

# Chapter 1—Introduction and Project Description



Donna Dewhurst / USFWS

*Prairie pothole habitat supports migratory birds like these mallards by providing the food and cover necessary to raise successful broods.*

A U.S. Fish and Wildlife Service (Service) team (appendix A) conducted a planning process to establish an easement program for protecting prairie habitats in North Dakota and South Dakota. The team started with an analysis of the area’s habitats, species (appendix B), and issues. The analysis, including the sociocultural aspects, are documented in an environmental assessment (EA) (appendix C).

Public involvement has been an integral part of the planning process (appendix D). After preparation and public review of the EA, the Service’s Region 6 Director selected alternative B of the EA to establish the Dakota Grassland Conservation Area (DGCA).

Appendix E contains the finding of no significant impact for the project. Other environmental compliance and approval documentation is included in this volume (appendixes F, G, H, and I).

The purpose of the resulting “Land Protection Plan—Dakota Grassland Conservation Area” is to describe the management approach that the Service will take in carrying out this easement program to protect prairie habitats. The land protection plan (LPP) contains goals, objectives, and operational considerations for the following management aspects: wildlife and associated habitats, easement

priorities, public uses, interagency coordination, public outreach, and other operations.

## Introduction

The Prairie Pothole Region (PPR) is an extraordinary biome (a defined geographical area and its living organisms that interact with the environment) for its ability to produce and sustain tremendous numbers of waterfowl (figure 1). The region is part of one of the largest wetland–grassland ecosystems on Earth. In the late 1700s, between 7 and 8 million acres of wetland existed in the Dakotas alone within the United States part of the PPR. By the 1980s, North Dakota had lost nearly 50 percent of its original wetland acreage and South Dakota had lost an estimated 35 percent (Dahl 1990). Drainage of wetland in the PPR imposes a condition of permanent drought for wildlife. Consequently, the abundance of most species of wetland wildlife has declined drastically (Johnson et al. 2008), and the “North American Waterfowl Management Plan” identified the PPR as the continent’s top priority for waterfowl conservation (USFWS 1986).



**Figure 1. Map of the Prairie Pothole Region of North America.**

Across the Nation, grassland declined by an estimated 25 million acres from 1978 to 2002, according to a recent audit by the Government Accountability Office (GAO 2007a). More specifically, in 2006, the States of North Dakota and South Dakota reported the conversion of approximately 68,000 acres of native prairie to cropland (GAO 2007a). Despite these reductions in wetland and grassland resources, millions of wetlands and large tracts of native prairie remain within the region.

The PPR is one of the most altered, yet one of the most important, migratory bird habitats in the Western Hemisphere. It is the backbone of North America’s “Duck Factory.” In addition, the PPR has high species richness (number of species), and it harbors large proportions of the continental populations of many species of breeding waterbirds (Beyersbergen et al. 2004), shorebirds (Brown et al. 2001), and

grassland birds (Peterjohn and Sauer 1999). The PPR was recognized as an important area in 1987 with the establishment of the Prairie Pothole Joint Venture (PPJV) to protect wetlands, waterfowl, and other wildlife. The PPJV committed to efforts to revive declining North American waterfowl populations through the protection of crucial wetland and grassland habitats. The 2005 PPJV implementation plan shows a need to protect more habitat—an additional 1.4 million acres of wetland and 10.4 million acres of grassland—to meet the goals for waterfowl population size (Ringelman 2005).

The Service protects these resources under the authority of the Migratory Bird Hunting and Conservation Stamp Act (Small Wetlands Acquisition Program), using monies from the sale of Federal Duck Stamps, through the North American Wetland Conservation Act (NAWCA), and from donations

from conservation groups. Over the past 48 years, the Service has purchased 95 percent of easements using Federal Duck Stamp dollars. At current budget levels, it would take the Service 150 years to protect the nearly 12 million acres identified in the “2005 Prairie Pothole Joint Venture Implementation Plan” as critical for sustaining migratory bird populations (GAO 2007b). However, at the current rate of grassland conversion, an estimated one-half of the remaining native prairie in the PPR will be converted to other uses in only 34 years.

