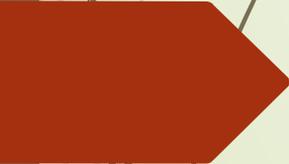




Farm Bill Webinar 3 Changes to NRCS Easement Programs



NRCS, Conservation Commission & Conservation Districts

November 21, 2014

Welcome & Logistics

- Ray Ledgerwood – Moderator
- Dave Kreft – NRCS

Join the audio at:

- (646) 307-1707
- access code: 273-473-112
- Join on the web at:
www.joingotowebinar.com
- webinar ID: 225-869-096

Logistics

- ▶ All muted lines except presenters
- ▶ Questions
 - ▶ via web – use dashboard on your computer
- ▶ Will get to as many questions as we can
- ▶ Presentation recorded
- ▶ Feedback welcome – kudos, comments, etc – email ray.ledgerwood@scc.wa.gov



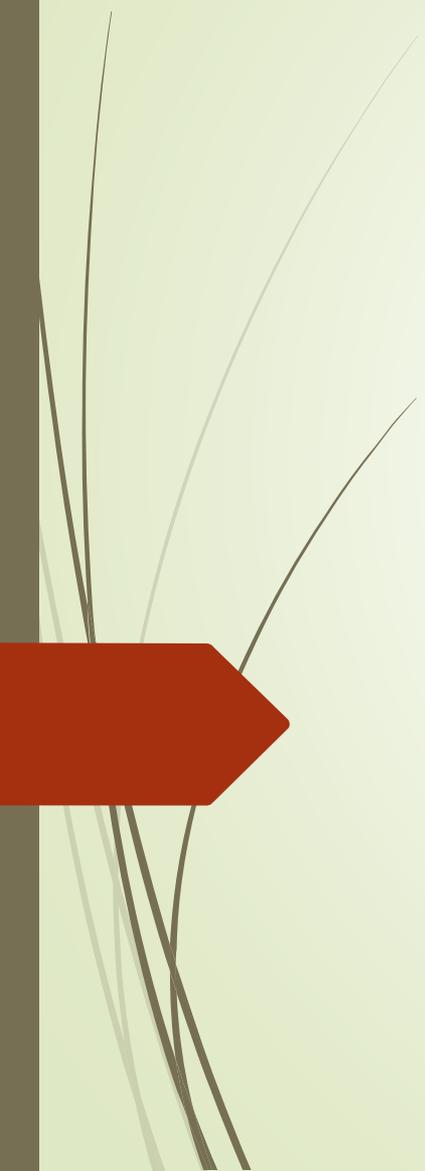
Session Purpose

- The Agricultural Conservation Easement Program (ACEP) provides financial and technical assistance to help conserve agricultural lands and wetlands and their related benefits. There have been some changes regarding how NRCS administers their easement programs.
- 



Topics of Discussion

- **Agricultural Land Easements**
Dave Kreft, Easement Specialist
 - **Wetland Reserve Easements**
Dave Kreft, Easement Specialist
 - **Question and Answer**
- 



Agricultural Land Easements & Wetland Reserve Easements

Presented by Dave Kreft

Conservation Easement Programs Offered Through the USDA Natural Resources Conservation Service



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Conservation Programs Offered Through the USDA Natural Resources Conservation Service

- This presentation has been brought up to date so that it reflects the current status of USDA conservation programs, as authorized by current law. i.e. the Agricultural Act of 2014, aka “The Farm Bill”.

Farm Bill



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Conservation Programs Offered Through the USDA Natural Resources Conservation Service



NRCS offers financial and technical assistance to help agricultural producers make and maintain conservation improvements on their land.



NRCS offers easement programs to eligible landowners to conserve working agricultural lands, wetlands, grasslands and forestlands.



NRCS works with partners to leverage additional conservation assistance for agricultural producers and landowners in priority conservation areas.

Conservation Programs Offered Through the USDA Natural Resources Conservation Service

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/wa/programs/easements/>

2014 Farm Bill | Easement Programs | NRCS



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Conservation Programs Offered Through the USDA Natural Resources Conservation Service

2014 Farm Bill | Easement Programs | NRCS



The Interim Rule for implementing NRCS easement programs is being developed. These should be out for public comment sometime this winter. These new rules may change some of the items presented today.

Conservation Programs Offered Through the USDA Natural Resources Conservation Service

Agricultural Conservation Easement Program



Healthy Forests Reserve Program



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Conservation Programs Offered Through the USDA Natural Resources Conservation Service

Agricultural Conservation Easement Program



Healthy Forests Reserve Program



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Conservation Easements

Offered Through the USDA Natural Resources Conservation Service

- HFRP
 - The objective of the Healthy Forests Reserve Program was to promote the recovery of endangered and threatened species. Only piloted in selected states in 2008 farm bill. Washington was not one of the pilot states; Oregon was.
 - At this time HFRP has not received a direct appropriation of funds.
 - HFRP is a covered program under RCPP and project proposals may include requests for funding these types of easements.

Conservation Programs Offered Through the USDA Natural Resources Conservation Service

Agricultural Conservation Easement Program



Healthy Forests Reserve Program



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Conservation Easements

Offered Through the USDA Natural Resources Conservation Service

- Why is there a need for USDA-NRCS sponsored conservation easements?
 - ❖ Private and Tribally owned lands account for the majority of ownership acreage in the United States; this holds true in Washington State.
 - ❖ Private and Tribal lands offer potential links between blocks of publicly held or privately protected habitat
 - ❖ Congress has tasked the Secretary of Agriculture, through its agencies and authorities, to provide this option

Conservation Easements

Offered Through the USDA Natural Resources Conservation Service

- ❖ As of 2012, nationwide, the NRCS had enrolled 19,249 conservation easements and long term cost-sharing agreements covering 4,193,458 acres.
- ❖ As of 2012, in Washington State the NRCS had enrolled 340 conservation easements and long-term cost-sharing agreements covering 44,680 acres
- ❖ Authority for some programs expired September 30, 2013 and were repealed in the 2014 farm bill law.
 - ❖ A little history is in order to bring us up to date

Conservation Easements

Offered Through the USDA Natural Resources Conservation Service
WRP, GRP, EWP-FPE, FRPP (NRCS holds easement)

As of 2012



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Conservation Easements

Offered Through the USDA Natural Resources Conservation Service

- Agricultural Act of 2014 repealed the following programs:
 - WRP- Wetland Reserve Program
 - GRP- Grassland Reserve Program
 - FRPP- Farm and Ranchland Protection Program
 - All existing easements under these programs are now considered to be enrolled in the Agricultural Conservation Easement Program (ACEP)
- HFRP and EWP-FPE retained their own separate authorities. Upcoming interim and final rules for these programs may change how they are implemented. Stay tuned...

