

**MEMORANDUM OF AGREEMENT  
BETWEEN  
DEPARTMENT OF AGRICULTURE  
FARM SERVICES AGENCY  
TENNESSEE STATE OFFICE**

**AND**

**DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE  
TENNESSEE FIELD OFFICE**

**SUBJECT:**

Reduction of paperwork and unnecessary review of Farm Services Agency funded activities.

**PURPOSE:**

The Farm Services Agency (FSA) is charged with meeting the requirements of the Fish and Wildlife Coordination Act by coordinating its actions with the Fish and Wildlife Service (FWS) whenever the waters of any stream or other body of water are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage. This is done with a view to the conservation of wildlife resources by preventing loss of and damage to such resources as well as providing for the development and improvement thereof in connection with such water-resource development with direct agency funding or with loan guarantees.

In addition to evaluation of projects affecting streams and bodies of water, FSA must determine if its proposed actions may have adverse effects on any threatened or endangered species. FSA must also consult with FWS to determine whether the proposed action or alternative is likely to jeopardize the continued existence of any identified species. If, in the opinion of FWS, the FSA proposal or alternative would jeopardize the above mentioned resources, FSA must develop acceptable mitigation measures in consultation with FWS or obtain an "exemption" from the Secretary of the Interior.

It is recognized that many activities carried out by FSA involve minor and routine projects that typically result in "no species" responses or concurrence with "no effect" or "not likely to adversely affect" findings. Likewise, many activities result in either no impacts or insignificant impacts to aquatic resources. This Memorandum of Agreement (MOA) is intended to establish a blanket clearance which would eliminate the need for case-by-case review of certain categories of activities funded by FSA. The agreement would significantly reduce time and staff effort for both agencies that is required for case-by-case review of these activities.

**SCOPE:**

This MOA does not supersede the responsibilities and obligations of the FWS and FSA which are mandated by the Endangered Species Act (87 Stat 884, as amended; 16 U.S.C. 1531 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. §§ 661-667e, March 10, 1934, as amended 1946, 1958, 1978, and 1995) or related regulations and agency policy. The categories of FSA actions considered as undertakings are identified on the Exhibit 30 of FSA Handbook 1EQ and are summarized below. They have been evaluated in accordance with these statutes, regulations, and policies, and a conclusion reached by both FWS and FSA that specified projects within these categories will not result in significant adverse impacts to federally listed species or aquatic resources.

#### **LOAN MAKING DIVISION – DIRECT AND GUARANTEED LOANS:**

**Farm Ownership Loans** – The basic objective of the FO loan program is to provide credit and management assistance to eligible farmers and ranchers to become owners-operators of family-sized farms or to continue such operations when credit is not available elsewhere or available only with a Farm Service Agency loan guarantee. Agency assistance enables family-farm operators to use their land, labor and other resources, and to improve their living and financial conditions so that they can obtain credit elsewhere. Farm ownership loan purposes included in this Memorandum of Agreement include:

- Closing costs – typically those costs associated with document preparation, attorney fees, taxes, etc.
- Conservation Easement with no construction – includes loan funds used for the establishment of a permanent easement to real estate that limits its use to conservation programs and allows no new construction.
- Farmland Purchase, no new ground disturbance planned – includes loan funds for the purpose of purchasing or refinancing an existing farm operation and associated buildings and improvements, but with no new construction or ground disturbance planned.
- Refinance debt – includes loan funds used for refinancing of existing debt for farm ownership purposes. This would include the refinancing of existing operations already in production that have no plans for new construction.
- Construction, addition to existing structures – includes loan funds for the purpose of additions to existing structures. This would include increasing the square footage by including land and expanding outward or of an additional story.
- Improve/repair, structures 50 years old or older – same as above only with older buildings.
- Improve/repair, structures under 50 years old - same as above only with structures less than 50 years old.

**Operating Loans** – The basic objective of the OL loan program is to provide credit and management assistance to farmers and ranchers to become operators of family-sized farms or continue such operations when credit is not available elsewhere. Agency assistance enables family-farm operators to use their land, labor and other resources and to improve their living and financial conditions so that they can obtain credit elsewhere. The object of the OL loan program for rural youth is to provide credit for rural youths to establish and operate income-producing projects of modest size in connection with their participation in 4-H clubs, Future Farmers of America, and similar organizations. **All youth loan activities would be included in the Memorandum of Agreement.** Operating loan purposes included in this Memorandum of Agreement include :

- Annual Operating Costs – This would include loans to purchase seed, livestock, equipment, insurance, etc., with no construction/demolition in plan including 7-year equipment loans.
- Closing Costs – Loan funds to be used for loan closing costs as described in Farm Ownership loans.
- Family subsistence/living expenses – This would include loan funds for typical family living expenses (food, clothing, medical etc.).
- Labor – Loan funds used to pay for farm labor expenses.
- Refinance Debt – Loan funds used to refinance existing debt for operating expenses.