## Project Description

The Service created the DGCA to accelerate the conservation of wetland and grassland habitat in the area (figure 2). The project area was selected using models developed by the Service’s Habitat and Population Evaluation Team (HAPET), located in Bismarck, North Dakota. The models identify the extent and location of wetlands and grasslands required to help meet the PPJV goals for migratory bird populations and the Small Wetland Acquisition Program (SWAP) objectives for habitat protection. HAPET developed the Service’s “Conservation Strategy” using models combined with decades of biological information from scientific studies of the spatial and temporal needs of nesting ducks in the PPR. The analysis was the basis for the resulting Conservation Strategy goal to protect an additional 1.4 million acres of wetlands and 10 million acres of grassland in the PPJV boundary to support the current levels of breeding ducks. Specifically, these models show that protection of all wetland and grassland in areas that support more than 25 duck pairs per square mile plus a 1-mile buffer, referred to as the “priority zone,” meets the PPJV conservation goal of protecting adequate habitat to support more than 90 percent of the PPR’s duck productivity. The DGCA project represents an element of the Conservation Strategy.

The project area for the DGCA includes parts of North Dakota and South Dakota lying north and east of the Missouri River, except those parts of southeastern North Dakota and eastern South Dakota encompassed by the Dakota Tallgrass Prairie Wildlife Management Area, a grassland easement program approved in 2000 (figure 2). The total area within the DGCA boundary is 29.6 million acres or 46,267 square miles; the priority zone in this area covers 8.5 million acres.

The objectives for the DGCA are to conserve 240,000 acres of wetland and 1.7 million acres of grassland. The wetland and grassland resources in the DGCA will be conserved primarily through the purchase of perpetual wetland and grassland conser-

vation easements from willing sellers. All land under easement will remain in private ownership. Protected wetland basins may be hayed or grazed without restriction and farmed when dry from natural causes. However, wetland easements will prohibit the draining, burning, filling, or leveling of protected wetland. Grassland easements will not restrict grazing in any way, and haying will be permitted after July 15 each year. Conversion of these grasslands to crop production or other uses that destroy vegetation will be prohibited.

The cost for acquisition of easements in the DGCA is approximately \$588 million. This project allows the purchase of critical wetland and grassland easements using money from the Land and Water Conservation Fund (LWCF) as an alternate funding source and the purchase authority of the Migratory Bird Conservation Act. In addition, the Service will continue to use Federal Duck Stamp and NAWCA monies as appropriate and available. At current acquisition rates, the goal for the project will be achieved within 30 years.

The Service has an established review process for evaluating requested uses on all current and future wetland and grassland easements in the prairie pothole States of Region 6 of the Service. This review process applies not only to easements bought under the DGCA project but also to those easements the Service had acquired earlier. The Service will fully describe and analyze easement evaluations and procedures for requested uses at a later date.

## PURPOSE

The DGCA is part of a landscape-scale, strategic habitat conservation effort to protect a unique, highly diverse, and endangered ecosystem. This project will accelerate the protection of wetland and grassland habitats through the acquisition of wetland and grassland conservation easements on private land. It is widely recognized that the most effective technique for conserving the remaining wetland and grassland character of the project area is to work with private landowners on conservation matters of mutual concern (Higgins et al. 2002).