Conservation Easements

Offered Through the USDA Natural Resources Conservation Service

- WRP
 - The Wetlands Reserve Program (WRP) was a voluntary program offering landowners the opportunity to protect, restore, and enhance wetlands on their property.
- GRP
 - The Grassland Reserve Program (GRP) was a voluntary conservation program that emphasized support for working grazing operations, enhancement of plant and animal biodiversity, and protection of grassland under threat of conversion to other uses.

Conservation Easements

Offered Through the USDA Natural Resources Conservation Service

- **FRPP**
 - The Farm and Ranch Lands Protection Program (FRPP) provided matching funds to help purchase development rights to keep productive farm and ranchland in agricultural uses.
- **EWPP-FPE**
 - The Emergency Watershed Protection Program is an emergency recovery program. NRCS may purchase EWPP- Flood Plain Easements on floodplain lands that are subject to severe or frequent flooding

Conservation Easements

Offered Through the USDA Natural Resources Conservation Service

- Where we are at today
 - The Agricultural Act of 2014 combines three of these programs under one title; the Agricultural Conservation Easement Program – ACEP. These are the WRP, GRP and FRPP programs. HFRP is reauthorized but lacks funding at this point. EWPP-FPE is maintained as a separate program.
 - ❖ **ACEP has two legs; Agricultural Land Easements (ALE) and Wetland Reserve Easements (WRE)**
 - ❖ **Eligible lands are private lands and Tribal lands (owned or held in trust).**

Conservation Easements

Offered Through the USDA Natural Resources Conservation Service

- ❖ **ALE's are intended to “protect the agricultural use and future viability, and related values, of eligible land by limiting nonagricultural uses of that land, and protect grazing uses and related conservation values by restoring and conserving eligible land.”**
- ❖ **ALE's permit the landowner the right to continue agricultural production and related uses, subject to an agricultural land easement plan.**

Conservation Easements

Offered Through the USDA Natural Resources Conservation Service

- ❖ **WRE's are intended to “restore, protect, and enhance wetlands on eligible lands.”**
- ❖ **WRE's are reserved interest deeds that stipulate the rights, title, and interests in land conveyed to the Secretary of Agriculture (the NRCS); and the rights, title, and interests in land that are reserved to the landowner.**

Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

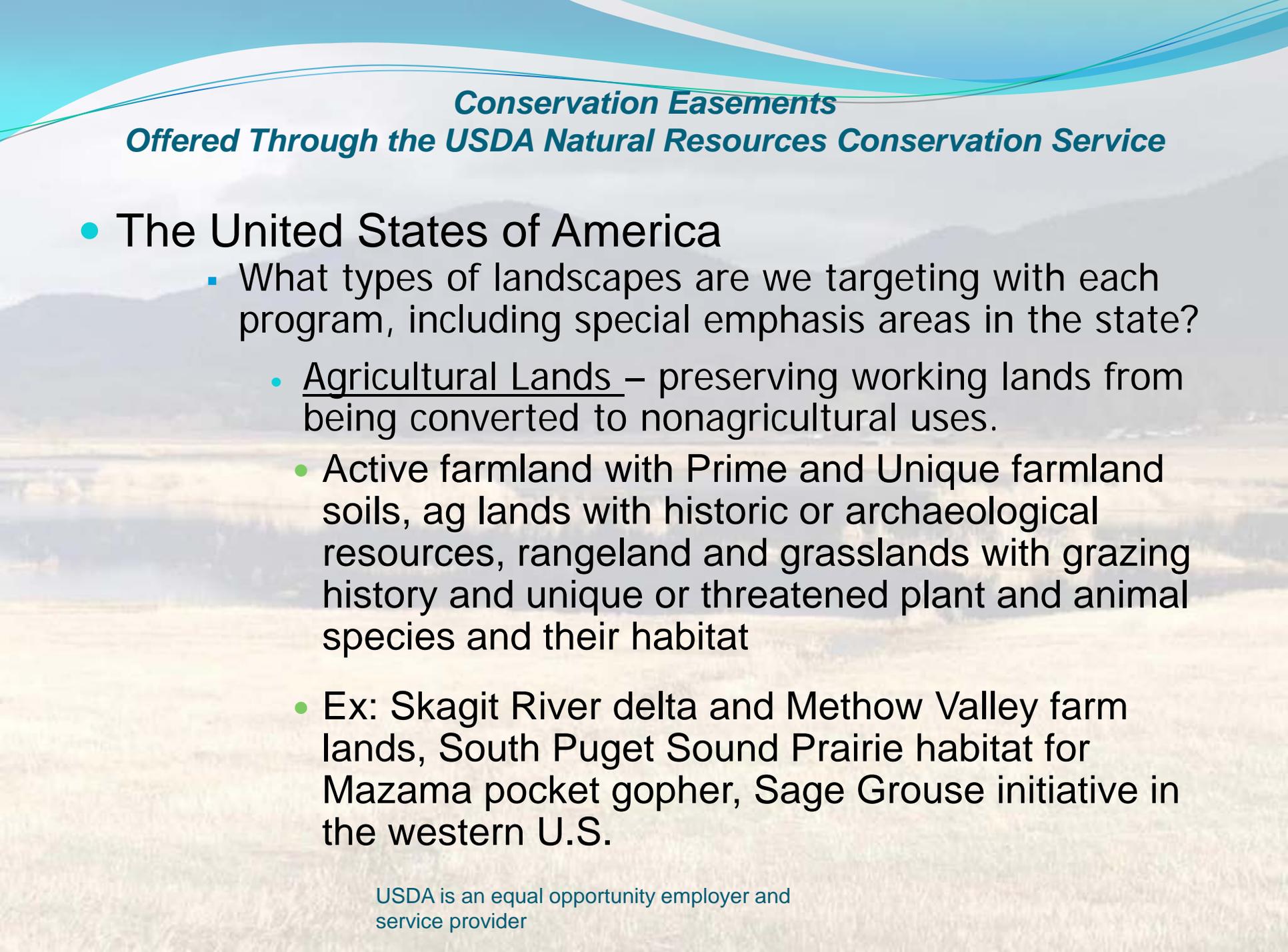
The Nature of This Two Party Transaction

- The United States of America
 - Program Objectives (remember, this is the through the US Department of Agriculture; think agriculture, grazing, forestry, “working lands”...)
 - What is the benefit the public dollar is trying to secure through the purchase of a conservation easement?



