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MEMORANDUM

**TO: BOWMAN-SLOPE SOIL AND WATER CONSERVATION
DISTRICT LAND USE PLAN COMMITTEE**

VIA: EMAIL
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**FROM: KAREN BUDD-FALEN & CONNER NICKLAS
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**THROUGH: BRENDA YOUNKIN
Y-2 CONSULTANTS**

DATE: SEPTEMBER 12, 2017

RE: GRAZING ON CRP LAND

I. BACKGROUND

Generally, grazing on CRP land is prohibited. 16 U.S.C. § 3832(a)(8). However, under emergency circumstances, the Secretary of Agriculture may allow grazing on CRP land without a reduction in rental rates. 16 U.S.C. § 3833(b)(1). The Secretary of Agriculture may allow grazing when those activities are "consistent with a plan approved by the Secretary," and in response to "drought, flooding, or other emergency." *Id.* Emergency authorization is provided either by a national FSA office authorization or by state FSA committee determination. United States Department of Agriculture Farm Services Agency, Emergency Haying and Grazing, <https://www.fsa.usda.gov/programs-and-services/conservation-programs/conservation-reserve-program/emergency-haying-and-grazing/index> (last accessed August 14, 2017).

To be eligible for national authorization, a local county FSA committee must submit a request documenting a 40 percent or greater loss in normal hay and pasture production. *Id.* The committee must also show one of two events. Either there was a drought where precipitation levels were at a level of 40 percent or greater loss of normal precipitation for the four most recent months

plus the days in the current month before the date of request. *Id.* Or there were excess moisture levels at an average of 140 percent or greater during the four most recent consecutive months plus the days in the current month before the date of request. *Id.* The emergency haying or grazing is limited to the acreage physically located within the eligible county and is only for a limited duration. *Id.* The Secretary also has the right to end the emergency grazing at an earlier time if conditions improve. *Id.*

State FSA authorization is only allowed for drought conditions. *Id.* County FSA committees may request emergency haying to the state FSA committee using the US Drought Monitor. *Id.* The request must be for a period outside the primary nesting season. *Id.* To be eligible, the county must show that it is in a level “D2- Drought Severe” according to the US Drought Monitor. Emergency haying is authorized through August 31st of the designated period, and emergency grazing is authorized through September 30th. *Id.*

II. ISSUES FOR BOWMAN-SLOPE LAND USE PLAN

Given this analysis, I believe that the Bowman-Slope land use plan should consider including issues regarding emergency haying and grazing authorization on CRP Land. Those issues may include (but are not limited to):

A. Although the statute and the regulations state that emergency grazing is allowed for “drought, flooding, or other emergency,” the policy of the FSA is that emergency grazing be allowed for drought and flood conditions. Perhaps there are other emergencies that could be eligible?

B. Are there local procedures in place to petition either the state or national FSA committee to authorize emergency grazing?

Should you have any questions, please do not hesitate to contact us.