot that uses satellite imagery to determine the productivity of agricultural acreage in order to measure expected production losses - appears to be a vast improvement upon previous RMA products for livestock which producers had found burdensome, unworkable, and ineffective as a risk management tool. Cattle producers applaud the PRF program as a step in the right direction; nevertheless, it is important to recognize that the ability of the program to successfully offset weather related losses is uncertain at this time, and adjustments to the program will almost certainly be needed. Furthermore, because of its 'pilot' designation, the PRF program is limited to only a handful of geographic areas (220 and 110 counties for the Rainfall Index and Vegetation Index, respectively).

NCBA is eager to work with RMA and its partners to ensure that the PRF program and/or other successful preventative risk management instruments rapidly develop into broadly utilized tools. However, as we work toward that objective, I would encourage the Committee to provide for other disaster assistance mechanisms which are needed at this time to assist livestock producers who are dealt a blow by unexpected natural disasters.

Chairman Baucus, thank you again for the opportunity to testify here today. I appreciate your consideration of our views, and I would be happy to answer any questions the Committee may have.