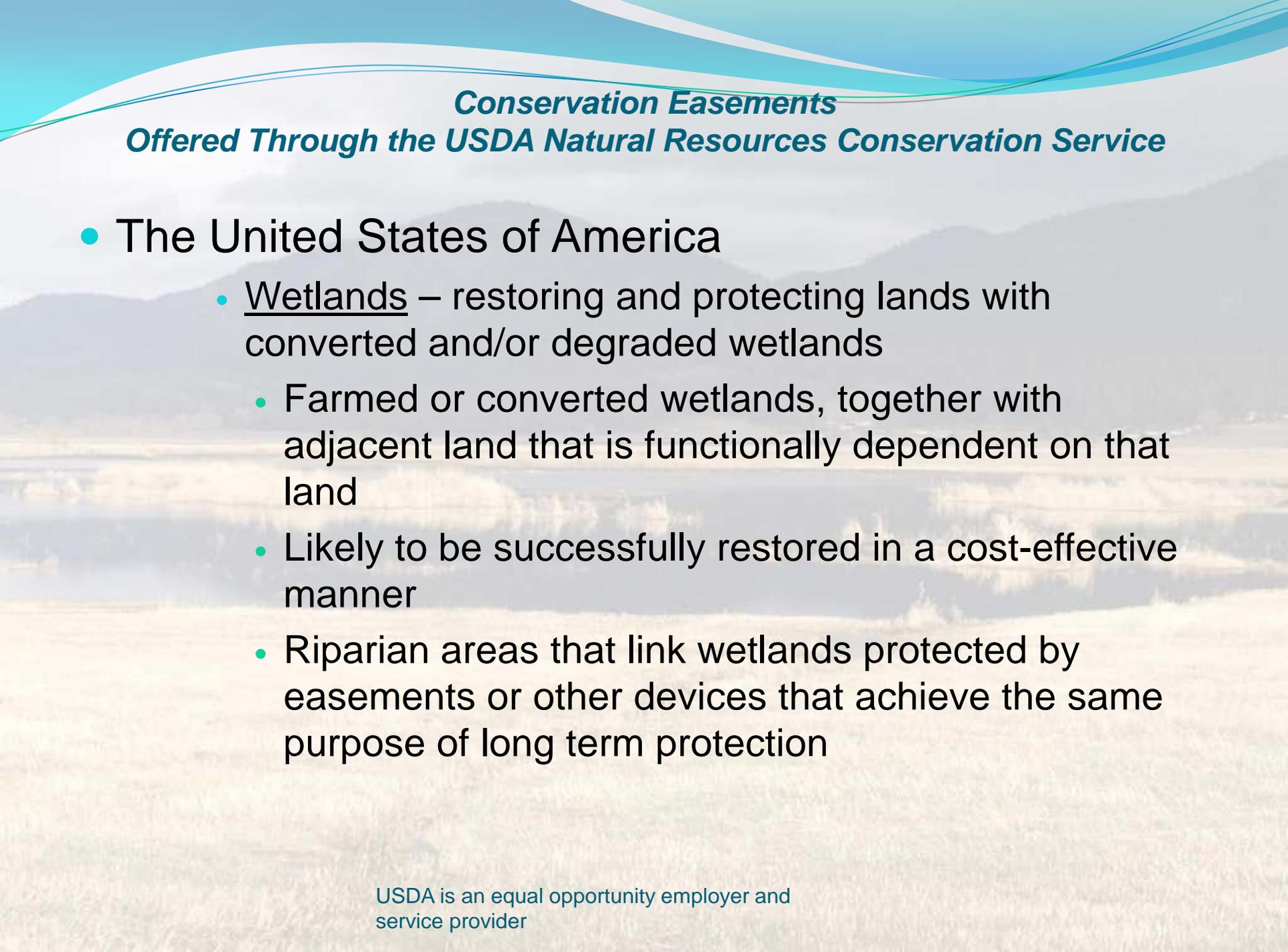
Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- **The United States of America**
 - Long term protection, restoration and enhancement of natural resources that provide social and economic values:
 - Prime farmland soils left undeveloped, wildlife habitat (especially for migratory waterfowl), watershed protection, flood abatement, groundwater recharge, water quality, open space, historic agricultural production (including grazing), protection for ESA listed species
 - Accomplished through purchase of easements and other interests in eligible lands



Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- The United States of America
 - What types of landscapes are we targeting with each program, including special emphasis areas in the state?
 - Agricultural Lands – preserving working lands from being converted to nonagricultural uses.
 - Active farmland with Prime and Unique farmland soils, ag lands with historic or archaeological resources, rangeland and grasslands with grazing history and unique or threatened plant and animal species and their habitat
 - Ex: Skagit River delta and Methow Valley farm lands, South Puget Sound Prairie habitat for Mazama pocket gopher, Sage Grouse initiative in the western U.S.



Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- The United States of America
 - Wetlands – restoring and protecting lands with converted and/or degraded wetlands
 - Farmed or converted wetlands, together with adjacent land that is functionally dependent on that land
 - Likely to be successfully restored in a cost-effective manner
 - Riparian areas that link wetlands protected by easements or other devices that achieve the same purpose of long term protection



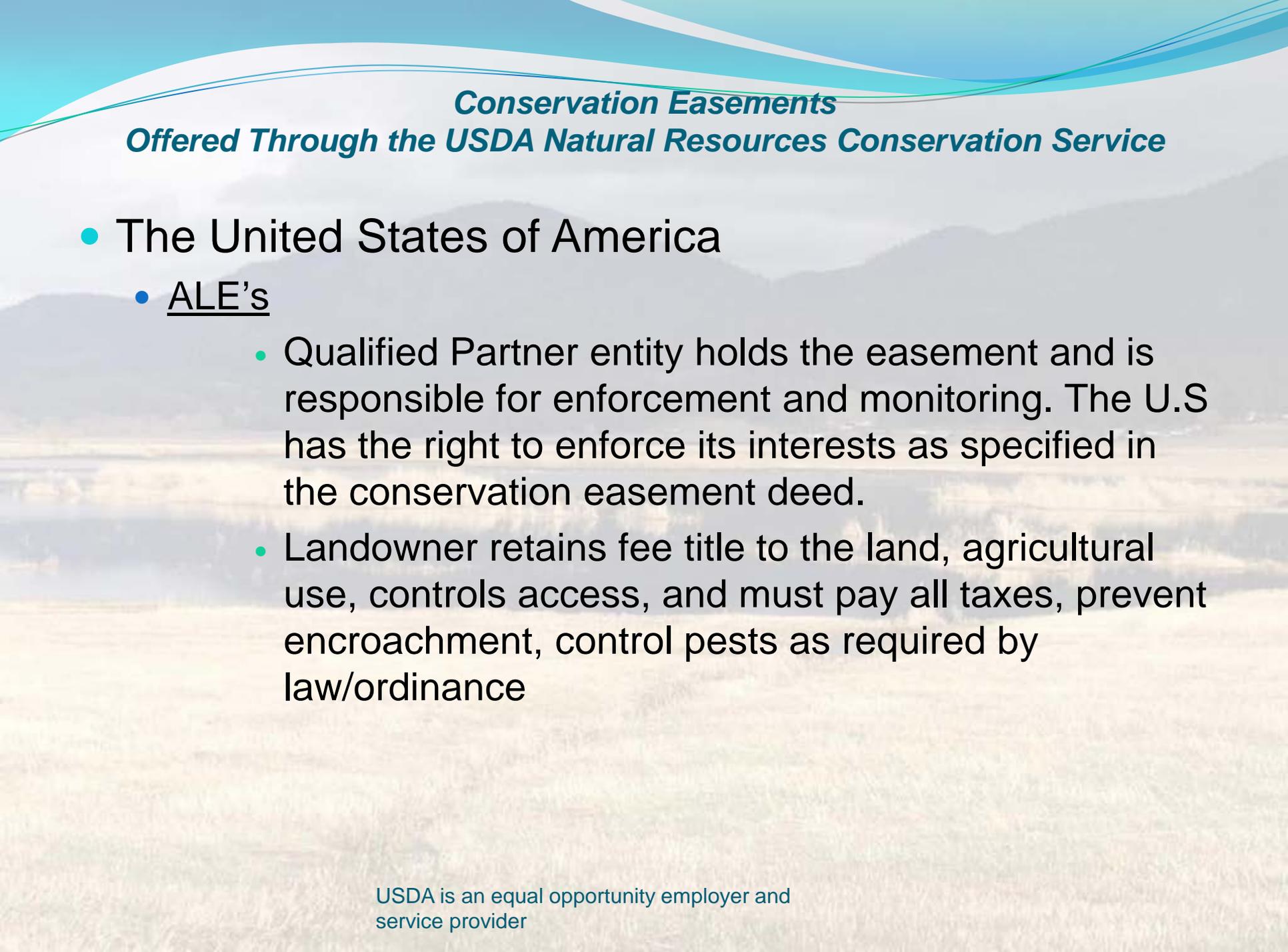
Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- The United States of America
 - Other intact wetlands that could significantly add to the functional value of the easement
 - ESA and other listed species and their habitats
 - Ex: Oregon spotted frog (Puget Sound lowlands) salmonids (estuaries, riparian areas), migratory waterfowl concentration areas (Channeled scablands, coastal estuaries)

Conservation Easements

Offered Through the USDA Natural Resources Conservation Service

- The United States of America
 - What are the legal and financial aspects of our conservation easements?
 - ALE's - Conservation Easement deeds restricting land use to agricultural use and/or protection of historic/archaeological resources
 - In perpetuity
 - Cannot be altered or “bought back” (very limited authority to modify an ALE will be specified in the new final rule)
 - NRCS can share up to 50%* of the cost of purchasing the easement; based on an appraisal of the easement value (*75% for special grasslands)

