

U.S. Fish & Wildlife Service Wetland Easement Program

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 (Service), that pays you to permanently protect wetlands. Wetlands covered by an easement cannot be drained, filled, leveled, or burned. When 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 are sent to the landowner. No signs are placed on your property; and the easement will not affect your hunting or mineral rights.

Why Protect Wetlands?

Wetlands benefit people as well as wildlife. Wetlands can control erosion and prevent flooding by holding water and reducing runoff. They also recharge sub-surface water supplies and provide hay land in dry years. 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 agricultural drainage since the 1800's. Protecting wetlands ensures these habitats, wildlife, and benefits will be there for future generations.

Land Qualifications

Does any land qualify for a wetland easement?

No. The property must have wetlands of value to waterfowl and be in a county which has been approved for the easement program. This easement program is offered only in the prairie pothole region of Montana, North and South Dakota, Minnesota, and Iowa.

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

The easement covers certain existing wetlands or those which recur through natural causes. Impoundments by dams or dikes do not qualify. The easement wetlands are shown on a map (referred to in the contract as Exhibit A) which is part of the easement agreement. Enforcement of the terms of the easement 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 the ditch is filled in and the wetlands are restored.

Landowner Use and Other Rights

Will the easement affect my farming of the wetlands?

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

Will the 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. But please remember that the easement prohibits burning, draining, filling, and leveling of the wetland areas.

The Easement Process

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

Simply call the contact person or office on the back of this brochure. That contact person, 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 abstractor 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 6 to 9 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.

The Payment Process

How is the payment determined?

A Service realty specialist will estimate the value of the easement based upon current land sales, assessed values, and other indicators of land value relevant to your property, and in compliance with Service policy. You will be provided 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 payment?

A single lump-sum payment, in the form of a check from the U.S. Treasury for the full amount specified in the easement, will be sent to the landowner.

When will I be paid?

Payment is usually made within 6 to 9 months after the easement has been signed by the landowner(s). The Service pays to record the easement.

If the Proposed Land is Mortgaged

What if I have a mortgage on the property?

In most cases, this will not affect the easement transaction. If it is necessary to have the mortgage holder give consent to the easement, 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 Government.

Taxes

What about income 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.

Potential Problems

What if I have problems with my easement wetland?

If a covered wetland causes flooding to buildings or roads, or results in other health and safety problems during high water years, contact your Service representative to work out a solution. Usually, a temporary

drain is allowed to lower wetlands to a safe level. This is only allowed under extenuating circumstances, and it is important to remember that a violation of easement terms may result in legal prosecution, fines, and restitution.

Will the Service be monitoring my land after the agreement is signed?

Although the Service is required to monitor these easements, unless you are in violation of the agreement, you probably will not see a Service representative on your land. To avoid easement violations, contact your local Service representative before performing any alterations within the basin of easement wetlands.

Additional Information

Equal opportunity to participate in and benefit from programs and activities of the U.S. Fish and Wildlife Service is available to all individuals regardless of physical or mental ability. Dial 711 for a free connection to the State relay service for TTY and voice calls to and from the speech and hearing impaired. For more information or to address accessibility needs, please contact the staff at your local U.S. Fish and Wildlife Service office, or the U.S. Department of the Interior, Office of Equal Opportunity, 1849 C Street, NW, Washington, D.C. 20240.

Mountain Prairie Region (R6)

Division of Realty

PO Box 25486, DFC

Denver, CO 80225

303 / 236 8133

<http://mountain-prairie.fws.gov/realty/>

Midwest Region (R3)

Division of Realty

1 Federal Drive

Fort Snelling, MN 55111

612 / 713 5410

For State transfer relay service

TTY / Voice: 711

U.S. Fish and Wildlife Service

<http://www.fws.gov>

For Refuge Information

1 800 / 344 WILD

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