

Lands Course

Course Workbook ~ 2014

Knowledge



Easements



Development

Compliance



Valuation

Manage & Monitor



Disposal / Exchange



Reporting



*Inventory
Record Keeping*

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TAB 1

Lands Course

Wildlife and Sport Fish Restoration Program
Information Management Branch - National Training
Denver, Colorado June 17-19, 2014

MONDAY (Travel Day)

TUESDAY

8:30 a.m. Welcome/Introductions/Getting Acquainted

Review Agenda

Course Goals and Objectives

Ice Breaker Instructions

MORNING BREAK

iPad Basics

Real / Personal Property Rights and Interests

LUNCH

Easements, Leases and Right of Ways

AFTERNOON BREAK

Project Statement Development

Review Day 1/Preview Day 2/Wrap-up

4:30 p.m. Adjourn

WEDNESDAY

8:00 a.m. Review Day 1/Preview Day 2

Compliance

MORNING BREAK (group photo)

Compliance (continued)

Grant Application Package

LUNCH

Real Property Valuation, Matching and Allowable Costs

AFTERNOON BREAK

Real Property Valuation, Matching and Allowable Costs
(continued)

4:30 p.m. Adjourn

THURSDAY

8:00 a.m. Review Day 2/Preview Day 3
 Managing and Monitoring

MORNING BREAK

 Reporting Requirements

LUNCH

 Disposal, Exchange and Transfer of Real Property (continued)
 Modules 12, 13, 14 (reference materials only, non- instruction)

3:30 p.m. Wrap up and Adjourn

Friday (Travel Day)

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TAB 2

Goals and Objectives

Welcome to USFWS – Wildlife and Sport Fish Restoration Program’s (WSFR) National Training. The goal of the National Training Program is to:

Provide a systematic and ongoing national training program to develop basic and specialized grants management knowledge and skills that result in the consistent and sensible application of regulations, processes, and decisions in WSFR grant programs.

The purpose of the **Lands Course** is to provide a basic knowledge of Federal requirements for developing, submitting, reviewing, approving, monitoring and managing WSFR land grants.

Course Objectives

Increase participant knowledge, skills, and abilities on

- Applicable compliance requirements, e.g. NEPA, Section 7, SHPO, Uniform Act
- Competent project statement (narrative) writing techniques for land grants
- Various types of real property interests
- Appropriate valuation method determination of real property interests acquired with WSFR grant funds
- Sound performance reporting for land grants
- Proper disposal responsibilities for grantees or sub-grantees with real property interests acquired with WSFR funds or contributed as match
- Required grantee responsibilities in managing, monitoring and inventory control of real property and conservation easements
- General and specific land grant program guidance

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IPad Basics

Function keys

- Power On/off switch (edge of iPad)
- Volume/mute switch (edge of iPad)
- Home button (glass screen surface)
- iPad position (landscape or portrait)...set to your desire using cover

Navigation Instructions

1. *Power on/off switch (hold for 2 seconds release) Apple logo appears.*
2. If iPad is in sleep mode...click home button and slide touch screen arrow to unlock
3. Tap **GoodReader** app
4. In my document list..find and tap **Toolkit Folder** (left screen)
5. Find and tap **Toolkit.pdf** (near bottom left screen). Do not tap toolkit files!
6. Tap toolkit **Federal Regulations (CFR/FAR)** hyperlink (blue are active...gray are inactive) to access CFR menu
7. Tap **50 CFR 80 Admin Requirements...**
8. Tap **Subpart C - License Revenue**

Touch screen tips:

- Pinch and zoom to enlarge or...
- Tap twice with one finger to enlarge/two fingers to shrink
- Swipe to turn pages
- Tap left side to turn page back
- Tap right side to turn page forward
- Tap center screen to engage toolbar (avoid blue hyperlinks)

Toolbar functions:

- Tap search icon (magnifying glass) for word or phrase search
- Tap page # icon (left of the Magnifying glass) for go to page search
- Tap bottom left moon to adjust shading
- Lock page and lock view icons

Return to main toolkit page:

- Tap center of page to engage toolbar (avoid blue hyperlinks)
- Tap arrow icon upper left screen (CFR menu, toolkit) until you get to toolkit main page

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TAB 3

Objectives:

1. Define Real Property
2. Define Personal Property
3. Describe the difference between real property and personal property
4. Identify the types of real property ownership
5. Recognize the various real property rights and interests eligible with WR, SFR, SWG, TWG, CWG, HCPLA or RLA grant funds

Real Property

One, several, or all interests, benefits and rights inherent in the ownership of a parcel of land

- Fee and leasehold interests
- Rights attached to parcels, regardless of ownership (e.g. conservation easements), or
- Resources such as water and mineral rights

Parcel includes air space above, ground below, or anything physically and firmly attached by natural process or human action, e.g. standing timber, buildings, roads, fences, etc

Personal Property

Anything tangible or intangible that is not real property

- Tangible personal property includes
 - An object that is not firmly attached to the land, structures or trees so that its removal would not damage the object or its point of attachment
 - Soil, rock, gravel, minerals, gas, oil, or water after excavation or extraction from the surface or subsurface
 - Commodities derived from trees or other vegetation after harvest or separation from the land
 - Annual crops before or after harvest
- Intangible personal property includes
 - Intellectual property such as patents and copyrights, and
 - Licenses revocable at the landowner's discretion, or that terminate at the landowner's death or when ownership changes

Equipment is tangible, nonexpendable, personal property having a useful life over one year and an acquisition cost of \$5,000 or more per unit

	<p>Exercise: Determining Property Types</p>
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Consider each scenario below and determine what type of property is being described.

Scenario	Real or Personal Property?
Coal extracted from the land	Personal
Sub surface water	Real
Standing timber	Real
Standing corn	Personal
Sub Surface oil and gas	Real
Modular office building	Personal
Fencing	Real
Oil well pump	Real
Storm or waste water pipe system	Real
Power and telephone poles	Real
Billboard sign	Real
Kitchen sink in field office building	Real
Cell Tower	Depends on state??

Real Property Interests

Real property *interests* simply refer to the rights of an owner of a parcel of land. Real property interests can be compared to a bundle of sticks. Each stick in the bundle represents a distinct, separate right of the property owner; such as to sell, to lease, or to give away or to choose to exercise all or none of these rights.

Some important types of real property interests

- **Fee Simple** – maximum rights
- **Partial Interest** – anything less than maximum
- **Ownership Interests** – right to use/occupy/exclude others
- **Public Interests** – rights of government over real property
- **Non-Ownership Interests** – non-ownership right or use agreement

Fee Simple

The maximum possible interest or rights one can possess in a parcel of land. A fee simple interest is the least limited interest and the most complete and absolute ownership in land. Includes the right to exclusive possession. Subject to liens and government power of eminent domain.

Partial Interest (Fee with exception to title or less than full fee)

With exception to title, excludes one or more real property interests that would otherwise be part of the fee simple.

Notes:

Ownership (Possessory) Interests... use, occupy exclude others

Life Estate

An estate lasting the life span of the grantee/life tenant (the life being measured)

- If a life estate can be sold, a sale does not change its duration, which is limited by the life span of the original grantee/life tenant.

Leasehold (lease)

An agreement in which fee interest owner transfers right to exclusive possession and use of an area of land or water for a fixed period.

- The agreement (lease) **cannot** be readily revoked by lessor at their discretion.
- Lessor must be able to regain possession of the interest at the end of the lease term (temporary ownership).

Land Patent

An instrument that grants or transfers title of government land to a private entity

Undivided Partial Interests

Co-ownership

- Tenancy in common - Each tenant holds separate title but no claim to specific portion of property, interest passes to heir of tenant
- Joint tenancy - One title held by all tenants, can claim specific portion of property, interest passes to surviving tenants.

Who May Hold Title?

For WR and SFR, only a state may hold title to an ownership interest. More than one entity may hold title to an ownership interest in real property for non-WSFR programs if the entities holding title are a grantee or subgrantee. Additionally, more than one entity (grantee and sub-grantee) may hold a non-ownership interest in the WR, SFR, SWG and Cooperative Endangered Species programs. (50 CFR 80.130) (handout # 3-4)

Notes:

Non-Ownership Interests

Easements

- Non-ownership interest in land owned by another
- Consisting of right to use or control land
- For specific purposes, e.g. access, restrict development

Physical Interests - Air, surface (development, grazing), mineral and water rights

Claims

- Mortgage, judgment and tax liens
-
-

Public interests

Eminent Domain

Right of government to take private property for a necessary public use; just compensation paid to the owner

Police Power

Right of government to adopt and enforce laws and regulations to support public health, safety, morals, and general welfare; usually accomplished through zoning

Taxation

Right of government to raise revenue through assessment on valuable goods, products, and rights

Escheat

Right of government to assume ownership of property when its owner dies without heirs

Non- Interest land use Agreements

Licenses and Permits

- Permission given by landowner
- Authorizes third party to enter property for an agreed purpose that would otherwise be unlawful
- May be revoked anytime at will of the grantor
- **Does not** convey any interest in real property
- Function may vary from state to state

Notes:



Exercise: Real and Personal Property Rights and Interests

Use the iPad to review **Lands Chapters Part 520 6 & 8.4** to answer the following questions.

1. List some examples of partial rights and interests inherent with ownership in an identified tract of land (the sticks in the bundle).

Water rights, mineral rights, air rights and structures or improvements attached to the land & right to use, sell, lease, give away or to choose any all or none of these rights. **520 Chapter 6.5 table 6-4 (pages 12-14).**

2. Can a grantee purchase a tract of land for eligible purposes under WSFR with the mineral rights severed?

Yes, partial interest in real estate is allowable **with WSFR approval** and with evidence to verify objectives will still be met (low probability of mineral extraction). mineral assessment report may be required. Above-ground support structures (wellheads, pipelines, brine-disposal facilities and access routes needed for mining would have a negligible adverse effect on the purpose of the grant.funded project **520 FW chapter 8.4**

3. ABC Paper Company owns large parcels of land in the state of Grace. The Grace Wildlife agency would like to secure hunting privileges for Grace residents on ABC lands. The land is not for sale. What type of real property interest could Grace Wildlife agency pursue to secure public hunting on ABC Paper Company property? What special conditions would apply?

An easement purchase, leasehold or license agreement would allow ABC to retain title to their land while transferring the right to use of the real estate for a definite period of time by the wildlife agency. The terms and duration of the lease must be adequate to achieve the grant objective(s); and grant funds to make payments for the remaining lease term should grant funds be unavailable. **Part 520 8.7 and 8.10**



Exercise: Real and Personal Property Rights and Interests (Cont'd)

4. A landowner agrees to grant hunting permission to his neighbor. The landowner chooses to revoke the hunting privileges of his neighbor after finding drinking bottles and other litter on the property. What type of real property transaction did the landowner have with his neighbor and does this transaction convey real property rights to the neighbor?

The arrangement is via license or permit which can be revoked at any time at the will of the grantor . A license or permit conveys no interest in real property therefore the license holder has no legal claim to use of the land revoking of hunting permission.

Part 520 6.4 Table 6-3 (page9) License

5. Colleen, Bob and Phil each hold an undivided partial interest in a parcel of land through joint tenancy. In a joint tenancy arrangement, how many titles exist and who will be the heir of Phil's undivided partial interest upon his death?

A joint tenancy estate is where all owners collectively hold one title.

