

### **COMPATIBILITY DETERMINATION for Authorized Curtilage Expansion or Structural Additions on Grassland Easements**

**Use:** Authorized expansion or construction of additional buildings or structures on a grassland or FmHA easement. Examples of proposed uses include additions to farmstead buildings, livestock facilities, storage sheds, or the planting of farmstead windbreaks.

#### **Station Names:**

##### **South Dakota Wetland Management Districts:**

Lake Andes WMD, SD  
Madison WMD, SD  
Huron WMD, SD  
Waubay WMD, SD  
Sand Lake WMD, SD  
Lacreek NWR, SD

##### **North Dakota Wetland Management Districts:**

Tewaukon WMD, ND  
Kulm WMD, ND  
Arrowwood WMD, ND  
Valley City WMD, ND  
Chase Lake WMD, ND  
Audubon WMD, ND  
Long Lake WMD, ND  
J Clark Salyer WMD, ND  
Devils Lake WMD, ND  
Lostwood WMD, ND  
Crosby WMD, ND

##### **Montana Wetland Management Districts:**

Northeast Montana WMD, MT  
Bowdoin WMD, MT  
Benton Lake WMD, MT

Northwest Montana WMD, MT  
Charles M. Russell WMD, MT

**Establishing and Acquisition Authorities:**

Waterfowl Production Areas, Wetland Easements, Grassland Easements - The Migratory Bird Hunting and Conservation Stamp Act, March 16, 1934, (16 USC Sec. 718-718h, 48 Stat. 452) as amended August 1, 1958, (PL 85-585; 72 Stat. 486) for acquisition of “Waterfowl Production Areas”; the Wetlands Loan Act, October 4, 1961, as amended (16 USC 715k-3 - 715k-5, Stat. 813), funds appropriated under the Wetlands Loan Act are merged with duck stamp receipts in the fund and appropriated to the Secretary for the acquisition of migratory bird refuges under the provisions of the Migratory Bird Conservation Act, February 18, 1929, (16 USC Sec. 715, 715d - 715r, as amended).

FmHA deed restricted properties - Consolidated Farm and Rural Development Act - (7 USC Para. 2002).

Tall Grass Prairie Tracts - Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4 through 460l-11)

**Refuge Purpose(s):**

“...as Waterfowl Production Areas” subject to “...all of the provisions of such Act [Migratory Bird Conservation Act] ...except the inviolate sanctuary provisions...” 16 USC 718(c) (Migratory Bird Hunting and Conservation Stamp)

“...for any other management purpose, for migratory birds.” 16 USC 715d (Migratory Bird Conservation Act)

“...for conservation purposes...” 7 USC 2002 (Consolidated Farm and Rural Development Act)

**National Wildlife Refuge System Mission:**

“The Mission of the National Wildlife Refuge System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans” (National Wildlife Refuge System Administration Act of 1966, as amended) [16 USC 668(dd)-668(ee)].

**Description of Use:**

A landowner may have need to increase the size of his/her home and increase the size or number of buildings and facilities on the farm or ranch operation in order to more efficiently continue the agricultural operation of the property, or to plant and develop a windbreak planting of trees to protect the farm house or livestock facilities. Such an expansion may be requested on upland areas adjacent to the existing farmstead, the base of operations for the farm/ranch, or on a former building site where buildings are no longer present, on lands that are included within a grassland or FmHA conservation easement. In order to be permitted, such a request must be shown to be consistent with existing agricultural uses or practices on the property, have no other reasonable location or alternative, essential to the farm/ranch operation, not be able to be accommodated by a temporary (less than one year) permit, and be judged not to materially interfere with or detract from the easement or the purpose and mission of the NWRS.

### **Availability of Resources:**

Financial and staff resources are determined to be sufficient at each field station to administer these requests. Staff time will be needed to evaluate the proposed use, to prepare the site-specific permits, and to insure compliance with the permit authorization and stipulations necessary to insure compatibility.

### **Anticipated Impacts of the Use:**

Authorized use of easement protected grasslands for expanded farmstead, farm or ranch facilities, or a farmstead windbreak, will result in a loss or destruction of the grassland where the facilities are built. The remainder of the easement tract will not be affected. The disturbance caused by the expanded farmstead, additional buildings or facilities, new or expanded windbreak, on an existing building site or a former building site is not expected to be significantly greater than that caused by the previous structures, and will not contribute to the fragmentation of existing habitats.

The impacts associated with this authorized use will be minimal due to the relatively small size or acreage of the proposed facilities. If multiple requests are received from the same landowner, or for the same easement by different or subsequent landowners, they will each be evaluated on its own merits. Each grassland easement may be authorized up to a threshold level of 8 acres of total impact, whether it occurs at one time or through different approved requests. Therefore, only up to 8 acres of potential grassland impact may be authorized for each grassland easement for authorized expansion or construction of additional buildings or structures, or a proposed tree planting for farmstead windbreak purposes.

