

U.S. Fish & Wildlife Service

# Wetland Easement Program



*The mission of the U.S. Fish and Wildlife Service is working with others to conserve, protect and enhance fish, wildlife, plants and their habitats for the continuing benefit of the American people.*



In the United States, the *Prairie Pothole Region* is located within the northern Great Plains in parts of Iowa, Minnesota, Montana, North Dakota, and South Dakota. Characterized by thousands of shallow wetlands known as potholes, the Prairie Pothole Region provides habitat for globally significant populations of breeding waterfowl. In addition, the Prairie Pothole Region is important as breeding and migratory habitat for many species of grassland and wetland-dependent birds.

*What is a Wetland Easement?*

A wetland easement is a legal agreement signed with the United States of America, through the U.S. Fish and Wildlife Service, that pays landowners to permanently protect wetlands. Landowners who sell a wetland easement to the Service agree that wetlands protected by an easement cannot be drained, filled, leveled or burned. If these wetlands dry up naturally, they can be farmed, grazed or hayed. Wetlands covered by an easement are mapped, and a copy of the easement and maps is provided to the landowner. The easement contract is recorded at the county courthouse Register of Deeds office. No signs are placed on the property.

Property subject to a wetland easement remains on local tax rolls. By selling easements, landowners receive funds to pay down debt, reinvest in capital improvements, or buy other lands to maintain and/or expand working lands.

*Why protect wetlands?*

Wetlands benefit people as well as wildlife. Wetlands can control erosion and reduce flooding by holding water and reducing runoff. They also recharge subsurface water supplies and improve water quality. Wetlands provide crucial habitat for many types of wildlife including ducks, pheasants, and deer. More than half of the nation's wetlands have been lost

to development, including agricultural drainage, since the 1800s. Protecting wetlands ensures that these habitats and the wildlife that depend on them will continue to exist for future generations.

*Does any land qualify for a wetland easement?*

### **Land Qualifications**

No. The property must have wetlands of value to waterfowl and lie within a county that has been approved for the easement program. The wetland easement program is offered only in the Prairie Pothole Region of Iowa, Minnesota, Montana, North Dakota, and South Dakota.

*How much of my land would be covered by the easement?*

The easement covers certain existing wetlands. Impoundments by dams or dikes do not qualify. The easement wetlands are shown on a map (referred to in the contract as Exhibit A) that is part of the easement agreement and recorded in the county courthouse Register of Deeds office. Enforcement of the easement terms will be limited to these wetlands.

*What happens with wetlands I have already drained?*

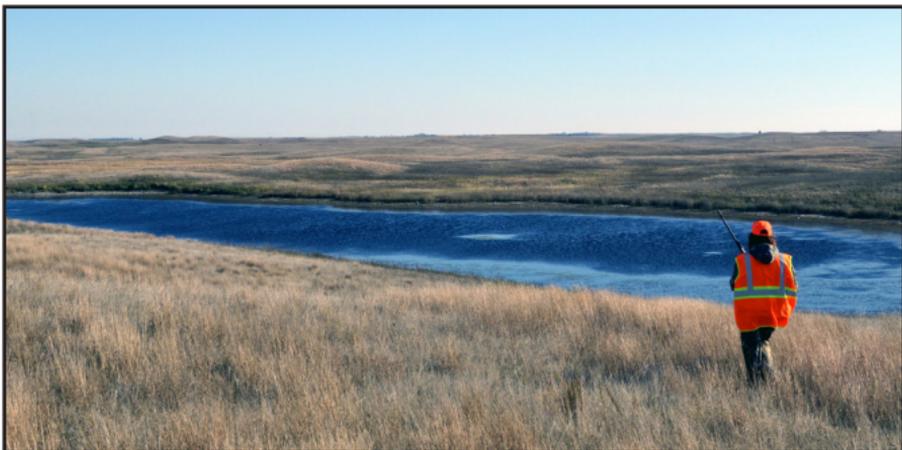
Wetlands already drained will not be covered by the provisions of the easement unless it is agreed that they be restored and their acreage is included in the easement transaction.

*Will the wetland easement affect my farming of the wetlands?*

### **Landowner Use and Other Rights**

The easement does not limit normal farming practices such as cropping, haying, grazing, plowing, or working wetlands when they are dry due to natural causes.