**Emergency Loans** – Emergency loans are for an applicant who has suffered losses in a declared natural disaster. EM loan funds can be used for real estate or operating purposes. Emergency loan purposes included in this Memorandum of Agreement include:

- All Farm Ownership and Operating Loan expenses listed above.
- Production costs with no construction or demolition.
- Reorganization of farm operations.
- Restore/replace property - This would include loan funds to be used to restore or replace property existing prior to the disaster with no new ground disturbance.

**Loan Servicing and Property Management** – These activities would include loan servicing activities used to assist eligible applicants and borrowers to bring their accounts current or restructure their indebtedness and the acquisition, maintenance and disposal of inventory property that formerly served as security for FSA loans. It would also include subordination of FSA liens and transfer and assumptions of existing debts by eligible applicants. The following loan servicing and property management activities are included in this Memorandum of Agreement:

- Conservation easement/contract with no construction.
- Debt set-aside – loan servicing allowing eligible applicant/borrowers to set aside the current years payment to be added to the end of the note.
- Deferral – an approved delay in making regularly scheduled payments, including softwood timber loans. Deferral is not considered debt forgiveness.
- Loan consolidation – the combining and rescheduling of the rates and terms of two or more notes of the same type loans.
- Partial release – FSA consents to release its mortgage on a portion of its loan security for the market value.
- Re-amortization – the rearranging of the installment payments of a real estate loan.
- Rescheduling debt – the rewriting of the rates and/or terms of FSA loans.
- Subordination, no new ground disturbance or new construction planned – FSA agrees to subordinate its lien position to allow the applicant/borrower to obtain alternate financing.
- Transfer/assumption, no new construction or ground disturbance planned – FSA consents to the transfer/assumption of an existing indebtedness to an eligible applicant without disbursing loan funds for new construction or ground disturbance.
- Writing down debt – the reduction of a borrower's debt to an amount that will result in a feasible plan of operation.

**Inventory Property** – Inventory property which does not have wetlands or prior converted wetlands as determined by NRCS and/or which has not had listed or proposed endangered or threatened species or listed or proposed critical habitats will not require consultation.

## **PRICE SUPPORT DIVISION**

### **Farm Storage Facility Loan Program**

Storage facility, added capacity

Storage facility, disturbed areas

### **Lamb Meat Adjustment Assistance Program**

Lamb meat adjustment assistance, no facility improvement

### **Marketing Assistance Loans and Loan Deficiency Payments**

Feed grain support

Minor oilseed support

Rice support

Soybean support

Wheat support

### **Cotton Loan and Loan Deficiency Payments**

#### **Dairy Indemnity Program**

#### **Dairy Market Loss Assistance Program**

#### **Wool/Mohair Program**

#### **Small Hog Operations Program**

#### **Sugar Program**

## **IV. PRODUCTION, EMERGENCIES AND COMPLIANCE DIVISION**

Crop disaster program payments

Agricultural Marketing Transition Act payments

Noninsured crop disaster assistance program payments

## **V. CONSERVATION & ENVIRONMENTAL PROGRAMS DIVISION**

Annual food plots

Bareland planting or planting without site preparation

Chiseling & subsoiling if previously tilled

Chute

Clean tilling firebreaks

Conservation crop rotation  
Contour farming  
Contour grass strips  
Cover and green manure crop  
Debt for Nature, no ground modification  
Eligible and suitable plantings  
Eligible seed purchase  
Establish/maintain wildlife food plot  
Fence, install  
Fence, repair  
Fence, replace  
Field borders  
Filter strips  
Forage harvest management  
Forb planting  
Grading, leveling, shaping, filling, previously disturbed area  
Grafting or similar practices  
Grapevine removal  
Grass planting  
Herbicide purchase/application  
Insecticide purchase/application  
Integrated crop management  
Irrigation water management  
Legume planting  
Mineral purchase/application  
Mulching  
Netting for hardwoods  
Nutrient management  
Pasture & hayland planting  
Permanent native grasses  
Pest management  
Pipe  
Pipe drop  
Plastic tubes for hardwoods  
Plastic mulch  
Pond sealing & lining  
Precision land farming  
Pruning  
Release for forestry improvement  
Residue management  
Residue management, seasonal  
Riparian buffers  
Roof runoff management  
Seedbed preparation, seeding  
Seeding

Seeding, approved shrubs and trees  
Seeding firebreaks, fuelbreaks, firelanes  
Shrub planting, seedlings  
Stand analysis for forest management planning  
Stripcropping/contour  
Stripcropping/field  
Stripcropping/wind  
Supplemental drip irrigation  
Surface roughening  
Temporary cover  
Temporary food plots  
Terrace  
Thinning & pruning  
Toxic salt reduction  
Tree tubes, shelters  
Tree planting, bare root  
Tree/shrub establishment  
Use exclusion  
Waste utilization  
Water hauling  
Well