Historically, virtually no ecosystem in North America offered a landscape more conducive to rapid and widespread agricultural settlement than the PPR. Large-scale, land use changes continue to expand rapidly into formerly secure grassland-wetland complexes and grassland tracts, which represent much of the remaining high-priority wetland and grassland habitat for breeding birds. To better protect these resources, the Service needs money in addition to those sources currently available for acquiring perpetual wetland and grassland easements

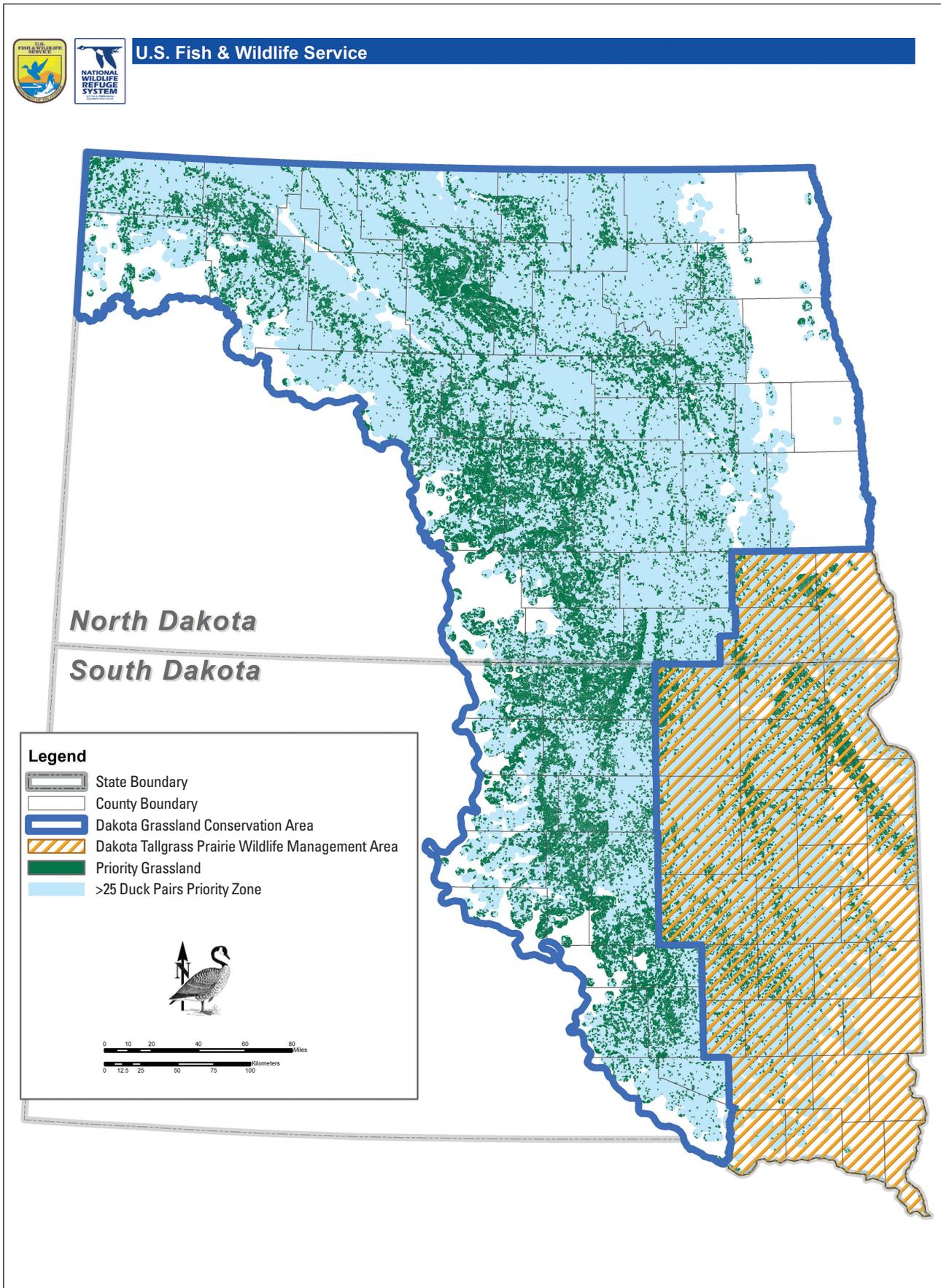


Figure 2. Map of the Dakota Grassland Conservation Area.

in North Dakota and South Dakota. Given the diversity of plants and animals that rely on these habitat types, the ability of the project to protect wetland and grassland habitats in perpetuity is critical.

