



United States Department of the Interior

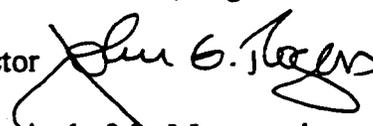
FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

ADDRESS ONLY THE DIRECTOR FOR
FISH AND WILDLIFE SERVICE

In Reply Refer To:
FWS/DHC/BHR
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Memorandum

To: Regional Directors, Regions 1-7

From:  Director DEC 5 1996

Subject: ~~Transmittal of the~~ Memorandum of Understanding between the Fish and Wildlife Service and the Natural Resources Conservation Service regarding the coordinated acquisition of wetlands associated with the Wetlands Reserve Program.

Attached is a copy of the subject Memorandum of Understanding (MOU) that facilitates the efficient and cost-effective acquisition and restoration of habitat important to both the Fish and Wildlife Service (Service) and the Department of Agriculture's Natural Resources Conservation Service (NRCS). The MOU is subject to the Solicitor's October 16, 1996, memorandum of the same subject (copy attached).

With this MOU, NRCS and the Service may coordinate their separate and independent authorities to achieve wetland resource protection and restoration. The MOU resolves certain issues regarding Service payments for easements or fee title on lands with Wetlands Reserve Program (WRP) permanent or 30-year conservation easements. The Service has made the administrative decision that working with NRCS to coordinate funding and acquisition of real property interests in wetland projects is in the best interest of the Service.

NRCS, by policy and regulation, has established limits and caps on the amount paid for conservation easements. As a result, NRCS may in fact be paying less than Fair Market Value (FMV) for the interests acquired. The Service is committed to ensuring that the full transaction (i.e., the purchase of fee title or a permanent easement) by both NRCS and the Service represents at least 100 percent of FMV. Through this MOU the Service and NRCS have the flexibility to negotiate the proportional amounts of the FMV that each agency will pay to the WRP participant for their respective real property interests as long as the WRP participant, through the combination of payments from both agencies, receives at least 100 percent of the FMV for the interests being purchased. Accordingly, the price actually paid by the Service for its interests will reflect an additional amount over the appraised value of the interests being acquired to ensure that

the total transaction represents at least 100 percent of FMV. This amount, more often than not, will also exceed the Regional Director's Delegation of Authority (DOA) limitations to exceed the appraised value.

Therefore, the limits on the DOA for acquiring the remainder interests after a WRP easement are hereby rescinded. This exemption applies only to purchases under the acquisition authority of the Waterfowl Production Area program (Migratory Bird Hunting and Conservation Stamp Act). The DOA limitation remains in effect for exceeding the FMV of the "before WRP" property value.

Regarding the implementation of coordinated acquisitions using the Migratory Bird Conservation Act, price approval for the interests being acquired by the Service must be approved, in all instances, by the Migratory Bird Conservation Commission. For coordinated acquisitions using Land and Water Conservation Funds, Appropriations Committee directives require the Service to get the Committee approvals prior to exceeding the appraised value for the interests being acquired. We plan to approach the Committee to seek an exception for these coordinated acquisitions.

Appropriated funds for Service land acquisition can only be utilized to acquire interests in lands that will be held by the Department of the Interior. If the Service desires to engage in cooperative acquisitions in partnership with others, when the property interests are not held by the Department of the Interior, it may only assist under its grant programs.

In addition to the MOU, this memorandum is also transmitting the special provision language, approved by both the Office of the Solicitor, Department of the Interior, and the Office of General Counsel, Department of Agriculture, that will appear in the NRCS WRP Warranty Easement Deed when cooperative purchases such as those described in the MOU occur. This special provision language delegates, but does not transfer, administrative jurisdiction of the WRP easement to the Service provided that the easement is managed as part of the National Wildlife Refuge System and in a manner consistent with the Wetlands Reserve Program. Administrative jurisdiction is defined as all management, monitoring and enforcement responsibilities.

Please direct all comments and concerns regarding this MOU, to Jeffery Donahoe, Chief, Division of Realty 703-358-1713. Matters related to the Wetlands Reserve Program or the special easement provisions should be referred to the Assistant Director for Ecological Services (Attention: Martha Naley at 703-358-2201).

Attachments