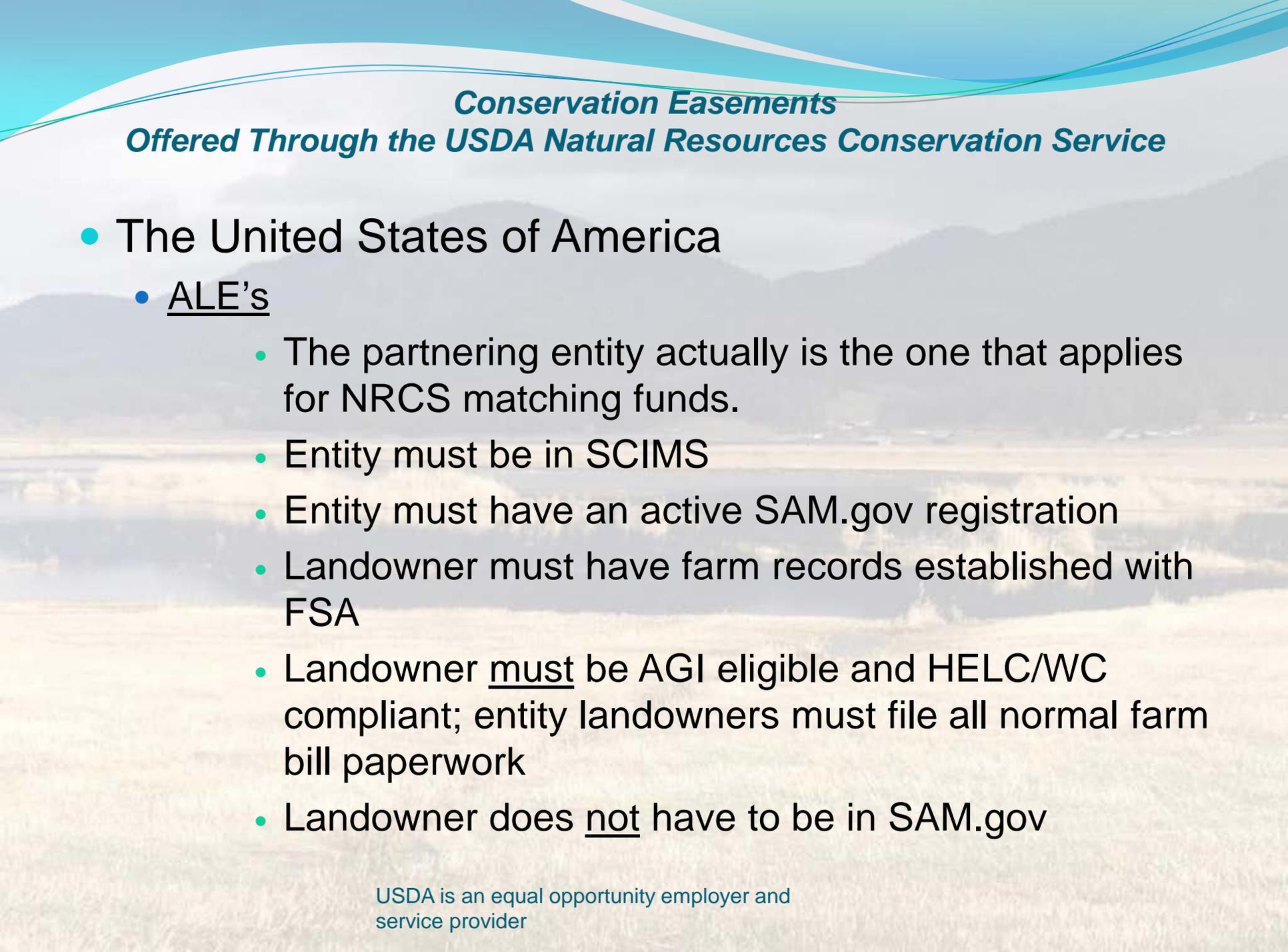


Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- The United States of America
 - ALE's
 - Qualified Partner entity holds the easement and is responsible for enforcement and monitoring. The U.S has the right to enforce its interests as specified in the conservation easement deed.
 - Landowner retains fee title to the land, agricultural use, controls access, and must pay all taxes, prevent encroachment, control pests as required by law/ordinance

Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- The United States of America
 - ALE's
 - Qualified Partner entities are those who meet the program requirements as an agency or NGO that is in the business of holding and managing conservation easements.
 - They must have a track record of successfully acquiring and managing conservation easements
 - Must work with the landowner to develop a favorable working relationship
 - Must provide the required matching funds either from their own resources, grant funding, landowner contribution, or a combination of these.



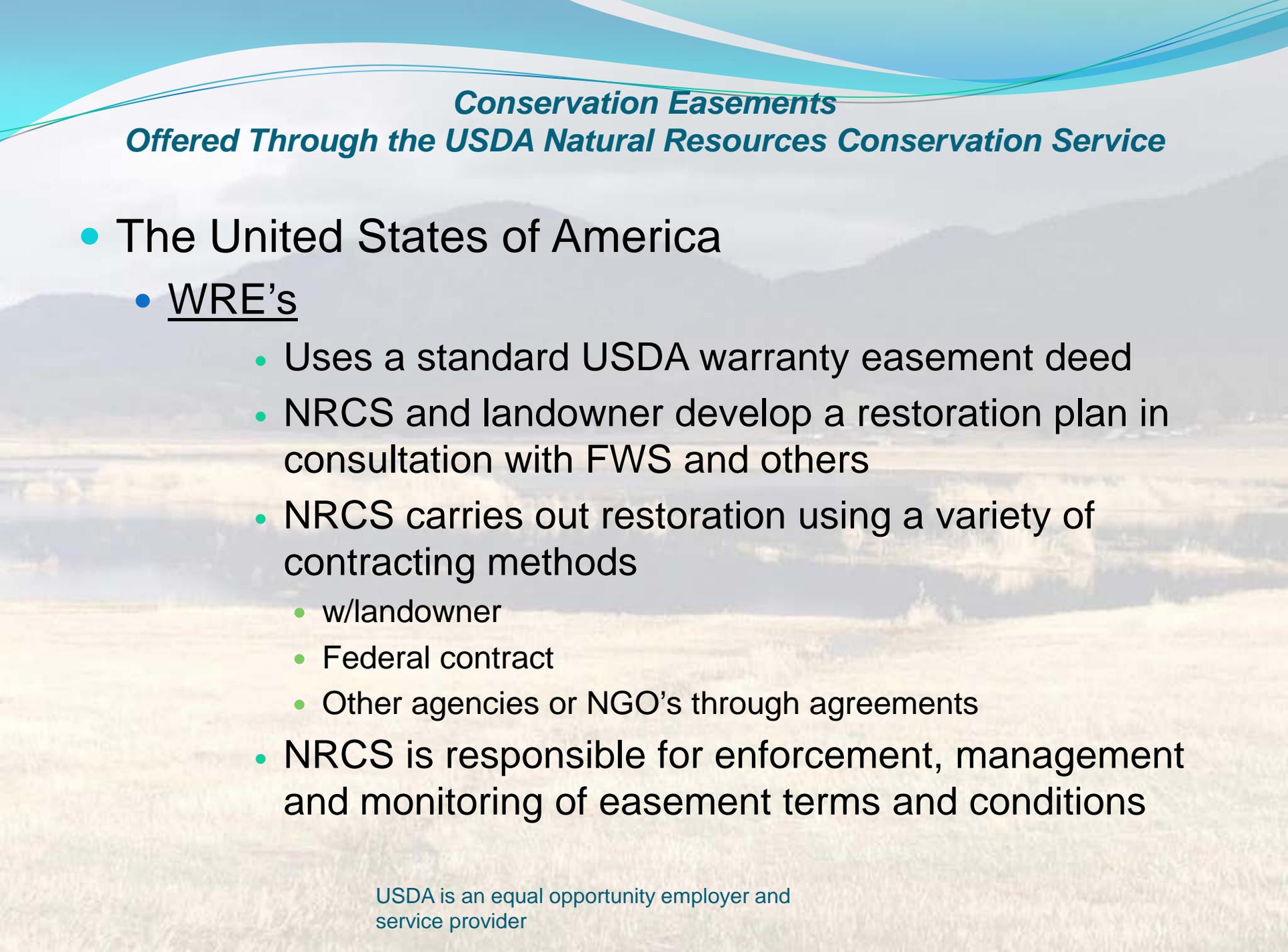
Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- The United States of America
 - ALE's
 - The partnering entity actually is the one that applies for NRCS matching funds.
 - Entity must be in SCIMS
 - Entity must have an active SAM.gov registration
 - Landowner must have farm records established with FSA
 - Landowner must be AGI eligible and HELC/WC compliant; entity landowners must file all normal farm bill paperwork
 - Landowner does not have to be in SAM.gov