The purpose of the DGCA project is to provide for the long-term viability of the breeding waterfowl populations through the conservation of existing habitats while considering the needs of other migratory birds, threatened and endangered species, and other wildlife. To accomplish this purpose, the goals for the DGCA follow:

- Conserve the landscape-scale ecological integrity of wetlands and grasslands in the DGCA by maintaining and enhancing the historical native plant, migratory bird, and other wildlife species.
- Protect the integrity of native prairie and associated wetlands by preventing further habitat fragmentation.
- Conserve working landscapes based on ranching and livestock operations that support a viable livestock industry.
- Support the recovery and protection of threatened and endangered species, and reduce the likelihood of future listings under the Endangered Species Act.
- Provide a buffer against climate change by providing resiliency for the grassland ecosystems and associated prairie pothole wetlands through landscape-scale conservation.
- Conserve, restore, enhance, and protect in perpetuity wetland and grassland habitats for migratory bird productivity.
- Preserve the ecological function of these habitats by providing for floodwater retention, ground water recharge, carbon sequestration, improved water quality, and reduced soil and water erosion.

The DGCA project will follow the “road map”—goals and objectives—in the PPJV for integrating the conservation of all migratory birds. The process involves “stepping down” the objectives of four international bird plans for waterfowl, shorebirds, waterbirds, and landbirds as they apply to the PPJV.

Monies from the Migratory Bird Hunting and Conservation Stamp Act (Federal Duck Stamp) and the North American Wetlands Conservation Act have funded habitat protection under SWAP. The use of Federal Duck Stamp dollars requires approval by the State Governor, and the Service will continue to use this money for wetland and grass-

land easements in the State of South Dakota. In North Dakota, the State has established limits on the number of wetland acres in each county that can be protected with perpetual Service easements. Federal Duck Stamp dollars are not currently available in North Dakota to buy easements in several counties, because the acreage limits have been reached.

## Issues Identified and Selected for Analysis

The Service solicited comments about the DGCA from the public through direct mailings, news releases, public meetings, and direct contacts:

- On December 1, 2010, the Service issued a scoping notice to all media outlets in Montana, North Dakota, and South Dakota and several major, daily newspapers in Minnesota and Iowa (refer to “Appendix D—Public Involvement”). This information was also posted to [www.fws.gov/audubon/dakotagrasslands.html](http://www.fws.gov/audubon/dakotagrasslands.html), as well as the Service’s Facebook and Twitter profiles. Due to the holiday season, the Service extended the public scoping period by 2 weeks, until January 14, 2011 (appendix D); with this extension, there was a total of 45 days for the public comment period.
- The Service mailed a four-page fact sheet to 32 Native American tribes and 1,275 individuals and organizations. In addition, 1,737 postcards were mailed out to individuals informing them of the project. Names on the mailing list came from prior Service projects where groups or individuals had expressed interest in the general area or in easement programs.
- The Service conducted three scoping meetings on December 14, 15, and 16, 2010—at Minot, North Dakota; Jamestown, North Dakota; and Huron, South Dakota; respectively. Public attendees at the three scoping meetings totaled 93 individuals.
- A project Web site provided interested parties with updates and information about the project.

The Service received 1,469 emails, 24 written letters, and 60 phone calls. Most of the comments reflected concern about the loss of wetland and grassland and stated general support for the project, while comments against the project emphasized the need for easements of shorter duration, that is, not perpetual.

The Service's planning team (appendix A) reviewed all comments collected from the public and identified several key issues in three general categories. During formulation and evaluation of project alternatives (appendix C, section 2), the planning team considered the following issues.

### **BIOLOGICAL ISSUES**

- Why is grassland protection an important issue?
- Why is wetland protection an important issue?
- How does the Service determine the goals for habitat protection?

