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**Comments of Quinton N. Robinson, Esq,
Policy Advisor**

**Rural Coalition
Before the
Subcommittee on Conservation and Forestry
Committee on Agriculture
U.S. House of Representatives
December 17, 2019**

Good morning Chairwoman Spanberger, Ranking Member LaMalfa and members of the House Agriculture Committee, Subcommittee on Conservation and Forestry.

I am Quinton N. Robinson, Esq. and I serve as the Agriculture Policy Advisor for the Rural Coalition which is a network of community-based organizations advocating on behalf of limited resource, and minority farmers and ranchers across the United States. Thousands of hard-working farm families share their economic victories with the Rural Coalition daily. These families also express their frustrations caused by programmatic hurdles that make it impossible to survive in

today's increasing competitive markets and technology adaptation on the farm.

The Rural Coalition operates on a grass roots model that listens closely to the farm program concerns of our multicultural farm families and make attempts to create new legislation or administrative improvements at the U.S. D. A. and other relevant federal agencies.

For more than 40 years, the Rural Coalition has effectively worked with the U.S. House and the U.S. Senate on legislative proposals involving farm credit, civil rights and conservation which is the topic of today's hearing. The minority farmers and ranchers that we work with are hard working, law abiding citizens and play a critical role in the helping our nation maintain and expand its role of as the world's paramount leader in the production and marketing of an abundant, safe and affordable supply of food and fiber.

I want to specifically highlight improvements in the 2018 farm bill that will go a long way in improving the economic and social well being of family farmers. These improvements in the law make conservation practices more attainable for small and limited resource farmers and ranchers. I want to thank you for your invitation to the Rural Coalition to be here today to share our thoughts about access to conservation programs for minority, limited resource and new and beginning farmers and ranchers.

Conservation Challenges and Set-A-Side Funding Allocations

Similar to all producers, minority farmers and ranchers face farm related conservation challenges in farm enterprises such as cow calf operations, organic vegetables, and more recently industrial hemp production.

The 2008 Farm bill initially addressed some of the funding related challenges by authorizing NRCS conservation funding set-a-sides for minority and new and beginning farmers and ranchers. For example, NRCS ensures that 5 (five) percent of the allocated conservation

dollars are used to assist beginning farmers or ranchers; and 5 (five) percent of the allocated dollars are used to assist socially disadvantaged farmers and ranchers. These set a side allocations assist minority farmers and ranchers with a host of critical conservation practices that protect the soil, water and air quality. For example, minority and new and beginning farmers and ranchers utilize the NRCS Environmental Quality Incentive Program (EQIP) to remove invasive species such as the eastern red cedar. Among poultry producers use EQIP funding to conserve energy in poultry house operations.

The current NRCS cost share program for minority, and new and beginning farmers and ranchers is quite helpful in that the program allows for 90% cost share on NRCS acceptable conservation practices. The program is structured in a manner that provides eligible farmers a 50% upfront payment from NRCS, and a 40% reimbursable payment from NRCS once the eligible farmer has paid out of pocket 40% percent of the costs of the approved conservation practice. Although a minority or new and beginning farmer is responsible for only 10% of the costs of the conservation practice, the 40% reimbursable costs remains a burden for some farmers within this category. Our farmers recommend that USDA waives the 40% reimbursable costs in those circumstances where a farmer can show hardship.

2018 FARM BILL IMPROVEMENTS

ENSURE FAIR ACCESS TO USDA FOR PRODUCERS FARMING ON HEIRS PROPERTY **(FSA, NRCS, NASS)**

Sections 12615, 5104 and 12607 of the 2018 Farm Bill Conference Report are intended to assure USDA affords fair access to its programs for farmers and ranchers who operate farms on “heirs property.” The final language ensures that more farmers — especially African- American farmers and farmers of color operating on land with undivided interests – can finally access critical USDA programs that enable them to

protect the soil and water; and continue to operate viable farms that feed their communities.

When landowners pass on without leaving a will or a succession plan to transfer ownership of the land or assigning an executor to divide the property among all living inheritors, "**Heirs Property**" is created, which can destroy wealth for the next generation. "**Heirs property**" then becomes *intestate*, and the laws of the state control to whom ownership is passed. Multiple descendants then become *tenants in common*, with each having a fraction of the undivided interest in the land. Land so held lacks a clear title, and therefore cannot be sold without court action such as a partition sale. Family members who may wish to still farm the land may be left unable to buy out other heirs.

Currently, producers operating on undivided heirs property are also unable to produce a valid deed or lease necessary to secure a farm number with USDA. Without a farm number, these producers are ineligible for most USDA programs.