In addition, there will be no secondary impacts allowed within this Compatibility Determination. Fragmentation of grasslands habitats is minimized by allowing curtilage expansion only on existing or former building sites, or for farm/ranch operations. If the

potentially affected grassland provides habitat for wildlife species with management concerns, such as a grouse lek or burrowing owl nesting site, or some unique feature, the use may not be allowed, or it may be permitted only with stipulations that would eliminate the secondary or indirect impact. The Region 6 states of South Dakota, North Dakota, and Montana have over 500,000 acres of grasslands protected by Service easements. It is anticipated that between five and ten requests annually may be received to allow curtilage expansion. Under this scenario, a maximum of between 40 and 80 acres annually could be affected. This is an immaterial impact to the acreage included within the grassland easement program.

If multiple requests are received from the same landowner, or on the same easement, each will be evaluated on its own merits. Each grassland easement contract may be authorized up to one threshold level (8.0 acres) of total impact, whether it occurs at one time or in different request authorizations. Therefore, only up to 8.0 acres of encumbered grassland per easement contract (regardless of its size), may be authorized for curtilage expansion or other authorized uses.

### **Public Review and Comment:**

The period of public review and comment began April 10, 2005 and ended April 17, 2005.

Posted notices were made in public places for each of the field stations listed on this Compatibility Determination. This method was selected because the proposed activity is considered minor, incidental, infrequent, with only minimal impacts. No comments were received as a result of the posted notices.

### **Determination:**

**Compatibility Threshold:** In order to be compatible, this use must not exceed the upper threshold limit of 8 acres on grassland. To achieve compatibility, the proposed use must not interfere with nor detract from the mission or the purposed for which the easement areas were established.

\_\_\_\_\_ Use is Not Compatible

XXX Use is Compatible with the Following Stipulations

### **Stipulations Necessary to Ensure Compatibility:**

1. Issuance of a permit does not preclude the requirements for obtaining necessary permits and/or approvals from other County, State, or Federal Agencies and from local landowners.

2. The permit is issued subject to the revocation and appeals procedure contained in Title 50, Part 25 of the Code of Federal Regulations.
3. Storage of building materials or disposal of fill material from the construction project will not be allowed on easement protected grassland areas.
4. Additional stipulations may be added or included to address specific concerns with individual projects or requests or to address any secondary impacts which may occur as a result of the proposed use.

### **Justification:**

The expansion of curtilage or the construction of additional structures for agricultural or farmstead use is expected to be permitted only rarely, perhaps five to ten times per year for ALL the stations listed within this CD.

Data from the Habitat and Population Evaluation Team (HAPET) in the Bismarck FWS office can be used to predict the waterfowl response to the permitted upland changes. Evaluating grassland loss from a waterfowl population perspective is not precise, because we are estimating the loss of productivity of a hen that may or may not nest on a grassland site because of a disturbance or a slightly smaller size. HAPET used the Mallard Model to evaluate the change in the productivity of the affected grassland habitat. The land cover composition of a grassland easement (160 acres) and 1990 acres of cropland within a four-square mile landscape (2,560 acres), was incrementally reduced by the amount of grassland necessary to cause a production decline of two ducks (one pair). This size grassland easement was chosen because it represents the smallest individual tract to be considered for a stand-alone easement purchase, and the impact of grassland loss is proportionally greater on a smaller tract. The loss of two ducks produced equates to a replacement pair of ducks for the following breeding season. The average decrease in native grassland required to achieve a one pair reduction was 10 acres.

In a second modeling analysis, Breeding Bird Survey data were used to estimate the average breeding bird population on 160 acres of native grassland. A modeled loss of 5 acres of 160 acres of grassland showed no discernable change (positive or negative) in the breeding bird population of the 160 acre easement tract.

The working group proposes that the threshold level of grassland impact is 8 acres, in order to build in a margin of safety. The 8-acre figure (80 % of the actual determination made by HAPET for nesting ducks) corresponds with the 80% value developed for the wetland threshold. In conclusion, a proposed use that passes all the filters in the flowchart, and results in a grassland impact of 8 acres or less, may be determined to be less than a “material impact” which would interfere with or detract from the Mission or the purpose

for which the grassland easement was purchased.

**Mandatory 10-Year Reevaluation Date:** 10 years from the date of APPROVAL signature

Enter Re-evaluation date: \_\_\_\_\_.

**Note:** See page 164 of this document for the approval signatures for this approved programmatic compatibility determination.