### **SOCIOECONOMIC ISSUES**

- How will these easements affect the local tax base?
- How will these easements affect other property rights?
- How will the family ranching heritage be maintained on the landscape?
- Has the Service considered short-term easements—20, 30, or 40 years versus perpetual?

### **ADMINISTRATIVE AND ENFORCEMENT ISSUES**

- How do these easements affect local governments and adjoining landowners?
- How does the Service address requested uses on easement lands?

## **Public Review of and Comments on the Draft EA and LPP**

The Service released the draft EA and LPP on June 20, 2011, for a 30-day public review period. The draft documents were made available to Federal elected officials and agencies, State elected officials and agencies, 32 Native American tribes with aboriginal or tribal interests, and other members of the public that had been identified during the scoping process. In addition, two public meetings were held in Bismarck, North Dakota, and in Miller, South Dakota, on June 28 and 29, 2011, respectively. Approximately 50 landowners, citizens, and elected representatives attended the meetings.

The Service received 10 letters from agencies, organizations, and other entities and received 347

other comments from the public. After all comments were received, each was reviewed and incorporated into the administrative record; the Service responded to substantive comments and those comments requiring clarification (refer to appendix D).

Most comments received during the release of the draft EA and LPP were supportive in nature (more than 92 percent) and highlighted the following:

- The importance of the PPR to a diverse wildlife population of primarily migratory waterfowl and grassland birds.
- The need to protect important habitats in perpetuity for future generations.
- The immediate threat of losing grassland and wetlands, both native and restored.
- The fact that hundreds of landowners are currently waiting to sign easements in the Dakotas.
- The secondary benefits of grasslands and wetlands such as clean water, flood control, carbon sequestration, and reduced impacts from climate change.
- The strong support and matching funds (up to \$50 million) from nongovernmental agencies.
- The voluntary nature of conservation easements, and the benefits to the maintenance of working farms and ranches.

Comments of opposition (less than 7 percent) focused primarily on the following:

- The perpetual nature of conservation easements and that future generations should not have decisions made for them.
- The estimated project cost of \$588 million during times of economic hardship.
- The impacts to energy development and associated projects such as power lines.
- That easements devalue the land and the surrounding properties.



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*The marbled godwit is a priority shorebird that depends on grassland habitat.*

## National Wildlife Refuge System and Authorities

*The mission of the National Wildlife Refuge System is to preserve a national network of lands and waters for the conservation, management, and where appropriate, the restoration of fish, wildlife and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.*

The DGCA project will be monitored as part of the National Wildlife Refuge System (Refuge System) in accordance with the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, as well as other relevant legislation, Executive orders, regulations, and policies. Conservation of more wildlife habitat within the PPR of North Dakota and South Dakota will continue to be consistent with the following:

- Land and Water Conservation Fund Act (1956)
- Migratory Bird Conservation Act (1929)
- Migratory Bird Hunting and Conservation Stamp Act (1934)
- Migratory Bird Treaty Act (1918)

- North American Wetlands Conservation Act (1968)
- Endangered Species Act (1973)
- Bald and Golden Eagle Protection Act (1940)
- Fish and Wildlife Act (1956)
- “North American Waterfowl Management Plan” (2004)
- “Prairie Pothole Joint Venture Implementation Plan” (2005)

The basic considerations in acquiring an easement interest in private lands are the biological significance of the area, biological requirements of the wildlife species of management concern, existing and anticipated threats to wildlife resources, and landowner interest in the program. It is the long-established policy of the Service to acquire minimum interest in land from willing sellers to achieve habitat protection goals.

The acquisition authority for the DGCA project is the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–j). In response to comments received during the public review of the draft EA and LPP (appendix C), the Service has included the authority of the Migratory Bird Conservation Act of 1929 (16 U.S.C. 715–715d, 715e, 715f–r). The Federal money used to acquire conservation easements is from the LWCF (derived primarily from oil and gas leases on the Outer Continental Shelf, motorboat fuel taxes, and the sale of surplus Federal property) and Federal Duck Stamps. There could be more money to acquire lands, water, or interests for fish and wildlife conservation purposes as identified by Congress or donations from nonprofit organizations. The purchase of conservation easements from willing sellers will be subject to available money.