The remaining joint tenants receive the deceased tenants interest by right of survivorship

Part 520 6.5 Table 6-4 (B) e (undivided partial interests) page 14



Learning Points

- ✓ Personal property is any type of property that is not real property and includes: objects moveable without damage to themselves or the underlying real estate; growing annual crops; trees, vegetation, minerals and other substances after harvest or removal from the earth for commercial or personal use; and patents, copyrights, and other intellectual property
- ✓ Real property includes all interests, benefits and rights in the ownership of an identified tract of land, including improvements on the tract and rights to the air above the tract, the surface and the subsurface
- ✓ A fee simple interest is the least limited interest and most complete and absolute ownership in land. The interests most commonly acquired in WSFR-administered grant programs are fee title, easement and leasehold
- ✓ WSFR funds may be used to acquire interests in real property such as mineral rights, water rights, and grazing rights, if the acquisition is consistent with State laws and regulations and the laws and regulations are applicable to the grant program
- ✓ When real property assets purchased with WSFR funds are disposed of the proportional federal share of disposition must be attributed to the WSFR program

Annexation: An addition to property by the act of joining or uniting one thing to another as in attaching personal property to real property and thereby creating a fixture.

Agricultural tenant fixture: An item or building fixed to the land by a tenant of an agricultural holding (lease). These do not become the landlord's property at the end of the tenancy or lease. Tenant has right to remove items affixed solely for the purpose of agriculture up to two months after the tenancy expires (Agricultural Holding Act of 1986). Tenant can only remove items he affixed and cannot remove a replacement of a pre-existing fixture or building.

Fixture: An article such as a stove, bookcase, plumbing, track lighting or tile that was once personal property but has been so affixed to real estate that it has become real property. Determined by: 1) **intent or purpose**, 2) **manner attached** and 3) **adaptability** to real property (in other words it is not useful unless attached to real property). An object resting on the ground by its own weight alone can possibly be considered a fixture if the intent was to permanently improve the property it rests on such as stone statues. Normally items attached only by weight are not fixtures unless intent or purpose indicates otherwise. On the other hand items firmly attached may be considered personal property (chattels) such as a washing machine attached to real property by plumbing. Items that can be easily removed without damage to the premises can be considered fixtures (real property) if they are installed with the intent or purpose as essential items to the real property such as kitchen cabinets, an air conditioning unit or lighting and plumbing fixtures.

Subordination agreement: is a legal document or agreement by which the holder of a superior mortgage or lien agrees to defer, give up or (subordinate) his **priority** status in favor of another inferior lender or lienholder. Used to make the claim of one party junior to (or inferior to) a claim in favor of another. It is generally used to establish priority of two or more mortgages executed on the same property at the same time. Typically a subordination arises when there are two existing mortgages, a first mortgage and a second mortgage, and the mortgagor intends to refinance the first mortgage.

Trade fixture: is considered primarily to be any item that is installed for the convenience of use as part of a trade or business, rather than as an addition or appendage to real property. Lease terms may provide that a tenant cannot remove any fixture at the end of the lease.

Torrens: Legal system to register land to verify ownership without the need for a search of public records. The Torrens system of registration is the title itself. A person does not acquire title to Torrens registered property unless that person registers the title. Similar to auto registration system.

Metes and bounds: Survey system using landmarks and distances to define property boundaries. Starts at well-marked point and follows boundaries of land and returns to the point of beginning.

Public Land Survey System: Also known as the Government Survey System established in 1785 to sell land in the Northwest Territory using grids and squares...the township system. Used now in Florida, Alabama, all states north of the Ohio River and all states west of the Mississippi River except Texas.

Three approaches to estimate market value:

- 1) Direct sales comparison
- 2) Cost approach (replacement cost of improvements plus value of land)
- 3) Income approach (estimated value based on net operating income of property such as apartments, offices, shopping centers).

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Federal Real Property Laws

Federal real estate laws govern the duties and rights of real estate professionals, as well as their fiduciary duties and loyalty to clients. The Federal Fair Housing Act is the most comprehensive law relating to real estate, encompassing state laws in the United States.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act)

On January 2, 1971, Public Law 91-646, the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," (Uniform Act) was signed into law. The Uniform Act, provides important protections and assistance for people affected by Federally funded projects. This law was enacted by Congress to ensure that people whose real property is acquired, or who move as a result of projects receiving Federal funds, will be treated fairly and equitably and will receive assistance in moving from the property they occupy.

The Surface Transportation and Uniform Relocation Assistance Act of 1987, designated the U. S. Department of Transportation as the Federal Lead Agency for the Uniform Act. Duties include the development, issuance, and maintenance of the government-wide regulation, providing assistance to other Federal agencies, and reporting to Congress. This responsibility has been delegated to the FHWA and is carried out by the Office of Real Estate Services.

Fair Housing Act

The Federal Fair Housing Act, instituted in 1968, pertains to discriminate in the property sales, lending and renting arenas. This law prohibits discrimination based upon familial status, sex, national origin, religion, race, color, disability and military status.

Rehabilitation Act

The Rehabilitation Act became law in 1973. It prohibits discrimination due to disability for any type or service, dwelling, or activity that benefits from federal funding sources.

Civil Rights Act

Language in the Civil Rights Act, which was enacted in 1964, also speaks to the illegal nature of discrimination based upon color, race or national origin for programs garnering financial funds. In essence, housing development complexes or single-property rental agents can't discriminate against potential or current renters based upon the above criteria.

Age Discrimination

A law against age discrimination related to the sale or renting of a property became law in 1972. Proven violations of this law result in a possible fine and the loss of federal dollars. Lending institutions and title closing companies also fall under the wide scope of this law.

Housing and Community Development Act

Title I, also known as the Housing and Community Development Act, became law in 1972. This edict makes it illegal to discriminate based upon race, national origin, sex, religion or color for a business or agency that receives Housing and Urban Development funding or services. Proprietors who offer HUD-approved rentals must adhere strictly to this law, or risk a fine and removal from the rent referral program.

RESPA

The Real Estate Settlement Procedures Act, or RESPA, was created by Congress to help real estate clients fully understand the process. This law details the "good faith estimate" of terms and fees a lender must give the borrower in writing and states that the actual closing terms and costs must be provided to the borrower in writing before closing.

Regulation Z

Regulation Z, also known as the Truth in Lending Act, encompasses the full disclosure of all financial facts that could affect the real estate transaction. The credit information of the involved parties, as well as definition of financial lending terms pertaining to the sale of real estate, must be disclosed to the buyer and seller.

CERCLA

An environmental law known as CERCLA, or Superfund, pertains to the responsibility of the property owner to clear the land of any hazardous waste or contamination. The Comprehensive Environmental Response, Compensation and Liability Act was approved by Congress in 1980. Owners who have proven knowledge of contamination are legally bound to make the fact known before a sale.

What is a Life Estate?

A life estate is a legal arrangement to transfer property automatically upon a person's death. One person is given an interest in the property for his or her lifetime. This person is called a *life tenant* (LT). At the death of the life tenant, property will pass automatically to one or more other individuals or organizations. The people or organizations that receive the property at death are called *remaindermen*. Life estates are sometimes used as a tool to avoid probate (but see below). It is important to understand that a life estate is a form of co-ownership. Both the LT and the remaindermen have real interests in the property. But unlike other forms of co-ownership, the co-owners do not have rights to the property at the same time. Instead, their interests are stacked in time, with only the LT having a right to current possession of the property. The remainderman's interest does not kick in until the death of the LT.

Pitfalls of Using Life Estates to Avoid Probate

Most people use life estates because they want to avoid probate.

1. **Impaired Ability to Deal With the Property.** Because life estates give the remaindermen a real interest in the property, the LT cannot deal with the property without involving the remaindermen. What if the LT needs to sell the property but the remaindermen refuse? The LT could be trapped in a situation that is not in his or her best interest. This is probably the most important reason for caution in the use of life estates.
2. **Conflicts Between Remaindermen and Life Tenants.** State law typically allocates the expenses associated with the property between the life tenant and the remaindermen. The LT is responsible for the interest portion of the mortgage, property taxes, insurance, and ordinary upkeep and repairs. The remaindermen are responsible for the principal portion of mortgage payments and extraordinary repairs. Often the LT cannot afford (or simply doesn't pay) the expenses associated with the life estate. Or the remaindermen do not pay their share of the mortgage or extraordinary repairs. Or there is a dispute as to whether a repair is ordinary (the responsibility of the LT) or extraordinary (the responsibility of the remaindermen). This creates the potential for ongoing conflict.
3. **No-Win Situation for Life Tenant.** Because the LT has only a lifetime interest in the property, he or she has a duty to the remaindermen to maintain the property. But what if the LT cannot afford to do so? As we saw above, a sale is only possible if all parties agree. If they cannot, the LT may be trapped in no-win situation where she cannot afford to meet her duty to the remaindermen.
4. **Valuation Issues.** Suppose that the property needs to be sold and the life tenant and remaindermen can agree on a sale price. Who gets what? The life tenant may think that the life estate is valuable and that he or she should get most of the sale proceeds. The remaindermen may argue that the life tenant's interest is worth little (since the life tenant could

die any minute) and that the bulk of the sale proceeds should go to them. And even if they work out the allocation of the proceeds, the IRS will typically apply an arbitrary set of actuarial tables for tax purposes that may not match the true economic situation.

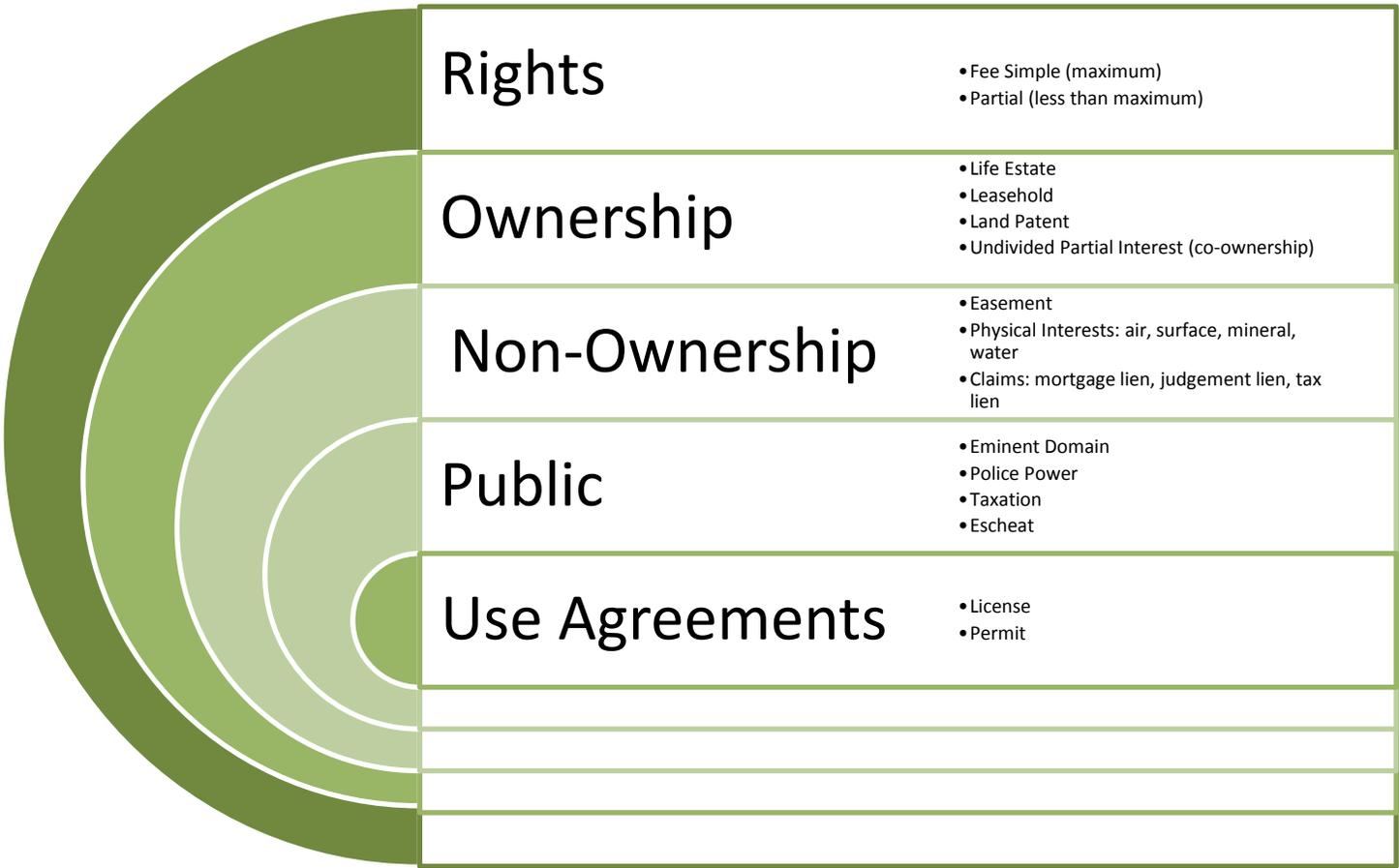
5. **Estate and Gift Tax Issues.** Life estates given to a person's spouse generally qualify for the federal marital deduction. This allows postponement of the estate tax until the death of the surviving spouse, depending on whether the election is made to qualify the property for the marital deduction. If the election has been made but the spouse later sells the home and divides the proceeds with the remaindermen, the spouse may be considered to have made a taxable gift of a portion of the proceeds. The gift tax may also apply if the election is not made but the proceeds are split in some manner other than according to the IRS's actuarial tables.
6. **No Escape.** Partition is a judicial procedure that allows co-owners who have current possessory rights in property to either divide or sell the property and go their separate ways. But because the interests of the life tenant and the remaindermen are not possessory at the same time, the remedy of partition is not available. This can lock the life tenant and remaindermen into the forced partnership without any judicial means of escape.