Conservation Easements

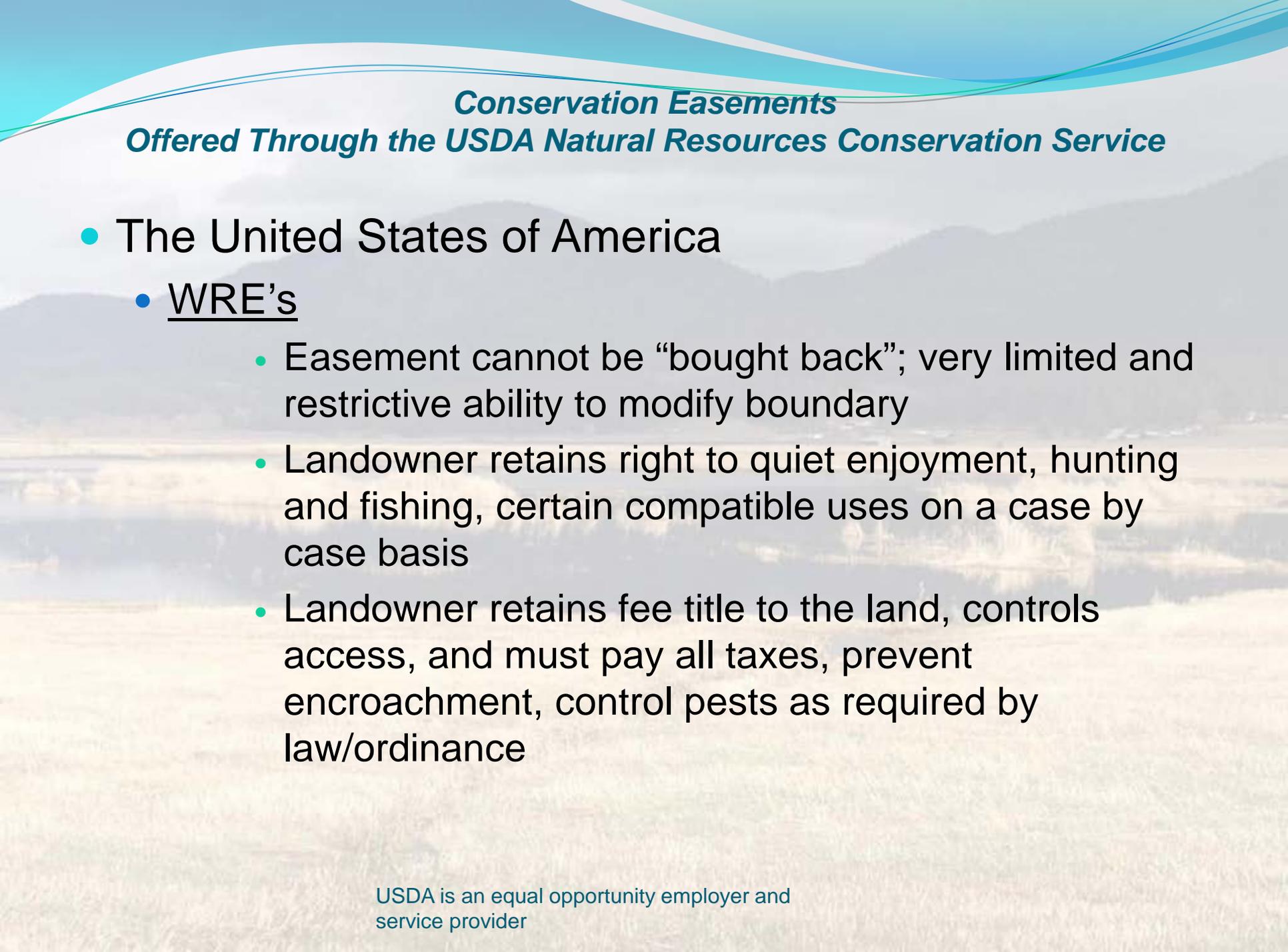
Offered Through the USDA Natural Resources Conservation Service

- The United States of America
 - WRE's – Reserved interest deeds that stipulate rights, title and interest in land conveyed to the USDA and those rights, title and interest in land reserved to the landowner in the deed
 - Permanent and 30-yr easements or 30-yr landuse contracts (Tribal lands only) – no more long term cost sharing agreements
 - NRCS uses an area wide market analysis to determine average values for different land uses or individual appraisals of the subject property. Values are subject to a Geographic Area Rate Cap (GARC) that reflects interest in the land retained by the landowner



Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- The United States of America
 - WRE's
 - Uses a standard USDA warranty easement deed
 - NRCS and landowner develop a restoration plan in consultation with FWS and others
 - NRCS carries out restoration using a variety of contracting methods
 - w/landowner
 - Federal contract
 - Other agencies or NGO's through agreements
 - NRCS is responsible for enforcement, management and monitoring of easement terms and conditions



Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- The United States of America
 - WRE's
 - Easement cannot be “bought back”; very limited and restrictive ability to modify boundary
 - Landowner retains right to quiet enjoyment, hunting and fishing, certain compatible uses on a case by case basis
 - Landowner retains fee title to the land, controls access, and must pay all taxes, prevent encroachment, control pests as required by law/ordinance

Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- The United States of America
 - What will NRCS do on the landscape?
 - ALE's – Easement will have an approved easement plan that promotes the long term viability of the land. Partner entity responsible for monitoring and enforcement
 - WRE's – A WRE Plan of Operation will be developed that guides the restoration & management to a planned level of wetland functions and values.
 - NRCS pays for 100% of restoration cost on permanent easements and 75% of restoration costs on 30-yr easements and 30-yr land use contracts (landowner must supply the other 25%).



Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- The United States of America
 - Long term management and compatible uses
 - ALE's – land stays in a condition that allows for long term continuation of agricultural uses.
 - WRE's – Landowner is free to exercise their reserved rights, as long they are compatible with WRP objectives and other deed restrictions
 - Compatible uses are those that NRCS agrees to and that promote WRP objectives

Conservation Easements

Offered Through the USDA Natural Resources Conservation Service

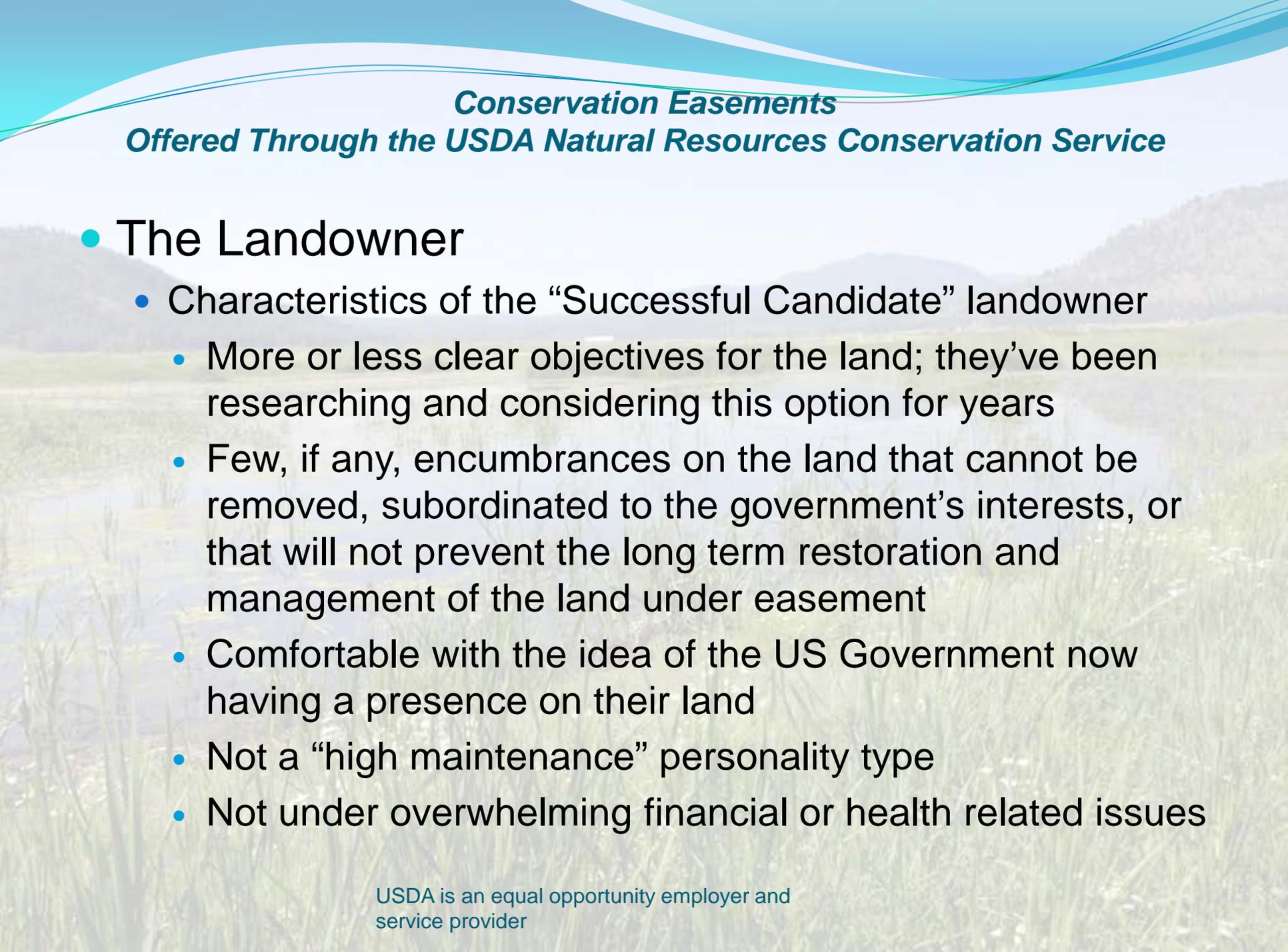
- The United States of America
 - Long term management and compatible uses
 - WRE Compatible Use Agreements (CUA's) may be developed and signed by all parties. These are approved at the discretion of NRCS and can be revoked at any time.
 - Common CU's are haying, weed control, food plots, approved hunting blinds
 - CU activities are *never guaranteed*. Landowners and prospective buyers should *never* assume that these will be allowed into the future and should *not* make financial decisions based on any assumptions.