## Related Actions and Activities

Several existing Federal and State programs promote the conservation of wetland and grassland habitats in the general area of the DGCA.

### DAKOTA TALLGRASS PRAIRIE WILDLIFE MANAGEMENT AREA

The goal for this project area is to conserve 185,000 acres of the remaining, native, tallgrass prairie within 32 counties in eastern South Dakota and southeastern North Dakota through the acquisition

of perpetual grassland easements. This project absorbed an earlier phase 1 project in Brown County, South Dakota. To date, this project has protected 59,098 acres. The Dakota Tallgrass Prairie Wildlife Management Area is entirely within the PPJV boundary and is also an element of the Conservation Strategy.

### **NORTH DAKOTA WILDLIFE MANAGEMENT AREA**

The Service developed this easement project to conserve up to 300,000 acres of grassland in the Missouri Coteau region of North Dakota through the acquisition of perpetual grassland easements. This management area has goals similar to those for the DGCA; however, the project area of the North Dakota Wildlife Management Area is limited in size and does not afford conservation for critical wetlands and grasslands in North Dakota and South Dakota. The DGCA will absorb the North Dakota Wildlife Management Area.

### **NORTH AMERICAN WATERFOWL MANAGEMENT PLAN**

Enacted in 1986, this international plan addresses declining waterfowl populations. The plan created the PPJV to coordinate conservation efforts in North Dakota, South Dakota, Minnesota, Iowa, and Montana. Many PPJV projects are active within the DGCA project area and use funding partnerships with many entities including the following: private landowners; the Service; Ducks Unlimited; The

Nature Conservancy; Pheasants Forever; North Dakota Game and Fish Department; South Dakota Game, Fish and Parks; and several others.

### **MIGRATORY BIRD CONSERVATION ACT**

This act approved in 1929 established the Migratory Bird Conservation Commission (MBCC), which oversees the purchase of properties benefiting migratory birds. These land acquisitions are funded primarily through money generated by the purchase of stamps—commonly known as “Federal Duck Stamps”—as authorized by the Migratory Bird Hunting and Conservation Stamp Act (see below). The lands acquired under this act are used primarily for national wildlife refuges and other easements or limited-interest lands.

### **MIGRATORY BIRD HUNTING AND CONSERVATION STAMP ACT (FEDERAL DUCK STAMPS)**

The act was approved in 1934 to fund the acquisition of migratory bird habitat provided for in the Migratory Bird Conservation Act of 1929. The act provides that anyone over age 16 who hunts migratory birds is required to purchase a hunting stamp. The revenue generated from the sale of these stamps is placed in a special fund known as the Migratory Bird Conservation Fund (MBCF), which is used to acquire migratory bird habitat.

The act was amended in 1958 to increase the acquisition of suitable habitat for waterfowl. This amendment authorized the Secretary of the Interior to expend money from the MBCF for small wetland and pothole areas in fee title (waterfowl production areas) or as easements—a program known as SWAP. With this money, the Service has acquired wetland and grassland easements within the PPR in South Dakota and wetland easements in North Dakota through SWAP. To date, the Service has protected approximately 1,386,279 acres of wetland and 1,128,513 acres of grassland.

### **USDA (U.S. DEPARTMENT OF AGRICULTURE)—FARM SERVICE AGENCY**

The Farm Service Agency offers several programs throughout the PPR in the United States, which aim to preserve and restore the native, mixed-grass, prairie ecosystem in the project area. The Conservation Reserve Program is a voluntary program available to agricultural producers to help them safeguard environmentally sensitive land. Producers that enroll their property in the program will



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*A gadwall hen rests in a wetland.*

plant perennial vegetation to improve the quality of water, control soil erosion, and enhance wildlife habitat. The Conservation Reserve Enhancement Program is a version of the Conservation Reserve Program that has been tailored to meet the needs of the State. The Conservation Reserve Enhancement Program is a Federal–State conservation partnership that targets significant environmental effects related to agriculture.