Uses of a life estate

In the United States, a life estate is typically used as a tool of an estate planning. A life estate can avoid probate and ensure that an intended heir will receive title to real property. For example, Al owns a home and desires that Bill inherit it after Al's death. Al can effectuate that desire by transferring title to the home to Bill and retaining a life estate in the home. Al keeps a life estate and Bill receives a vested fee simple remainder. As soon as Al dies, the life estate interest merges with Bill's remainder, and Bill has a fee simple title. Such transfer of interests make unnecessary the use of a will and eliminates the need to probate the asset. The disadvantage to the grantor, however, is that the grant to the remainderman is irrevocable without the remainderman's consent. "Beneficiary deeds" have been statutorily created in some states to address this issue.

It is less well known that the intestacy laws of certain American states, such as Arkansas, Delaware, and Rhode Island, still limit the surviving spouse's rights to the deceased spouse's real estate to a life estate (as shown by the programs linked to the state names). Louisiana, applying the civil law, employs a similar mechanism in successions called usufruct.

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TAB 4

Objectives:

1. Recognize the eligibility requirements of conservation easement acquisition with WSFR funds
2. List the information that should be included in a conservation easement
3. Recognize the eligibility requirements for acquiring leases, right of ways and grazing rights with WSFR funds
4. Understand the need for describing a right-of way access

Conservation Easement (CE)

- Prohibits or limits future development of the land by limiting future use
- Held by a qualified agency, organization or municipality
- Provides a public benefit, e.g. water quality protection, scenic view-sheds, wildlife habitat, etc.
- Each state has enacted conservation easement enabling legislation
- Most conservation easements are perpetual
 - WSFR may approve the acquisition of term easements provided that the terms and duration of the term easement are sufficient to achieve the grant objective(s)

Possible future uses include

- ✓ Preservation
- ✓ Conservation
- ✓ Wildlife habitat

Conservation Easement Benefits for Resource Agencies

- Enticing to private landowners, who own much of the land critical to fish and wildlife species
- Generally less costly than fee title acquisition
- Landowners or land trust partners assist in land management

Sometimes beneficial is that CEs remain part of the tax base. This is a favorable alternative in localities where the public is unsupportive of federally-owned—and therefore property tax exempt—land

Benefits of CE to Landowner

- Retains ownership while protecting resources
- Receive payment for the value of the rights granted to the qualified land-holding entity
- Tax benefits from donating an easement with public benefits
- May reduce local property taxes
- Long-term estate planning

WSFR does **not** provide tax assistance to potential grantees. Tax professionals need to be consulted on the tax benefits of CEs.

Common Purposes in WSFR-Funded Easements

- Habitat protection for fish, wildlife, threatened or endangered species
 - Protection of water quality and flowage rights
 - Public access for hunting, fishing or other wildlife-oriented recreation
-

Easement Purposes Requiring Special Attention

- Agricultural protection that allows farming practices (e.g. use of pesticides and herbicides) incompatible with water quality protection for fish species
 - Development restriction that allows for forestry incompatible with an endangered bird species that requires old-growth forest
 - Allowance for high impact recreational activities (e.g. snowmobiles) that threatens the protection of wildlife wintering grounds
-

Required Information for WSFR-Funded Easements

- Draft Conservation Easement (must include):
 - Program name, address of awarding agency HQ, CFDA#, authorizing legislation, program purpose, grant number and name, grant purpose and effective date (Recitals section)
 - Statement that the grantee must receive disposition instructions from the Regional Director to transfer the easement to another holder (Transfer section)
 - Requirements for termination, condemnation or other forms of disposal and the federal share of the grant (Termination, Eminent Domain, and Condemnation sections)
 - Notice of Federal Participation (NOFP) either as an Exhibit, or reference that the NOFP has been recorded separately

Although WSFR does not require a conservation easement follow a specific format or include specific language, the information listed is the minimum required

Other Supporting Documents

- Draft Management Plan (if applicable)
The plan must:
 - Be consistent with the terms of the easement
 - Provide a schedule of management actions to achieve the conservation objectives
 - Provide standards to measure success of management actions, and
 - Allow for adaptation to changing conditions
- Documentation of Mortgage Subordination

WSFR must receive a Draft Management Plan if any action beyond monitoring is necessary to achieve the purpose and objectives of the grant or project

Managing Responsibilities for WSFR-Funded Easements

The Grantee

- Responsible for ensuring legal sufficiency of the easement to meet the objectives of the grant
 - Protection of CE's biological objectives
 - Objectives as outlined in other easements
- Must be able to perform the terms of the easement

The Federal-State partnership works together to successfully manage WSFR-funded easements

WSFR

- Reviews easement language to ensure (1) adequacy to meet grant objectives and (2) consistency with the grant program purpose
- May approve acquisition of term easements by the grantee or subgrantee, if the terms and duration are sufficient to achieve the grant objective(s)

Common Pitfalls

Because a conservation easement is a non-ownership interest, the grantee or subgrantee must ensure that all parties comply with the terms of the easement.

The most important steps to ensure easement compliance are:

- Preparation of a baseline documentation report that documents the condition of the property at the time the easement is conveyed.
- Annual monitoring of the property to ensure that violations to the easement terms are not occurring.
- On-going communication with the landowners and easement holder.

The likelihood for easement violations increases in the absence of managing and monitoring. As a result, resource values may diminish, and easement terms may be challenged in court.

Lease Agreements

WSFR may approve a grantee or subgrantee proposal to enter into a lease agreement or acquire leasehold interest, **if**

- The terms and duration are adequate to achieve the grant objective(s), and
- There are sufficient grant funds to make payments for the entire lease term
 - Alternatively, the grantee or subgrantee can commit to use their own funds to make the remaining lease term payments

WSFR requires that a lease funded by grant or matching funds (or contributed as match) is recorded in the county recorder's office, or equivalent, **if**

- The term of the lease is 10 years or longer, or
 - The State or local jurisdiction requires it, or
 - To protect the Federal investment or the resources protected by the lease
-
-

Other Eligible WSFR Funded Land Use Agreements

Grazing Permits

Provide for use of land owned by another without creating a property right, title, interest, or estate.

- Grantees may use grant funds to acquire grazing permits directly from Federal, State or local land management agencies.

Right-of-Way

A privilege to pass over the land of another in some particular path and is usually an easement.

If there is a right-of-way in the middle of a property, there must be an access route described, such as a centerline, going from the public road to the easement itself. It is not enough to state there is a general right of ingress and egress upon the remaining lands for access because a general right of ingress and egress is not defined and refers to foot traffic. A general right of ingress and egress does not always allow equipment or non-pedestrian access.

Examples of right-of-ways include for rail lines and highways; pipelines; power line corridors; and private and public passages



Exercise: Easements, Leases and Right of Ways

Use the iPad to review **Lands Chapter Part 520 8** and answer the following questions.

1. What are the criteria for a conservation easement acquisition to be approved for WSFR funding?

The easement language is adequate to achieve grant objectives and is consistent with program purposes.

The grantee or subgrantee must make the easement legally sufficient to achieve purposes of the grant and project. **SM 520 8.7 C (2) a,b**

2. Who is responsible for ensuring that a conservation easement is legally sufficient to protect the conservation objectives outlined in the grant?

The grantee is responsible for ensuring that the conservation easement is legally sufficient to protect conservation objectives of the grant. WSFR may request documentation of this legal and biological review **Some may say both USFWS and grantee SM 520 8.7 C(2)a**

3. In addition to a Draft Conservation Easement, what other documents must WSFR receive in a conservation easement grant application/proposal?

Draft Management Plan

Documentation of Mortgage Subordination

Recitals, Transfer Section, Termination, Eminent domain & Condemnation NOFP, Final Baseline Documentation Report **SM 520 8.7 A 2,4 and 8.7 B 1,2,3,4,5**



Exercise: Easements, Leases and Right of Ways (Cont'd)

4. What are the criteria for WSFR to approve funding for a lease agreement or acquisition of a leasehold interest?

The terms & duration of the lease are adequate to achieve grant objectives
Grant funds are sufficient to make payments for the entire lease term or the
grantee commits to use their own funds to make payments for the remaining
lease term should WSFR funds become unavailable **Part 520 8.10 A 1,2**

5. The XYZ cattle company owns 2000 acres adjacent to a state wildlife management area. The state wildlife agency would like to purchase grazing rights from the cattle company using WSFR funds with the objective to convert the cattle company land into wildlife habitat. Is this an allowable use of WSFR funds?

Yes. Grantees may use grant funds to acquire grazing permits directly from the Landowner

If the grazing permit/lease is from a Federal agency, the controlling land management
agency (BLM, USFS) determines the value of a grazing permit or lease by setting the

annual fee. These permits create no property rights and exist as long as there is a public

benefit. Grantees may not use an appraisal to determine the value. No value may

be added to the appraised value of fee lands in connection with grazing permits or leases

Valuation for non-federal grazing permits is determined by market value and must

meet federal cost principle standards for necessary and reasonable as defined in 2 CFR 225

SM Part 520 8.12



Exercise: Review of Conservation Issues

Use the State of Grace exercise handout for module #4 provided in your workbook to complete a review of the conservation issues, problems and opportunities of Harmony Road Wetlands.



Learning Points

- ✓ WSFR may approve an acquisition of a conservation easement by a grantee or sub-grantee as long as certain conditions are met
- ✓ WSFR must review the easement language to ensure adequacy to meet the grant objectives and consistency with the purposes of the grant program
- ✓ Required information in a grant-funded conservation easement (to include match) should include grant program name, authorizing legislation, grant number, grant approval date, purpose of the grant program and Notice of Federal Participation
- ✓ WSFR may approve a grantee or subgrantee proposal to enter into a lease agreement or acquire a leasehold interest if the terms and duration of the lease are adequate to achieve the grant objective(s)
- ✓ Funds must be sufficient to make payments for the entire lease term



Read the information below titled Conservation Issue/Problem/Opportunity. The information in this handout will be useful for completing future exercises in the course. Please read carefully.