**THE FOLLOWING FSA PROGRAMS AND PRACTICES WILL REQUIRE PROJECT-SPECIFIC CONSULTATION AND COORDINATION**

**I. FARM LOAN PROGRAMS**

**A. LOAN MAKING DIVISION (Direct & Guaranteed Loans)**

**Farm Ownership**

Construction, nondisturbed areas  
Farmland purchase, new ground disturbance planned

**Operating Loans**

Annual operating costs, including construction or demolition or planting in previously untilled areas

**Emergency Loan Assistance**

Production costs, including construction or demolition

## **B. LOAN SERVICING AND PROPERTY MANAGEMENT DIVISION**

**Disposal of Inventory Real Property** – In accordance with RD instruction 1955-C, 1955.137(b)(3)(iii), FSA will coordinate with FWS on inventory property with wetlands or converted wetlands. Based on the technical considerations of the potential functions and values of the wetlands on the property, FWS will identify those wetlands or converted wetlands that require protection with a wetland conservation easement along with the boundaries of the required wetland conservation easement. FWS may also make other recommendations if needed for the protection of important resources such as threatened or endangered species during this review.

Inventory property disposal with easements/covenants - FSA will coordinate with FWS if conservation easements are required on inventory property with wetlands, converted wetlands, listed or proposed endangered species, or listed or proposed critical habitats. In most cases FWS will be responsible for easement management and administration responsibilities for such areas unless the area is an inholding in Federal or State property and that entity agrees to assume such responsibility.

Transfer of FSA inventory property for conservation purposes – RD Instruction 1955-C, 1955.139(c) – FSA will coordinate with FWS regarding possible transfer of inventory property after all homestead protection rights of the previous owners have been met.

## **II. FARM PROGRAMS**

### **A. PRICE SUPPORT DIVISION**

#### **Farm Storage Facility Loan Program**

Storage facility, undisturbed areas or within the boundaries of a historic district, on a historic farmstead or within a rural landscape

### **B. CONSERVATION & ENVIRONMENTAL PROGRAMS DIVISION**

- Access road
- Chiseling & subsoiling if not previously tilled
- Construction of structures
- Dam/diversion
- Dam/floodwater retarding
- Dam/multiple purpose
- Dike
- Ditch
- Diversion

Drop spillway  
 Earthmoving for dam, levee, dugout, dike  
 Excavation  
 Fish stream improvement  
 Grade stabilization structure  
 Grading, leveling, shaping, filling, not previously disturbed area  
 Grazing land mechanical treatment  
 Heavy site preparation, planting, direct seeding  
 Irrigation canal or lateral  
 Irrigation field ditch  
 Irrigation land leveling  
 Irrigation pit or regulating reservoir  
 Irrigation storage reservoir  
 Irrigation structure  
 Land smoothing  
 Obstruction removal  
 Outlet  
 Pesticide containment facility  
 Pond  
 Roads  
 Sediment basin  
 Sediment structure  
 Site preparation  
 Spring development  
 Streambank & shoreline protection  
 Structure, water control  
 Surface drainage/field ditch  
 Surface drainage/main or lateral  
 Underground outlet  
 Vertical drain  
 Waste management system  
 Waste treatment lagoon  
 Water gaps  
 Water harvesting catchment  
 Water, sediment control basin  
 Water spreading

**C. TOBACCO & PEANUT DIVISION**

Planting in previously undisturbed areas

Additionally, records available at the date of signature indicate no federally listed species occur within the following counties;

Carroll	Crockett	Fayette	Gibson	Haywood
Henderson	Johnson	McNairy	Macon	Weakley

Consequently, activities within these counties would not require consultation with USFWS pursuant to the Endangered Species Act. However, as a part of this agreement, FSA staff will verify by accessing the USFWS website where species by county are listed and whether a particular county has endangered

species present. This would be done in conjunction with FSA's environmental evaluation and/or assessment.

This MOA constitutes a "blanket consultation" pursuant to Section 7 of the Endangered Species Act and "blanket coordination" pursuant to the Fish and Wildlife Coordination Act for the activities listed above.

**GENERAL PROVISIONS**

Either agency may unilaterally withdraw from this agreement with 30 day written notice. This MOA will be reviewed annually and revised as appropriate. Revisions may be requested at any time by either agency. All revisions will be made in writing and require the concurrence of both agencies.

U.S. Fish and Wildlife Service, Cookeville, Tennessee Field Office

By: \_\_\_\_\_  
LEE A. BARCLAY, Ph.D.  
Field Supervisor

Date: \_\_\_\_\_

Farm Service Agency, Tennessee Office

By: \_\_\_\_\_  
LOUIS E. BUCK  
Executive State Director

Date: \_\_\_\_\_