*Will the wetland easement affect hunting and trapping rights on my land?*

No. You still have the right to open or close your lands to hunting and trapping, as you have in the past.

*Will the easement affect my mineral rights?*

No. You retain your right to develop your minerals. We recommend contacting your local Service office prior to development.

*Will the use of drain tile be affected?*

It depends. When a landowner sells a wetland easement to the Service, he or she agrees to refrain from certain activities—whether conducted inside or outside of wetland areas—that would drain any surface waters in or appurtenant to the wetland areas subject to the easement. The Service will work with landowners, current easement holders, or those interested in selling an easement to provide setback distances, which will protect the wetland areas from drainage while not needlessly restricting activities on the remainder of the property. We recommend landowners coordinate their tile plans with the Service as early in the planning process as possible.

*How do I apply for the program and begin the process?*

### **The Easement Process**

The Service acquires easements from willing sellers only. Contact the Service office on the back of this brochure. A Service realty specialist or field biologist will further explain the program and answer any questions. A site inspection of your property will be scheduled if you determine that you would like to participate in the easement program.

*How long does the easement last?*

This is a permanent (perpetual) easement between the Service and all present and future landowners.

*What happens before the easement is accepted?*

The Service obtains title information from the abstracter at no cost to you. The title is checked to determine that all owners of record have signed the easement. Service attorneys review the case and furnish an opinion of title. If the opinion indicates any title defects, we will assist you in correcting them before the Service accepts the easement. The process usually takes about 9 to 12 months.

*What happens after the easement is accepted?*

You will receive a letter by certified mail informing you that the easement has been accepted and is being recorded at the county courthouse. We will also send you a copy of the fully executed easement at that time, including a map of all of the wetlands covered by the easement.

*How will I receive an offer?*

### **The Payment Process**

The Service will determine the value of the easement and provide a written offer in a document called a Statement of Just Compensation. The statement will describe the property encumbered by the easement and the amount of the payment.

*What is the method of payment?*

A single lump-sum payment will be made electronically by automated clearing house to the landowner for the amount specified in the easement.

*When will I be paid?*

Payment is usually made within 9 to 12 months after the easement has been signed by the landowner(s). The Service pays to record the easement.

*What if I have a mortgage on the property?*

### **If the Proposed Land is Mortgaged**

In most cases, this will not affect the easement transaction. If a mortgage is present, we will ask the mortgage holder to sign an agreement known as a subordination agreement, which subordinates the rights of the mortgage to those of the easement.

*Who pays for the subordination agreement?*

If there is a charge, you will need to pay for it, then file a claim for reimbursement from the Service.

*Who receives payment when there is a mortgage or contract for deed?*

This is dependent on the mortgage holder or the contract seller and the terms of your agreement with them. They may require that all or part of the money be applied to the mortgage or contract balance, or they may allow the entire payment to go to you.

*If I am buying my land under a contract for deed, does the seller join in signing the easement?*

Yes. In order for an easement to be placed on your property, both you and the contract seller, who holds the legal title, must sign the easement agreement.

*How will selling an easement affect my income taxes?*

### **Taxes**

The Service Finance Center will issue an IRS Form 1099-S at the end of the calendar year. The payment should be reported on your federal income tax return, but may not be taxable. Consult your tax attorney or accountant for further guidance.

*What if I have problems with my easement wetland?*

### **Potential Problems**

If a wetland covered by an easement causes flooding to buildings or roads, or results in other health and safety problems during high water, contact your Service representative to work out a solution. Early communication with Service representatives is recommended when landowners identify a concern.

*Will the Service monitor my land after the agreement is signed?*

Yes, the Service is required to monitor easements annually. It is the responsibility of the refuge manager to monitor and inspect easements for compliance, maintain communications with landowners, and ensure habitat values lost or damaged as a result of easement violations are restored. To avoid easement violations, contact your local Service representative before performing any potential alterations to easement wetlands.

Learn more at <https://www.fws.gov/refuges/get-involved/landowners/>.

## Great Lakes Region

(Illinois, Indiana, Iowa, Michigan,  
Minnesota, Ohio, Wisconsin)

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Bloomington, MN 55437

Ph: 612-713-5410

## Missouri-Basin and Upper Colorado- Basin Regions

(Kansas, most of Montana, North Dakota,  
Nebraska, South Dakota, Colorado, Utah,  
Wyoming, New Mexico)

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