The Conservation Issue/Problem/Opportunity

Billy and Betty Cattail are the sole owners in fee simple of the Property (address of 20 Harmony Road, Mercy, Grace 00000) that consists of approximately seventy-two (72) acres of active agricultural lands, seventy (70) acres of forestlands and thirty-three (33) acres of riparian buffer which includes five (5) acres of substantially undeveloped Silver Maple Floodplain Forest, and approximately thirty-five hundred feet (3,500') of shoreline on Hundred Mile Stream. Billy and Betty are not interested in selling the property but are extremely interested in opportunities to protect and preserve the significant natural, cultural and recreational resources of the property.

A Statewide biological survey conducted by Grace College in 2007 found Hundred Mile Stream has ecological significance as important wildlife and fisheries habitat, including for Yellow Lampmussel (*Lampsilis cariosa*) and Tidewater Mucket (*Leplodea ochracea*) both listed as State Threatened; and Creeper (*Strophitus undulates*) and Wood Turtle (*Glyptemys insculpta*) both listed as Species of Concern in the State of Grace, and for other fish and wildlife species. Development of the Property would have an adverse effect on the ecology of the area for said species and uses.

The Property has significant value and potential for commercial forestry and agriculture. It is in the best interest of the People of the State of Grace to ensure protection and preservation of rare and endangered species, exemplary natural communities, significant wildlife values, natural, historical or archaeological features, and other conservation values.

Soil samples collected by the state agronomist in 2008 found a portion of the property consists of locally important farmland soils ("Agricultural Soils") that have been in continuous agricultural production of some kind for approximately (75) years and thus are an agricultural resource of regional or statewide significance. The protection of Agricultural Soils, preservation of agricultural and natural resource based businesses, and maintenance of open space are important to the People of the State of Grace.

The Hope County Extension Service survey records show the property has significant conservation value as open space as it includes open farmland, hay fields and forestland including riparian buffer. The State of Grace has recognized the importance of preserving scenic open space, wildlife habitat and farmland in its Constitution including the right for traditional non-intensive outdoor recreational use by the general public.

The State of Grace, through its Department of Inland Fisheries and Wildlife may acquire, pursuant to Title 10, G.R.S.A., Chapter 903, lands or any interest therein for the purpose of public use, fish and wildlife management, recreation, and the management and protection of forest, ecological and historic resources.

At the request of the landowners, a conservation management plan for the property has been prepared by the State of Grace, Department of Inland Fisheries and Wildlife that addresses habitat protection, soil conservation, water quality, nutrient management, rare, threatened and endangered species, species of concern, natural communities and ecosystems, invasive species, public access/ recreational resources, wetlands and water bodies and managed forest and agricultural resources.

TAB 5

Pre-Award: Developing and Reviewing the Project Statement

Objectives:

1. Identify and explain the components of the project statement/narrative
2. Determine if the proposal is substantial in character and design
3. Determine if the project statement/ narrative meets minimum requirements
4. Determine if enough information is included in project statement to satisfy NEPA and Section 7 compliance requirements

Project Statement Overview

A project statement identifies the need and describes the work to be done. It is required for each project to be funded in a grant. Grantees may use their own format for the project statement/narrative or use the TRACS system. Project statements must contain all elements required in the program guidance.

Required Elements of a Project Statement (50 CFR 80.82)

- NEED
- PURPOSE and OBJECTIVES
- EXPECTED RESULTS or BENEFITS
- APPROACH
- USEFUL LIFE (\$100,000)
- GEOGRAPHIC LOCATION
- PRINCIPAL INVESTIGATOR (if research)
- PROGRAM INCOME
- BUDGET NARRATIVE (costs by project & subaccount)
- MULTIPURPOSE PROJECTS (benefits multiple programs)
- RELATIONSHIP TO OTHER GRANTS
- TIMELINE
- GENERAL

Competitive grant programs contain additional requirements used to evaluate and rank grant applications. Specific program guidance should be reviewed for ranking criteria.



Exercise: Substantial in Character and Design

Substantial in Character and Design

Read **50 CFR 80.56** and be prepared to discuss substantiality in character and design.

1. Define substantial in character and design.

See 50 CFR 80.56 a – d. d may be the biggest issue. Grant reviewers are familiar with big picture costs. Even though 50 CFR 80.56 is for WR/SFR this same guidance is applied to all WSFR grant programs.

2. What documents are reviewed to determine if the grant application is substantial in character and design?

Generally the project statement and budget information (estimated cost). However, depending on the grant program and type of project other documents may be reviewed as required in **522 FW 1.4 and 1.7** and **522 FW 3** through **15**.

3. Who has ultimate responsibility to determine if a project is substantial in character and design?

WSFR. Grantees decide how money is used but must document substantiality of character and design to reasonable satisfaction of WSFR.

Notes:

Required Elements of a Project Statement

Need

- Explain why the project is necessary and how it fulfills the purposes of the relevant Act
- Identify the conservation issue, problem or opportunity the project will address
- Evidence of the need (Wildlife Action Plan, surveys)
- Articulate the null alternative...the negative result of taking no action
- When you think you have identified the need (ie...build a boat ramp)...then ask why you need to build a boat ramp.

Purpose and Objectives

- Base purpose and objectives on the need
- Purpose states desired outcome in general
- Objectives state desired outcome that are specific and quantified
- What benchmarks must be achieved to meet the need?
- Objectives are written in an active tense and use action verbs such as construct, survey, train, research, establish, repair, conduct, provide, restore, acquire.
- Objectives should be (SMART) **S**pecific, **M**easurable, **A**chievable, **R**elevant and **T**ime bound

Approach

- The approach describes the specific conservation actions or efforts necessary to accomplish project objectives. The approach answers the question “how” the objectives will be accomplished by describing the actual work that will be done. This information must demonstrate that the agency will use accepted fish and wildlife conservation, management, or research principles
- Name key project staff
- Include essential equipment purchase information
- Include specific management actions that will be taken that require compliance with NEPA, Sec 7 and NHPA
- WSFR encourages using the Wildlife TRACS Action Level classification system (handout # 5-B).

Notes:

Required Elements of a Project Statement (cont'd)

Expected Results/Benefits

- Specify the benefits of completing the project and resolving the need for a variety of individual interests.
- Benefit to resource, users, economy, society

Costs by Project and Subaccount

- Appraised value of land if project is for a land acquisition
- Costs for services associated with the project
- List and describe the type and amount of pre-agreement costs, if applicable
- List and describe all funding sources including Federal, State and private amounts and the type of **match** including cash, bargain sale and in-kind services
- Cost at WSFR grant subaccount level and project level

TRACS Generated Project Statement

- Populate data fields for Project Statement Form
- Project statements can be bundled into a PDF for submission with Grant Application Packet using current Regional process
- See handout # 5-C

	Project Statement Requirements
522 FW 1.3	Federal Aid Program Guidance
520 FW 8	Real Property – Grant Application
50 CFR Part 80.82	Administrative Requirements Federal Aid in Fish and Federal Aid in Wildlife Restoration
Notice of Availability	RFP/Policy / Program Guidance for grant program

Writing Competitive Project Statements/Narratives

- Follow guidance carefully and be aware of critical dates
- Make it visually easy to read and to find required elements of a project statement
- Address ranking criteria and understand how your application will be evaluated against the criteria
- Maximize federal share by including partners and/or in-kind match
- Be concise but complete. Limit number of pages; include appendices and attachments only as necessary
- Professionally written – grammar, spelling, sentence structure and avoid using jargon unless useful and necessary
- Number the pages, use standard fonts and font sizes, omit fancy binders and tabs
- Indicate if partial funding is acceptable (usually for competitive grants)
- Submit a complete grant package
- Communicate with the Regional Office Grant Specialist prior to and during grant application process

Notes:



Exercise: Review of Sample Project Statement

Use the State of Grace exercise handout for module #5 provided in your workbook to complete a review of the State of Grace project statement for Harmony Road Wetlands.



Learning Points

- ✓ The required elements of a project statement are need, objectives, expected benefits/results, approach, location, and cost
- ✓ Need must be a need relevant to the Act
- ✓ Objectives must be based on need
- ✓ Objectives must be SMART (verifiable and measurable)
- ✓ The approach describes the actions to be taken to accomplish the objective(s)
- ✓ Approach must include adequate information for WSFR Regional Office to document and make determinations for NEPA and Section 7
- ✓ Approach should include key personnel
- ✓ Project must use accepted conservation and management principles and appropriate procedures
- ✓ Benefits must be commensurate with project costs
- ✓ Different types of projects or grants may have different requirements in order to be “substantial in character and design”
- ✓ Understand and address ranking criteria when writing project statements or narratives for competitive grant programs

Best Management Practices for Writing a Project Statement that is Substantial in Character and Design

For a project to be substantial in character and design it must; 1) address a conservation need relevant to the authorized funding program; 2) have measurable objectives that establish benchmarks that will resolve the need for the project if achieved; 3) specify the sound management actions, tasks or efforts to be undertaken to achieve the objectives and; 4) demonstrate cost effectiveness. It is all about connecting the dots or following a logical process from establishing the need for the project down to describing the work to be done in a sound, cost effective manner.

Need

A need statement will identify the conservation issue, problem or opportunity to be addressed. The need will identify a lack of something such as habitat or an opportunity to provide something such as access to wildlife dependent recreation. The need may be in the form of some pending threat to the resource. The need must be relevant to the purpose of the Act or enabling legislation that authorized the program.

A need statement will answer why your agency should deal with this issue or opportunity (your statutory authority)?

A need statement will provide evidence such as results from surveys, research or other data to demonstrate that the need is real and not perceived.

A need statement will articulate the null alternative (the negative result of taking no action).

Objectives

Objectives are meant to be realistic targets or benchmarks that, if achieved, will resolve the project Need. Objectives are written in an active tense and use action verbs such as construct, survey, train, research, establish, repair, conduct, provide, acquire.

SMART Objectives are:

5-A

Specific-Specify exactly what the desired outcome, result, output or deliverable will be. Say what you are going to do by using action verbs. A smart objective will describe a result in terms of who or what?

Measurable- You need to be able to track progress and measure the outcome using quantitative or qualitative assessments. A smart objective will answer how much or how many?

Achievable-All the necessary resources (money, time, equipment, and labor) should be available to accomplish the objective. A smart objective will consider capabilities.

Relevant- How does the objective directly relate to the stated need? A smart objective will demonstrate that if it is accomplished the need will be resolved.

Time bound- Establish a deadline. A smart objective will include a time limit and answer “by when” will the result be achieved?

Objective Template

(Action verb?)_____ (how many?) _____ (who or what?) _____ (by when?)_____.

Filling in the blanks:

(Action verb?) : Acquire

(How many?) 1 or (175 acres)

(Who or what?): Conservation easement (real property)

(By when?): June 30, 2015.

Putting it all together:

Acquire one conservation easement on 175 acres of real property by June 30, 2015.

Objective Examples:

5-A

Not SMART: Conduct as many boating safety education courses as possible as soon as possible.

SMART: Conduct at least 30 boating safety education courses for persons needing boating safety certification by June 30, 2014.

Not SMART: Plant trees in riparian corridors to reduce stream bank erosion as much as possible this year.

SMART: Conduct tree plantings on 3-5 miles of the Sleepy Creek riparian corridor to reduce stream bank erosion by 20% from the previous 10 year period by June 30, 2014.