Conservation Easements

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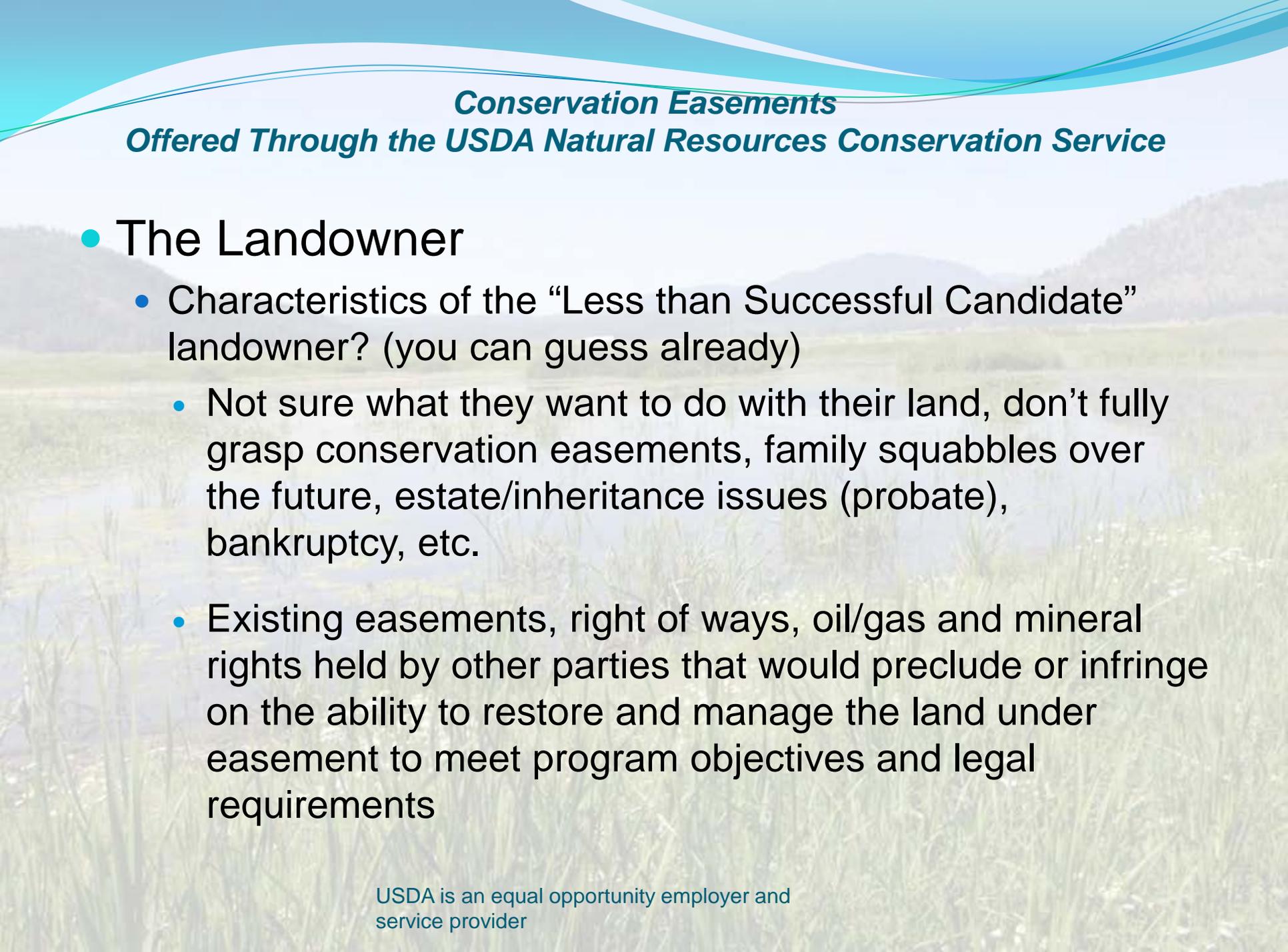
- **The Landowner**

- What benefits are the landowners trying to secure through the sale of a conservation easement? What is their objective?
 - Short Term – compensation, possible property tax re-classification, possible income or inheritance tax benefits, pay off mortgage and/or secured loans, other?
 - Long Term – protect land from development, passing land intact onto future generations, restore wildlife habitat, fishing and hunting, possible fee title sale to other parties, other?



Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- **The Landowner**
 - Characteristics of the “Successful Candidate” landowner
 - More or less clear objectives for the land; they’ve been researching and considering this option for years
 - Few, if any, encumbrances on the land that cannot be removed, subordinated to the government’s interests, or that will not prevent the long term restoration and management of the land under easement
 - Comfortable with the idea of the US Government now having a presence on their land
 - Not a “high maintenance” personality type
 - Not under overwhelming financial or health related issues



Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- **The Landowner**
 - Characteristics of the “Less than Successful Candidate” landowner? (you can guess already)
 - Not sure what they want to do with their land, don’t fully grasp conservation easements, family squabbles over the future, estate/inheritance issues (probate), bankruptcy, etc.
 - Existing easements, right of ways, oil/gas and mineral rights held by other parties that would preclude or infringe on the ability to restore and manage the land under easement to meet program objectives and legal requirements

Conservation Easements

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- The Landowner (*the “less than successful” candidate*)
 - In financial trouble, trying to pay off loans secured with land as collateral, ...a little desperate and looking for “a way out,” etc.
 - Nervous about “government” in general, adverse to a government agency having rights to access and manage their land, etc.
 - Changes mind on a regular basis and may want to “buy back” the land under easement at a future date (nope) or carry out activities that are non-compatible with the objectives of the easement or are otherwise prohibited in the easement deed (nope and nope).

Regional Conservation Partnership Program (RCPP)

Regional Conservation Partnership Program



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Regional Conservation Partnership Program (RCPP)

- RCPP is a program that allows for direct landowner assistance or agreements between NRCS and partners to target covered programs to priority geographic areas.
- ***Covered programs include*** the Environmental Quality Incentives Program (EQIP), Conservation Stewardship Program (CSP), Healthy Forest Reserve Program (HFRP) and ***the Agricultural Conservation Easement Program (ACEP)***

Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

Bringing It All Together

- Conservation easements and financial assistance offered through the USDA NRCS are tools available for conservation on private and Tribal lands.
- There are targeted landscapes that best fit these programs
 - Not every piece of land is suitable for these programs
- There are landowners that make better candidates for these conservation easements
 - Not every situation makes for a successful landowner/NRCS partnership

Conservation Easements

Offered Through the USDA Natural Resources Conservation Service

Contact your local NRCS office if you know of a good candidate. You can use visit our web page for more information.

<http://www.nrcs.usda.gov/wps/portal/nrcs/site/wa/home/>

Get Started with NRCS



Do you farm or ranch and want to make improvements to the land that you own or lease? NRCS offers technical and financial assistance to help farmers, ranchers and forest landowners. Here's how you can get started with NRCS:

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Conservation Easements
Offered Through the USDA Natural Resources Conservation Service

- Or contact me:
 - Dave Kreft
Easement Programs Coordinator
USDA-NRCS
316 W. Boone, Ave., Suite 450
Spokane, WA 99201-2348
 - Office phone: (509) 323-2991
E-mail: dave.kreft@wa.usda.gov

**Conservation
Easements
Offered
Through the
USDA Natural
Resources
Conservation
Service**

● **QUESTIONS?**



Team USDA will also be presenting at the following venues:

- Small Farms Conference, November 1, Spokane, WA
- Washington Tilth Conference, November 7-9, Vancouver, WA
- Washington Dairy Federation Conference, November 10-11, Vancouver, WA
- Washington Cattlemen's Conference, November 12-14, Spokane, WA
- Tri-State Grain Growers Conference, November 12-15, Stevenson, WA
- Farm Bureau Conference, November 17-20, Yakima, WA
- Washington Association of Conservation Districts, December 1-3, Cle Elum, WA
- Pacific Northwest Direct Seed Association, January 20-22, Kennewick, WA
- Ag Expo/Farm Forum, February 3-5, Spokane, WA