The new Farm Bill language should be implemented promptly in consultation with the groups most familiar with the issues. It would expand access to critical federal farm programs by helping more families resolve longstanding heirs property issues through a pilot relending program to clear land titles while protecting the rights of all heirs. It would also assure that the many farmers — especially African-American farmers and farmers of color operating on land with undivided interests — can now secure Farm Numbers and access USDA programs that enable them to protect the soil and water;

continue to operate viable farms that feed their communities; and pass the farming vocation and farmland on to future generations.

In order to participate in USDA programs, producers must demonstrate control of the land to secure a farm number and access to federal farm, credit and conservation program benefits. Currently, producers operating on heirs property are unable to secure a farm number and therefore access to most USDA program, including commodity programs, microloans, EQIP, or NAP or other risk management and disaster programs.

Some producers who utilize Commodity Programs authorized under Title I have been allowed to access these programs using a process of self-certification of the farmer's authority to farm that land. Our constituents have informed us, however, that due to encumbrances related to heirs property, hundreds of producers unable to access the food and agriculture programs they need to achieve sustainability.

The issue of Heirs Property has generated much attention with regard to housing and ineligibility for assistance from FEMA and flood insurance following natural disasters for those residing in homes held with undivided interests. A Uniform Partition of Heirs Property model statute was developed and has now been adopted in 12 states,¹ and is pending in several more. Similar laws in other states protect the rights of heirs property interests.

Rapid implementation of the new legislation is also of critical importance in areas that have recently experienced natural disasters, including in the US Virgin Island and Puerto Rico where many producers lack clear title to their land. The statutory changes require

the USDA Farm Service Agency and Natural Resources and Conservation Service to recognize these or other instruments to provide for a legal authority to make decisions on behalf of the interests in the property (or the heirs), including allowing farmers operating on heirs property to participate in critical USDA programs and services.

Section 12615 requires the Secretary to accept certain alternate forms of documentation to enable operators farming on land lacking a clear legal title due to heirs property issues to receive farm numbers from USDA Farm Service Agency (FSA) and thereby qualify to participate in USDA farm, credit and conservation programs. The statute requires that USDA, in states that have in force a Uniform Partition of Heirs Property Statute, provide a farm number and program eligibility to farm owners and operators farming on land that has an assigned administrative authority representing more than 50% of the interests in the property; and to identify similar alternate forms of documentation as evidence of control of the land for the purposes of participating in FSA and NRCS for farmers and ranchers.

EMERGENCY LOANS: MODERNIZATIONS AND ENHANCEMENTS TO FARMER ELIGIBILITY

The new language will allow emergency loans to farmers even if a farmer has been previously granted debt write down. Prior to the passage of the 2018 farm bill, a farmer cannot receive a USDA “Emergency Loan” if at any time after 1996 the farmer participated in a USDA Farm Service Agency primary loan servicing agreement that included debt write down or debt forgiveness.

The frequent implementation of the debt “write-down” rule has an undue negative impact on socially disadvantaged in dire need of emergency loan. The 2018 natural disasters in North Carolina and California demanded modernization and enhancements in emergency loan programs. Indeed, farmers encounter multiple disasters that coincide with crop losses caused by environmental degradation, or low farm gate income caused by a global trade disruption.

The Senate amendment amends section 373(b)(2)(B) to exempt write-downs and restructurings under section 353 from what is considered “debt forgiveness” for the purposes of applying the debt forgiveness loan eligibility limitations. **(Section 5306)** The House bill contained no comparable provision. The Conference substitute adopts the Senate provision. **(Section 5307).**

We have recommended that the Secretary take a dual approach in order to speedily implement emergency loan eligibility. First, the Secretary should immediately issue a proposed rule to amend 7 CFR 764.352(b) which governs emergency loan eligibility requirements. Secondly, we have recommended that the FSA hand book identified as 3 -FLP (Rev.2) be amended at Page 10.1 to 10.2 to inform field staff and farmers and ranchers that a previous direct or guarantee loan write down is no longer a bar that prohibits a future application for an emergency loan. The Secretary should further make clear that emergency loan funds can be used to pay off or replace automobiles or higher interest credit cards that were frequently used prior to the disaster designation to finance farm operations. So long as otherwise permissible, the Secretary should further remove prohibitions for direct emergency loans in scenarios where farm loan borrowers

have graduated from direct farm loan program with a past history of a guaranteed loan loss claim paid by FSA to a guaranteed lender.

These farm bill improvements are related to effective participation in NRCS conservation programs and their speedy implementation will make minority participation in conservation programs much more effective.

Thank you. I look forward to any questions from the committee.

The Rural Coalition/Coalición Rural is an alliance of farmers, farmworkers, indigenous, migrant and working people from the United States, Mexico, and beyond working together since 1978 with the shared values of unity, hope, people, and the land.

Rural Coalition/Coalición Rural members share the belief that rural communities everywhere can have a better future and that community-based organizations who have long served the needs of rural communities and people have a fundamental role in building that future. Investments in their work will provide important returns to our economy, our environment, and our society.