Not SMART: Increase grassland habitat in the state this year.

SMART: Plant warm season grasses on 1200-1500 acres of Sleepy Creek and Widmeyer Wildlife Management Areas to increase grassland habitat in the state by 3% by June 30, 2014.

Approach

The approach describes the specific conservation actions or efforts necessary to accomplish project objectives. The approach answers the question “how” the objectives will be accomplished by describing the actual work that will be done. This information must demonstrate that the agency will use sound design, appropriate procedures, and accepted fish and wildlife conservation, management, or research principles. Include the name of the Principal Investigator for research projects and other key project staff. Include essential equipment purchases and specific management actions that will be taken that require compliance with NEPA, Sec 7 and NHPA. WSFR encourages using the **Wildlife TRACS Action Level spreadsheet (handout # 3-5)** to classify each action.

Example:

Action #1.

- Level 1 Action Category: Direct Management of Natural Resources
- Level 2 Action Strategy: Fish and Wildlife Habitat Structures
- Level 3 Action Activity (optional unless education or boat access project): Nesting habitat improvements

Provide a narrative description of each action after completing the three level classifications.

Expected Results and Benefits

5-A

The expected benefits and results will specify the benefits of completing the project and resolving the need for a variety of individual interests. The expected benefits will answer the question...If successful at resolving the need, what will be the benefit to the:

Resource? _____

User? _____

Economy? _____

Society? _____

Costs by Project and Subaccount

Provide costs by project and subaccount with additional information sufficient to show that the project is cost effective. Cost effectiveness can be evaluated by comparing total project cost with the expected results and benefits for the project. Describe any item that requires the Service's approval and estimate its cost. Examples are pre-award costs and capital expenditures for land, buildings, and equipment. Include a schedule of payments to finish the project if an agency proposes to use funds from two or more annual apportionments.

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes	
Project Categories	Category	Strategy	Activity			
Administration and/or Conservation / Management and/or Recreation	Coordination and Administration	Coordination and Administration		None	Coordination and administration necessary for effective agency operations and program/project management	
			Agency administrative support	None	Administration necessary for effective agency operations (e.g., acquisition of goods and services, human resources tasks)	
			Program/project administrative support	None	Administration necessary for effective program/project management (e.g., staff support and training, monitoring progress of grant proposal and reporting processes)	
		Incentives	Incentives	None	Development and delivery of economic incentives to private landowners to influence responsible stewardship of land/water and specific species	
	Direct Management of Natural Resources					
		Create new habitat or natural processes			Acres	Creation of new habitat or natural processes for the benefit of fish and wildlife and recreational users
			Habitat conversion		Acres	Conversion of one type of habitat into another (e.g., creating bottomland forest from agricultural land, wetland creation) Note: Forest and wetland would be the appropriate broad habitat types to code for these two examples
			Public fishing lake construction		Acres	Construction of new public fishing lakes
			Waterfowl impoundment creation		Acres	Creation of shallow water impoundments for the primary benefit of waterfowl
		Dam and barrier removal			Structures	Removal of barriers to maintain aquatic species populations and restore ecological functions in streams (e.g., dam or dike removal, notching of dams)
			Culvert work		Structures	Replacement or repair of road culverts (e.g., installing larger culvert, eliminating perching)

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes	
			Dam notching	Structures	Removal of portions of dams for increased flow	
			Dam removal	Structures	Removal of entire dams	
			Road crossing removal	Structures	Removal of in-stream road crossings	
			Obstruction removal	Structures	Removal of other obstructions (e.g., beaver dams)	
		Fire management		Acres		Use of fire to benefit fish and wildlife and their habitats
			Firebreak	Acres		Creation or maintenance of a strip of cleared or plowed land used to stop the spread of a fire
			Fuel reduction	Acres		Application of treatments to reduce the risk of high-severity wildfires and to manage changes in the ecological functions of forests (e.g., mechanical thinning)
			Prescribed burning	Acres		Application of fire in a knowledgeable manner to forest fuels on a specific land under selected weather conditions to accomplish predetermined, well-defined management objectives (e.g., burning an established native grass community to reduce or eliminate invading brush or exotic species)
		Fish and wildlife habitat structures			Structures	Installation of structures to benefit fish and wildlife and their habitats
			Artificial reef development		Structures	Development of artificial reefs in freshwater or marine environments for aquatic species spawning, foraging and refugia
			Hibernacula		Structures	Creation or improvement of overwintering sites
			Nesting habitat improvements		Structures	Installation of nesting structures (e.g., wood duck boxes, osprey platforms)
			Wildlife escape structures		Structures	Installation of structures that allow wildlife to escape from man-made devices placed in the environment (e.g., ramps that allow sage grouse to escape from livestock watering troughs)
		Grazing/farm management			Acres	Improvements to agricultural practices to benefit fish and wildlife and their habitats
			Alley cropping/silvopasture		Acres	Methods of planting in which perennial, preferably leguminous trees or shrubs, are grown simultaneously with an arable crop.
			Farming residue management		Acres	Use of vegetative crop material left on a field after harvesting, pruning or processing to benefit wildlife and soil quality

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes		
			Forage use management	Acres	Management of timing and duration of grazing to maintain adequate cover for range health and nesting success (e.g., establishment of rotational grazing system to improve grassland nesting bird habitat)		
			Livestock heavy use area establishment	Acres	Provision of stable, non-eroding surfaces for areas intensively used by livestock to protect and improve water quality		
			Livestock stream crossing	Acres	Installation of structures that allow livestock to cross a stream in a safe and environmentally sound manner (e.g., fords, culverts, bridges)		
			Nutrient or runoff management system	Acres	Application of techniques to minimize nutrient runoff from agricultural operations		
			Riparian fence installation	Acres	Installation of fences along riparian areas to keep out livestock		
			Waste storage/treatment	Acres	Management of on-farm generated wastes in an environmentally responsible manner (e.g., liquid retention and storage ponds, anaerobic waste treatment lagoons)		
		Hazard or infrastructure removal				Acres	Removal of hazards or infrastructure to benefit fish and wildlife and their habitats
			Building removal			Acres	Removal of buildings to improve habitat for wildlife
			Degraded land reconstruction			Acres	Reconstruction of degraded land to benefit wildlife (e.g., abandoned mine area recovery, deleveling)
			Derelict gear (net/pot) removal			Acres	Removal of derelict fishing gear from waters to prevent continued capture of aquatic species (e.g., fishing nets, fish/crab pots)
			Pavement removal			Acres	Removal of pavement to improve habitat for wildlife (e.g., roads, airplane runways)
			Pier/dock removal			Acres	Removal of piers or docks to improve aquatic habitats
			Shoreline armoring removal			Acres	Removal of shoreline armoring to improve aquatic habitats (e.g., jetties, riprap)
		Instream modification				Acres	Removal of solid waste to improve habitat for wildlife (e.g., derelict vehicles, rubbish)
						Miles	Stream improvements to benefit fish and wildlife and their habitats
					Channel reconfiguration	Miles	Restoration of natural stream channel (e.g., returning meanders and sustainable profiles to straightened streams, sandbar improvement)

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes		
			Channel structure placement	Miles	Placement of structures within streams to restore natural characteristics (e.g., cross vanes, boulders)		
			Nutrient improvement	Miles	Application of nutrients to improve water quality of fish and wildlife (e.g., liming of streams, carcass placement)		
			Spawning by-pass channels	Miles	Construction of side channel fish spawning and rearing habitat		
			Spawning gravel placement	Miles	Addition of gravel to streams to improve spawning areas		
			Streambank stabilization	Miles	Stabilization of streambanks (e.g., bank armoring, bank bioengineering)		
		Invasive species control				Acres	Control of invasive animal and plant species to maintain native species populations and restore ecological functions
			Animal - biological			Acres	Control of invasive animal species by biological means (e.g., introducing predators to control invasive animal species)
			Animal - chemical			Acres	Control of invasive animal species by chemical means (e.g., piscicide treatment of sea lamprey in inland waters)
			Animal - mechanical			Acres	Control of invasive animal species by mechanical means (e.g., constructing a barrier in a stream to prevent entry of invasive fish species)
			Plant - biological			Acres	Control of invasive plant species by biological means (e.g., using beetles to control purple loosestrife)
			Plant - chemical			Acres	Control of invasive plant species by chemical means (e.g., herbicide treatment of invasive plant species)
			Plant- mechanical			Acres	Control of invasive plant species by mechanical means (e.g., hand pulling of invasive plant species)
		Living shorelines				Acres	Physical manipulation in shoreline areas to maintain fish and wildlife habitats and/or restore ecological functions
			Beach renourishment			Acres	Placement of sand onto beaches and employing other techniques for their renourishment
			Erosion control structures			Acres	Installation of hard structures (e.g., seawall bulkhead) or living structures (e.g., greenwall systems) to control erosion
			Sand dune restoration			Acres	Application of techniques to restore sand dunes (e.g., fencing off sea-grass areas)
		Planting/seeding				Acres	Planting or seeding to maintain fish and wildlife habitats and/or restore ecological functions
			Coral			Acres	Application of techniques to reestablish coral reefs
			Field border/hedgerow			Acres	Maintenance or establishment of edge between two vegetation types

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes
			Food plots	Acres	Planting crops specifically as food for wildlife
			Herbaceous vegetation	Acres	Planting/seeding of grasslands
			Mulching	Acres	Application of organic materials to enrichment and protect soil
			Plant propagation/nursery	Acres	Use of nurseries to raise plants for habitat improvement
			Submerged aquatic vegetation	Acres	Restoration of vegetation that lives at or below the water surface
			Trees/shrubs	Acres	Planting trees or shrubs
			Vegetation buffer	Acres	Maintenance or establishment of strips of land with permanent vegetation to intercept stormwater runoff and minimize soil erosion
			Woody debris	Acres	Placement of limbs, bush, trees and stumps to improve habitat
		Vegetation management		Acres	Physical manipulation of vegetation to maintain fish and wildlife habitats and/or restore ecological functions
			Chaining	Acres	Dragging heavy chains to remove unwanted vegetation
			Clearing and snagging	Acres	Use of varied techniques to clear vegetation (e.g., brush shearing to set back early successional plant communities)
			Dixie harrow/Lawson aerator	Acres	Removal of vegetation and treating soil by pulling devices behind a tractor (e.g., removing sagebrush for improved herbaceous cover for sage grouse)
			Forest stand improvement	Acres	Removal of trees to improve forest habitat for wildlife (e.g., forest management that promotes a particular serial stage)
			Mowing	Acres	Cutting down grass or grain to maintain habitat for wildlife
			Plowing/Discing	Acres	Plowing or other mechanical means of disturbing existing vegetation and exposing soil
		Water management		Number	Management of water to benefit fish and wildlife and their habitats
			Ditch plugs	Number	Installation of earthen plugs into drainage ditches to restore wetlands
			Diversion/headgate	Number	Installation or maintenance of structures to divert water
			Drainage	Number	Removal of tile drains or drainage ditches to restore wetland hydrology
			Public fishing lake enhancement	Number	Enhancements made to public fishing lakes (e.g., installation of aerators)
			Spring development	Number	Application of techniques to improve the flow, quantity and yield of water from a natural spring