## **USDA–NRCS (NATURAL RESOURCES CONSERVATION SERVICE)**

Working jointly with the Farm Service Agency, the NRCS provides technical aid and financial incentives through voluntary programs, based on sound science, to promote conservation. Some of the programs that benefit land in the project area are the Grassland Reserve Program, Wildlife Habitat Incentive Program, Wetland Reserve Program, Environmental Quality Incentives Program, and the Conservation Stewardship Program.

- The Grassland Reserve Program emphasizes support for working, livestock-grazing operations, enhancement of plant and animal biodiversity, and protection of grassland under threat of conversion to other uses. Participants voluntarily limit future development and cropping uses of the land. At the same time, participants retain the right to conduct common livestock-grazing practices and operations related to the production of forage and seeding, subject to certain restrictions during nesting seasons of bird species that are in significant decline or are protected under Federal or State law.
- The Wildlife Habitat Incentive Program helps develop or improve quality habitat that supports fish and wildlife populations of national, State, tribal, and local significance. Through this incentive program, the NRCS provides technical and financial help to private and tribal landowners for the development of upland, wetland, aquatic, and other types of wildlife habitat.
- The Wetland Reserve Program offers landowners the opportunity to protect, restore, and enhance wetlands on their property by establishing long-term conservation and wildlife practices and protection.
- The Environmental Quality Incentives Program provides financial and technical help to farmers and ranchers who face threats to soil, water, air, and related natural resources on their land.

Through the incentives program, the NRCS develops contracts with agricultural producers to conduct conservation practices that address environmental natural resource problems.

- Financial incentives offered by the Conservation Stewardship Program encourage agricultural producers to address resource concerns by undertaking more conservation activities and improving and maintaining existing conservation systems.

## **SOUTH DAKOTA GRASSLAND COALITION**

This nonprofit organization has more than 100 members—individuals; private organizations; and local, State, and Federal entities—that are represented by a seven-member board of directors and two coordinators. The vision of the South Dakota Grassland Coalition is to build a partnership of people working to voluntarily improve grasslands for the long-term needs of the resource. The coalition’s goal is to provide local leadership and guidance in a cooperative effort and to provide information and technical help to grassland managers.

## **Habitat Protection and the Easement Acquisition Process**

Habitat protection will occur through the purchase of conservation easements. It is the Service’s long-established policy to acquire minimum interest in land from willing sellers to achieve habitat acquisition goals.

The acquisition authority for the DGCA is the U.S. Fish and Wildlife Act of 1956 (16 U.S.C. 742a–j). In response to comments received during the public review of the draft EA and LPP (appendix C), the Service has included the authority of the Migratory Bird Conservation Act of 1929 (16 U.S.C. 715–715d, 715e, 715f–r). The Federal money used to acquire conservation easements is received from the LWCF, which is derived primarily from oil and gas leases on the Outer Continental Shelf, motorboat fuel tax revenues, and the sale of surplus Federal property. There could be additional funds to acquire lands, waters, or interests through possible sources such as congressional appropriations and donations from nonprofit organizations.

## **Conservation Easements**

The easement program is a conservation tool that will complement other efforts in North Dakota and

South Dakota. Conservation easements are the most cost-effective and socially acceptable means to ensure protection of important habitats in the project area.

Fee-title acquisition is not required for, nor is it preferable to, conservation easements to achieve habitat protection. Fee-title acquisition would triple or quadruple the cost of land acquisition, would

add significant increases in management costs, and would not be accepted by landowners.

A strong and vibrant rural lifestyle—with ranching as the dominant land use—is one of the key components for ensuring habitat integrity and wildlife resource protection. Conservation easements are the only viable means to protect wildlife values on a landscape scale.