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes
			Tide gate	Number	Installation or maintenance of structures to increase the hydro-period and water depth of a wetland
			Waterfowl impoundment maintenance	Number	Maintenance of impoundments for waterfowl habitat (e.g., renovation of impoundment dikes)
			Water control structure	Number	Installation or maintenance of structures to simulate natural hydrological processes
			Watering facilities	Number	Installation or maintenance of structures to collect and store water for the benefit of wildlife (e.g., water holes, guzzlers, wells)
		Wildlife damage management		Interventions	Assessment and management of damage from nuisance native fish and wildlife. Includes control of predators by biological, chemical or mechanical means to maintain populations of species at risk and restore ecological functions (e.g., gull or cormorant control, nest exclusion devices, cave gating) Note: Limited eligibility for funding through WSFR grant programs
		Wildlife disease management		Interventions	Assessment and management of wildlife disease situations. Includes control or treatment of diseased animals to maintain populations of species at risk and restore ecological functions (e.g., chronic wasting disease, brucellosis, tuberculosis, plague management activities)
	Data Collection and Analysis				
		Database development and management		Databases	Information technology development and maintenance to support project objectives (e.g., statewide database development) Note: This is different from other Data Collection and Analysis activities in that it refers to the hardware, software, and supporting infrastructure that support multiple data collection efforts
			Database development	Databases	Information technology development to support project objectives (e.g., statewide database development) Note: This is different from other Data Collection and Analysis activities in that it refers to the hardware, software, and supporting infrastructure that support multiple data collection efforts

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes
			Information systems operations and maintenance	Databases	Information technology maintenance to support project objectives (e.g., GIS analyses) Note: This is different from other Data Collection and Analysis activities in that it refers to the hardware, software, and supporting infrastructure that support multiple data collection efforts
		Research, survey or monitoring - fish and wildlife populations		Projects	Collection and analysis of data as part of research, survey or monitoring primarily focused on fish and wildlife populations Note: includes compilation, management, synthesis, analysis and reporting of spatial and non-spatial data Note: Code work on fish and wildlife diseases to Wildlife Disease Management <u>within Direct Management of Natural Resources</u>
			Abundance determination	Projects	Determination of relative abundance or estimation of size of fish and wildlife populations (e.g., adult population estimate, juvenile relative abundance)
			Age, size and sex structure	Projects	Determination of age, size or sex structure of fish and wildlife populations (e.g., age and growth, length frequency, sex ratio)
			Baseline inventory	Projects	Baseline survey and inventory to understand distribution of fish and wildlife populations
			Food habits	Projects	Studies on food habits of fish and wildlife species or their utilization as prey
			Genetics	Projects	Genetics studies of fish and wildlife populations (e.g., population connectivity, hybridization)
			Movement	Projects	Studies of fish and wildlife movements (e.g., tagging, telemetry)
			Population assessment	Projects	Assessments of biological information to determine status of fish and wildlife populations (e.g., population viability analysis, fisheries stock assessment)
			Reproduction	Projects	Studies of reproduction of fish and wildlife populations (e.g., fecundity, nesting success)

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes
Project Level		Research, survey or monitoring - habitat		Projects	Collection and analysis of data as part of research, survey or monitoring primarily focused on fish and wildlife habitats Note: includes compilation, management, synthesis, analysis and reporting of spatial and non-spatial data
			Baseline inventory	Projects	Baseline survey and inventory to understand distribution of fish and wildlife habitat quality and quantity (e.g., wetland mapping)
			Monitoring	Projects	On-going monitoring of fish and wildlife habitat quality and quantity (e.g., annual early successional habitat survey, artificial reef condition)
		Research, survey or monitoring - utilization		Projects	Collection and analysis of data as part of research, survey or monitoring primarily focused on utilization of fish or wildlife resources and demographics of users Note: includes compilation, management, synthesis, analysis and reporting of data
			Facility usage/inventory	Projects	Collection and analysis of data as part of research, survey or monitoring primarily focused on number and usage of facilities (e.g., survey of boat pumpout usage; inventory of fish screen devices)
			Harvest	Projects	Collection and analysis of data as part of research, survey or monitoring primarily focused on utilization of fish or wildlife resources (e.g., lake creel surveys; deer harvest statistics)

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes	
			Human dimensions	Projects	Collection and analysis of data as part of research, survey or monitoring primarily focused on human dimensions (e.g., demographic surveys; resource economics analyses)	
		Techniques development		Studies	Research and development of techniques important for the conservation and management of fish and wildlife	
			Artificial propagation studies	Studies	Research on artificial propagation of fish and wildlife (e.g., nutrition studies, culture methods)	
			Educational methods research	Studies	Research on educational instruction and evaluation methods	
			Habitat restoration methods	Studies	Development or improvement of methods to restore habitats and natural processes (e.g., evaluations of water level fluctuations)	
			Fish and wildlife research, survey and management techniques	Studies	Development or improvement of research techniques or management tools (e.g., tag retention studies, sampling device improvements, testing of animal control devices)	
	Education					
		Educator/Instructor training			Instructors	Training of educators/instructors on aquatic resources, firearm safety, and archery-related activities
			Aquatic resource education (*)		Instructors	Training of new instructors and teachers in aquatic resource education who will teach others Note: This includes angler education volunteer instructors, teachers, nature center staff and camp counselors who attend ARE workshops, teachers who help the agency write curriculum, etc.
		Hunter education - firearms (*)		Instructors	Training of new and in-service volunteer instructors in hunter education who will teach others Note: Could be funded through Wildlife Restoration basic or Section 10 enhanced hunter education	

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes
			Cumulative number of active instructors (*)	Instructors	Number of active hunter education volunteer instructors including those just trained within a given year Note: Could be funded through Wildlife Restoration basic or Section 10 enhanced hunter education
		Student training		Students	Training of students on aquatic resource education, firearm safety, or archery-related activities Note: Could include Section 10 enhanced hunter education non-range related enhancements to the program (e.g., training supplies acquired, operations and maintenance, etc.)
			Aquatic resource education (*)	Students	Instruction of students on aquatic resources in an educational setting (contact hour of 0.5 or more) Note: This does not include people who have no personal educational interaction - reading an article, borrowing a video, walking by an exhibit booth, etc.; or people that the agency trained to help deliver the program
			Hunter education - firearms (*)	Students	Instruction of students on firearm safety in an educational setting leading to hunter education certification Note: Could be funded through Wildlife Restoration basic or Section 10 enhanced hunter education Note: Could include participation in programs intended to recruit and retain hunters that are only eligible through Section 10 enhanced hunter education
			Hunter education - Archery in the Schools (*)	Students	Instruction of students on archery-related activities specifically through the Archery in the Schools program Note: Can only be funded with Section 10 enhanced hunter education Note: Usage started with TRACS launch at start of FY 2013.
			Hunter education - other archery (*)	Students	Instruction of students on archery hunting-related activities not through the Archery in the Schools program Note: Could be funded through Wildlife Restoration basic or Section 10 enhanced hunter education Note: Pre-TRACS data could have included Archery in the Schools information.
			Wildlife education	Students	Instruction of students on wildlife species and their habitats in an educational setting Note: This activity has a limited eligibility for reimbursement through WSFR grant programs

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes
	Facilities and Areas (Major Renovation)	Agency support facilities		Sites	Facilities used by agency personnel in support of programs/projects (e.g., office buildings, garages, equipment sheds)
		Aquatic resource education centers		Sites	Facilities for aquatic resource education
		Boating access facilities		Number	Facilities providing access for anglers and others using motor boats
			Launch ramps	Number	Boat ramp lanes at boat launch sites
			Docks/piers	Number	Docks/piers at boat launch sites
			Parking areas	Number	Parking areas at boat launch sites
			Parking spaces	Number	Parking spaces at boat launch sites
			Access roadways	Number	Roadways to access launch ramps
			Restrooms	Number	Restrooms at boat launch sites
			Fish cleaning stations	Number	Fish cleaning stations at boat launch sites
			Shelters	Number	Shelters at boat launch sites
		Boat pump out and dump stations		Number	Facilities for pumping sewage from boats Note: Typically funded through the Clean Vessel Act program
			Pump out stations	Number	Pump out stations
			Dump stations	Number	Dump stations
			Floating restrooms	Number	Floating restrooms
			Pump out boats	Number	Pump out boats
		Fish passage facilities		Number	Facilities designed to allow fish to move past instream barriers (e.g., fish ladders; counting stations) Note: Not related to removal of dams and other barriers coded elsewhere
			Counting traps/stations	Number	Counting traps/stations
			Downstream bypass facilities	Number	Facilities designed specifically for downstream movement of fish
			Fish ladders	Number	Fish ladders
			Fish lifts	Number	Fish lifts
			Nature-like fishways	Number	Fishways whose designs are based on simulating natural stream characteristics and are constructed of natural materials
		Fish screening and related facilities		Sites	Screening systems that prevent fish from passing into areas that do not support their survival (e.g., into irrigation diversion channels). Note: Primarily funded by FRIMA grant program in Region 1

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes	
		Hatcheries (recreational purposes)		Sites	Facilities to propagate fish or wildlife species for recreational purposes	
		Hatcheries (restoration)		Sites	Facilities to propagate fish or wildlife species for restoration purposes	
		Hunter education - archery ranges		Sites	Archery ranges for hunter education purposes	
		Hunter education - classrooms		Sites	Classrooms for hunter education purposes Note: Could be funded through Wildlife Restoration basic or Section 10 enhanced hunter education Note: Pre-TRACS data could have included major renovation or operations and maintenance	
		Hunter education - firearm shooting ranges		Sites	Firearm shooting ranges for hunter education purposes Note: Could be funded through Wildlife Restoration basic or Section 10 enhanced hunter education Note: Pre-TRACS data could have included major renovation	
		Public fishing areas/access			Number	Facilities at non-boating access public fishing areas
			Carry-down access		Number	Access points for carry-down boats
			Fishing piers		Number	Fishing piers
			Parking areas		Number	Parking areas for fishing
			Jetties		Number	Jetties for fishing
			Access roadways		Number	Roadways to access fishing areas
			Restrooms		Number	Restrooms at fishing areas
			Fish cleaning stations		Number	Fish cleaning stations at fishing areas
			Shelters		Number	Shelters at fishing areas
		Transient boat tie up - primary facilities			Number	Primary facilities for tie-up of transient boats Note: Typically funded through Boating Infrastructure Grant program
			Docks/slips		Number	Spaces for tie-up to docks
			Moorings		Number	Moorings
			Gangways		Number	Gangways
		Transient boat tie up - secondary facilities			Number	Secondary facilities for tie-up of transient boats Note: Typically funded through Boating Infrastructure Grant program
			Restrooms		Number	Restrooms
			Fuel stations		Number	Fuel stations

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes		
			Laundry facilities	Number	Laundry facilities		
		Wildlife Management Areas		Number	Facilities at Wildlife Management Areas		
			Campgrounds	Number	Campgrounds		
			Dikes/levees	Number	Dikes/levees		
			Observation structures	Number	Wildlife blinds, towers, platforms, etc.		
			Parking lots	Number	Parking lots		
			Roads	Number	Roads		
	Facilities and Areas (New Construction)	Agency support facilities			Sites	Construction of new facilities used by agency personnel in support of programs/projects (e.g., office buildings, garages,	
		Aquatic resource education centers			Sites	Construction of new facilities for aquatic resource education	
		Boat pump out and dump stations				Number	Construction of new facilities for pumping sewage from boats Note: Typically funded through the Clean Vessel Act program
			Dump stations			Number	Dump stations
			Floating restrooms			Number	Floating restrooms
			Pump out boats			Number	Pump out boats
			Pump out stations			Number	Pump out stations
		Boating access facilities				Number	Roadways to access fishing areas
						Number	Docks/piers at boat launch sites
						Number	Fish cleaning stations at boat launch sites
						Number	Boat ramp lanes at boat launch sites
						Number	Parking areas at boat launch sites
						Number	Parking spaces at boat launch sites
						Number	Restrooms at boat launch sites
					Number	Shelters at boat launch sites	
		Cooperatively managed areas for hunting				Acres	Lands not owned by the State fish and wildlife agency that are cooperatively managed for hunting purposes (e.g., US Forest Service lands, State parks, private lands)
Fish passage facilities				Number	Construction of new facilities designed to allow fish to move past instream barriers (e.g., fish ladders; counting stations) Note: Not related to removal of dams and other barriers coded		

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes		
			Counting traps/stations	Number	Counting traps/stations		
			Downstream bypass	Number	Facilities designed specifically for downstream movement of fish		
			Fish ladders	Number	Fish ladders		
			Fish lifts	Number	Fish lifts		
			Nature-like fishways	Number	Fishways whose designs are based on simulating natural stream		
			Fish screening and related facilities		Sites	Construction of new screening systems that prevent fish from passing into areas that do not support their survival (e.g., into irrigation diversion channels). <u>Note: Primarily funded by FRIMA</u>	
			Hatcheries		Sites	Construction of new facilities to propagate fish or wildlife species for restoration or recreational purposes	
			Hunter education - archery ranges		Sites	Construction of new archery ranges for hunter education purposes	
			Hunter education - classrooms		Sites	Construction of new classrooms for hunter education purposes Note: Could be funded through Wildlife Restoration basic or	
			Hunter education - firearm shooting ranges		Sites	Construction of new firearm shooting ranges for hunter education purposes Note: Could be funded through Wildlife Restoration basic or Section 10 enhanced hunter education	
			Public fishing areas/access			Number	Major renovation of non-boating access public fishing areas Note: Activities primarily for restoration and management of species and habitats should be coded to Create, Restore or
				Access roadways	Number	Access points for carry-down boats	
				Carry-down access	Number	Fishing piers	
				Fish cleaning stations	Number	Parking areas for fishing	
				Fishing piers	Number	Jetties for fishing	
				Jetties	Number	Roadways to access fishing areas	
				Parking areas	Number	Restrooms at fishing areas	
				Restrooms	Number	Fish cleaning stations at fishing areas	
			Shelters	Number	Shelters at fishing areas		
			Transient boat tie up - primary facilities			Number	Major renovation of primary facilities for tie-up of transient boats Note: Typically funded through Boating Infrastructure Grant
				Docks/slips	Number	Spaces for tie-ups to docks	
				Gangways	Number	Gangways	
				Moorings	Number	Moorings	

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes
		Transient boat tie up - secondary facilities		Number	Major renovation of secondary facilities for tie-up of transient boats Note: Typically funded through Boating Infrastructure
			Fuel stations	Number	Fuel Stations
			Laundry facilities	Number	Laundry Facilities
			Restrooms	Number	Restrooms
		Wildlife Management Areas		Number	Major renovation of facilities at Wildlife Management Areas
			Campgrounds	Number	Campgrounds
			Dikes/levees	Number	Dikes/Levees
			Observation structures	Number	Wildlife blinds, towers, platforms, etc.
			Parking lots	Number	Parking Lots
			Roads	Number	Roads
	Facilities and Areas (Operations and Maintenance)	Agency support facilities		Sites	Routine operations and maintenance of facilities used by agency personnel in support of programs/projects (e.g., office buildings, warehouse, maintenance shop)
			Aquatic resource education centers		Sites
		Boat pump out and dump stations		Number	Routine operations and maintenance of facilities for pumping sewage from boats Note: Typically funded through the Clean
			Dump stations	Number	Dump Stations
			Floating restrooms	Number	Floating Restrooms
			Gallons of Sewage Pumped	Number	Gallons of sewage pumped. Note: Likely to be a required data element in the future when CVA regulations are revised
			Pump out boats	Number	Pump out boats
			Pump out stations	Number	Pump out stations
		Boating access facilities		Number	Routine operations and maintenance of facilities providing access for anglers and others using motor boats
			Access roadways	Number	Roadways to access launch ramps
Docks/piers	Number		Docks/piers at boat launch sites		
Fish cleaning stations	Number		Fish cleaning stations at boat launch sites		
Launch ramps	Number		Boat ramp lanes at boat launch sites		

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes	
			Parking areas	Number	Parking areas at boat launch sites	
			Parking spaces	Number	Parking spaces at boat launch sites	
			Restrooms	Number	Restrooms at boat launch sites	
			Shelters	Number	Shelters at boat launch sites	
		Cooperatively managed areas for hunting			Acres	Lands not owned by the State fish and wildlife agency that are cooperatively managed for hunting purposes (e.g., US Forest Service lands, State parks, private lands)
			Government agency		Acres	Operations and maintenance activities on lands owned by other government agencies
			Private lands		Acres	Operations and maintenance activities on privately owned lands
		Fish passage facilities			Sites	Routine operations and maintenance of facilities designed to allow fish to move past instream barriers (e.g., fish ladders; counting stations) Note: Not related to removal of dams and
			Counting traps/stations		Sites	Counting traps/stations
			Downstream bypass		Sites	Facilities designed specifically for downstream movement of fish
			Fish ladders		Sites	Fish ladders
			Fish lifts		Sites	Fish lifts
			Nature-like fishways		Sites	Fishways whose designs are based on simulating natural stream characteristics and are constructed of natural materials
		Fish screening and related facilities			Sites	Routine operations and maintenance of screening systems that prevent fish from passing into areas that do not support their survival (e.g., into irrigation diversion channels). Note: Primarily funded by FRIMA grant program in Region 1
		Hatcheries (recreational purposes)			Sites	Routine operations and maintenance of facilities to propagate fish or wildlife species for recreational purposes
		Hatcheries (restoration)			Sites	Routine operations and maintenance of facilities to propagate fish or wildlife species for restoration purposes
		Hunter education - archery ranges			Sites	Routine operations and maintenance of archery ranges for hunter education purposes
		Hunter education - classrooms			Sites	Routine operations and maintenance of classrooms for hunter education purposes Note: Could be funded through Wildlife Restoration basic or Section 10 enhanced hunter education

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes	
		Hunter education - firearm shooting ranges		Sites	Routine operations and maintenance of firearm shooting ranges for hunter education purposes Note: Could be funded through Wildlife Restoration basic or Section 10 enhanced hunter	
		Public fishing areas/access			Number	Routine operations and maintenance of non-boating access public fishing areas Note: Activities primarily for restoration and management of species and habitats should be coded to Create, Restore or Enhance Habitat and Natural Processes
			Access roadways		Number	Roadways to access fishing areas
			Carry-down access		Number	Access points for carry-down boats
			Fish cleaning stations		Number	Fish cleaning stations at fishing areas
			Fishing piers		Number	Fishing piers
			Jetties		Number	Jetties for fishing
			Parking areas		Number	Parking areas for fishing
			Restrooms		Number	Restrooms at fishing areas
			Shelters		Number	Shelters at fishing areas
		Wildlife Management Areas			Number	Routine operations and maintenance of Wildlife Management Areas Note: Activities primarily for restoration and management of species and habitats should be coded to Create, Restore or Enhance Habitat and Natural Processes
			Boundary designation		Number	
			Campgrounds		Number	Campgrounds
			Dikes/levees		Number	Dikes/Levees
			Observation structures		Number	Wildlife blinds, towers, platforms, etc.
			Parking lots		Number	Parking Lots
			Trails		Number	
			Trash Collection		Number	
		Roads		Number	Roads	
	Land and Water Rights Acquisition and Protection					
	Land acquisition	Fee title		Acres	Acquisition of lands through fee title acquisition	

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes	
	Land Protection (Potential High Level Purposes: Conservation/Management, Recreation, Administration)		Non-fee title	Acres	Acquisition of lands through leases, permanent easements, cooperative agreements, contracts or other non-fee title arrangements	
		Water rights acquisition		Acre feet	Purchase of water rights through fee title acquisition (e.g., purchase of water rights to maintain adequate flows for endangered stream fishes)	
		Conservation area designation		Acres	Designation of a site or landscape as having unique and important value to fish and wildlife with or without legal protections (e.g., waterfowl breeding area, Marine Protected Area)	
		Private lands agreements		Acres	Number of acres that are protected by agreement with private landowners, but which do not involve active habitat improvement Note: Used extensively within the Landowner Incentive Program	
	Law Enforcement (Potential High Level Purposes: Conservation/Management, Recreation)	Law enforcement		Cases	Enforcement of laws and regulations related to the protection of fish and wildlife	
	Outreach	Partner/stakeholder engagement		Fee title	Number	Acquisition of lands through fee title acquisition
				Non-fee title	Number	Acquisition of lands through leases, permanent easements, cooperative agreements, contracts or other non-fee title
		Recruitment and retention activities			Number	Participation in programs intended to recruit and retain anglers, boater, hunters or wildlife watchers
			For fishing and boating (SFR outreach and communications)		Number	Provision of information on fishing and boating opportunities to current and future anglers and boaters (e.g., creation and dissemination of maps of boat ramps, participation in angler recruitment and retention programs) Note: the cost of these activities counts toward the 15 percent SFR apportionment cap on ARE and outreach and communications
			For hunting		Number	Participation in programs intended to recruit and retain hunters Note: Only eligible through Multi-State Grant Program or Section 10 enhanced hunter education funding

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes	
			For wildlife watching	Number	Participation in programs intended to recruit and retain wildlife watchers Note: this activity has limited eligibility for funding through WSFR grant programs	
		WSFR program/ subprogram outreach		Number	Provision of educational information on WSFR grants and grant programs to a variety of audiences through a variety of means (e.g., participating in trade shows to share information WSFR funded work; building kiosks to display WSFR program	
	Planning					
		Land use planning		Plans	Leading or participating in land use planning for rural, urban or agricultural lands (e.g., assist in developing county-wide zoning plans, participate in workgroup regarding low impact development siting)	
		Organizational strategic and CMS planning		Plans	Development of agency strategic and operational plans and fish and wildlife comprehensive management systems Note: Does not include actions to implement plans	
			Organizational strategic and operational planning	Plans	Development of agency strategic and operational plans Note: Does not include actions to implement plans	
			CMS planning	Plans	Development of fish and wildlife comprehensive management systems Note: Does not include actions to implement comprehensive management systems	
		Species and habitat management planning		Plans	Development of management plans for fish and wildlife species and habitats	
			Species management planning	Plans	Development of management plans for fish and wildlife species (e.g., interjurisdictional fisheries management planning)	
			Listed species recovery planning	Plans	Development of recovery plans for federal or state listed species	

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes	
			Habitat management planning	Plans	Development of management plans for habitats and natural processes (e.g., management planning for longleaf pine habitat; Habitat Conservation Plan development)	
			Habitat Conservation Plan (HCP) Development			
		State Wildlife Action planning		SWAPs	Conduct activities to develop and revise State Wildlife Action Plans (e.g., convene interagency work groups to revise portions of a SWAP, hold public hearings to help set priorities for SWAP conservation actions)	
		WSFR program/subprogram planning		Plans	Conduct planning activities for a specific WSFR program or subprogram (e.g., CVA planning, hunter education planning)	
	Species Re-introduction and Stocking					
		Native species restoration		Animals	Re-introduction, rehabilitation and relocation of native animals or plants in their historic habitats	
		Propagation and stocking		Animals	Re-introduction of propagated native animals or plants to their historic habitats (e.g., restore American shad to rivers within their historic range, head-starting rare turtles)	
		Rehabilitation		Animals	Rehabilitation of injured fish and wildlife	
		Translocation		Animals	Relocation of native species (including plants) to suitable habitats (e.g., translocate/breed in captivity black-footed ferrets to establish new populations in suitable habitat)	
		Production and stocking for recreational purposes		Animals	Production and stocking of animals for recreational purposes	
		Forage species		Animals	Production and stocking species that serve as forage for recreational species (e.g., rainbow smelt for salmonid species)	
		Put-and-take		Animals	Production and stocking harvestable-size animals that are not expected to reproduce or grow significantly before they are harvested (e.g., catchable trout stocking for recreational purposes)	

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes
			Put-grow-and-take	Animals	Production and stocking sublegal-size animals for the purpose of maintaining populations with insufficient natural reproduction for sustainable harvest (e.g., walleye fry stocking for future sport fishing)
	Technical Assistance				
		Environmental review		Reviews	Review of agency and private sector policies, projects and plans (primarily related to development and adverse impacts to natural resources) to help ensure potential impacts to fish and wildlife are avoided, minimized and/or compensated/mitigated (e.g., review of municipal pier development, review of transmission corridor siting)
		Review of proposed projects		Reviews	Review of proposed development projects to help ensure that impacts to fish and wildlife are minimized and resource benefits are maximized
		Review of proposed policies and plans		Reviews	Review of non-conservation oriented policies and plans to help ensure that impacts to fish and wildlife are minimized and resource benefits are maximized (e.g., review of harbor dredging plan, review of state highway plans)
		Technical assistance		Assists	Provision of professional training and technical assistance to others on fish and wildlife assessment and management
		With individuals and groups involved in resource management decision making	Assists	Provision of professional training and technical assistance on fish and wildlife assessment and management to individuals and groups involved in resource management decision-making (e.g., provide agency-collected data to other governmental officials, train non-governmental organizations on new trapping methods, review of conservation-oriented policies and plans)	

Wildlife TRACS Action Levels w Indicators **handout 5-B**

Project Level	Action Level 1	Action Level 2	Action Level 3	Level 2 and 3 Output Measures	Description/Examples/Notes
			With private landowners	Assists	Provision of technical assistance on fish and wildlife management practices to private landowners Note: Could include development and delivery of economic incentives to private landowners to influence responsible stewardship of land/water and specific species

Project(s) Proposal

Date Generated: May 7, 2014

New Hampshire Fish and Game Department

Wildlife Restoration Grants

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Project Statement Details:

- Project # 60046000 - BMP_Land Acquisition_ NH Blackwater Connector Project
 - Project Statement # 60046002 - BMP NH Blackwater Connector Land Acquisition

Appendix A: Project Details

- Project # 60046000 - BMP_Land Acquisition_ NH Blackwater Connector Project

Project Statement Details

Project Snapshot #60046000 - BMP_Land Acquisition_ NH Blackwater Connector Project

[View Project Details] [top]

Primary Agency	New Hampshire Fish and Game Department
Start Date	April 27, 2010
End Date	June 28, 2011
Project Categories	Conservation/Management

Project Statement Details #60046002 - BMP NH Blackwater Connector Land Acquisition

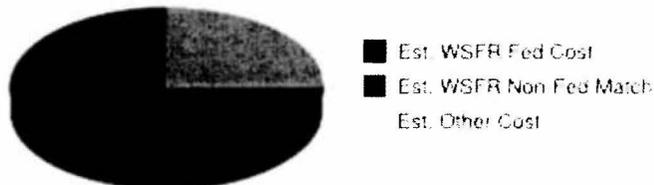
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Properties

Is Revision?	No
Grant Programs	Wildlife Restoration Grants

Project Statement	Estimated WSFR Federal Cost:	\$54,211
Cost Breakdown	Estimated WSFR Non-Federal Match:	\$18,070
	Estimated Other Cost:	\$0
	Total Estimated Cost:	\$72,281

Cost Breakdown Graph



Need Statement

The NH DFG, the Nature Conservancy and the Audbon-Sargent Land Preservation Trust have been cooperating for several years to protect important wildlife habitats in the Schoodac Brook Watershed. When this project is complete, more than 1,240 acres of private lands will be protected through conservation easements. This project will contribute an additional 137 acres that will be conserved and managed as part of the larger Wildlife Management Areas. These lands are necessary to provide early-successional habitat amongst an overwhelming number of acres of older growth

forest land. These nearly denuded areas provide habitat to species which cannot use the old growth forests and are thus in serious decline. According to the recently published State of New Hampshire's Birds, "A disproportionate number of early successional species are in clear and persistent decline. Within the shrub-scrub and grassland habitat groups, ten times as many species are decreasing as increasing, a pattern repeated across much of the Northeast. The reasons for these declines are relatively clear, and involve a gradual reversion of open habitats to forest as a result of agricultural abandonment or altered natural disturbance regimes, as well as direct loss to development."

Approach

The NH DFG will acquire title to 137 acres from the Nature Conservancy for \$61,500 by June 30, 2011. The NH DFG will use \$46,125 in Wildlife Restoration funding toward the purchase and an additional amount toward other costs associated with the appraisal, survey and closing costs. These lands will be added to the Knight's Wildlife Management Area.

Expected Results

The protection of 137 acres of early successional lands will ensure permanent conservation and management of the subject parcels to protect and enhance its wildlife habitat values. Specifically, the proposed project will address these mutually supporting purposes: protection of the natural habitats and species; protection and conservation of open space; and protection of land for outdoor recreation and education.

General

NA

Useful Life

NA

Program Income

NA

Multipurpose Projects

NA

Relationship with Other Grants

NA

Timeline

NA

SMART Objectives - Purpose/Targets

Purpose/Target ID - Conserve species habitat

Purpose/Target Description Acquire 137 acres of early successional habitat to be managed as part of the NH DFG WMA

Viability Status Increase

Viability Status Justification These special concern species are expected to increase with the protection and active management of these parcels of early successional forest land.

Indirectly Benefited Habitats

Habitat Name	Habitat Level	Parent Habitat
Montane	2	GRASSLAND(temperate, non-desert)

Indirectly Benefited Species

Scientific Name	Common Name	Status
Pipilo erythrophthalmus	Rufous-sided Towhee, Eastern Towhee	
Catharus fuscescens	Veery	
Bonasa umbellus	Ruffed Grouse	

Objectives

Objective ID - Objective #1

Objective Name Acquire 137 acres of early successional forest land

Objective Statement The NH DFG will acquire 137 acres of early successional forest lands in fee simple from the Nature Conservancy to add to the Knight's Wildlife Management Area.

Standard Indicators

Desired Future Value	Base Value	Output	Deadline
137	0	Acres	June 30, 2011

Appendix A: Project Details

Project Details #60046000 - BMP_Land Acquisition_ NH Blackwater Connector Project

[top]



Properties

Status	Active
Primary Agency	New Hampshire Fish and Game Department
Start Date	April 27, 2010
End Date	June 28, 2011
Is Project Sensitive?	No
Project Categories	Conservation/Management
Action Categories	Land and Water Rights Acquisition and Protection

Project Description

The New Hampshire Department of Fish and Wildlife will acquire in fee-title approximately 137 acres of forest land to be included in the Knight's Meadow Wildlife Management Area in Merrimack County, New Hampshire. This acquisition will ensure the permanent protection and management of habitat for an array of wild birds and mammals including moose, white-tailed deer and black bear, and will ensure public access for wildlife-oriented recreation and hunting and fishing. In addition, the project will protect early successional habitat important for several species of greatest conservation need, including Eastern towhee, ruffed grouse, and veery, identified in New Hampshire's Wildlife Action Plan.

Location Details

Is Statewide Project?	No
Acres	138.3

Project Statement Summaries

Project Statement #60046002 - BMP NH Blackwater Connector Land Acquisition

[View Statement Details]

Grant Programs Wildlife Restoration Grants

Action Summaries

Action # 60254451 - Blackwater Connector Acquisition

[View Action Details]

Start Date	April 30, 2010
End Date	June 29, 2011
Action Category	Land and Water Rights Acquisition and Protection
Action Strategy	Land acquisition



Review the sources listed below to answer the following questions.

- Exercise Scenario (handout) 4-1 from module #4
- Handout #5-1 “**Project Narrative SWG Conservation Easement: Harmony Road Wetlands – Cattail Property**” found in Tab #12

1. What is the need (issue, problem or opportunity) stated in the Project Statement?

To protect the critical habitats of Grace in order to maintain the full suite of native plant and animal species that currently exist in Grace.

2. Are the objectives measurable, time bound and do they address the need?

Yes objectives have a measurement and end date and will ensure protection of a minimum of 175 acres of floodplain forest along the banks of Hundred Mile Stream that contain critical habitats for listed native plant and animal species

3. Are the stated expected results and benefits achievable? Cost effective?

Yes...Achievable and fiscally efficient

4. Does the project meet the criteria for substantiality in character and design?

Need is relevant to SWG program. Stated objectives address need
Methods are sound conservation practices. Benefits commensurate
with the cost **Yes**

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TAB 6

Objectives:

1. Identify applicable compliance requirements for WSFR real property acquisitions
2. Identify applicable NEPA categorical exclusions for WSFR real property acquisition projects
3. Determine information needed to evaluate effects of a real property acquisition on listed, candidate and proposed species and/or critical habitat
4. Define an undertaking according to the National Historic Preservation Act
5. Determine the eligibility criteria for listing historic features on the National Register
6. Recognize the requirements of the Uniform Relocation Assistance and Real Property Act for WSFR assisted real property acquisitions

Complying with the National Environmental Policy Act (NEPA)

The purpose of the NEPA process is to consider detailed information concerning every significant environmental effect on the human environment, which is defined as the natural and physical environment and the relationship of people with that environment. Additionally, the process ensures the public plays a role in both the decision-making process and the decision implementation.

Complying with the NEPA process is relatively simple and unimposing for the majority of work proposed under awards administered by USFWS. However, the process does require that specific steps be followed and documented to support conclusions about how the federal action will affect the human environment.

The general flow for documenting the NEPA decision is depicted on the **NEPA Process & Documentation** handout. Working through the NEPA decision making process requires evaluating several factors before implementing federally-funded projects.

NEPA Factors

- Project Scope
- Potential for Significant Impact on the Human Environment
- Public Interest and/or Controversy Generated

The effect of these factors determines which of the three documentation processes must be followed in complying with NEPA requirements.

Methods of Documenting NEPA Compliance

- Categorical Exclusion (CE)
- Environmental Assessment (EA)
- Environmental Impact Statement (EIS)

	NEPA Compliance
Service Handbook	NEPA Guidance to States Participating in The Federal Aid Program
Department Manual	Department of the Interior 516 DM 8
General Guidance	NEPA Reference Handbook (USFWS)

The Requirements of Section 7 of the Endangered Species Act

- Section 7(a)(1): All Federal agencies must determine how to use their existing authorities to further the purposes of the ESA
- Section 7(a)(2): All Federal agencies must insure that any action they authorize, fund, or carry out is not likely to
 - Jeopardize the existence of a listed species
 - Adversely modify designated critical habitat

Interagency Cooperation

Federal Action Agencies Cooperate with USFWS or NOAA who will:

- Provide regulatory, policy and biological info
- Discuss potential effects of Action(s)
- Discuss measures to reduce or avoid effects
- Help Action Agency “reduce legal risk”

Intra-service Consultation.....process for WSFR

- Federal Action is granting an award
- State is applicant, USFWS is Action Agency
- Must consider T&E, proposed and candidate species

State/Grantee Evaluate for effects to determine level of consultation:

- No consultation?
- Informal consultation?
- Formal consultation?

Notes:

Analyzing Effects

- Identify Stressors caused by Actions
- Determine if species will be exposed to Stressors
- Determine species and habitat response after exposure to stressor

EXPOSURE + RESPONSE = EFFECTS

No Effect

May Affect

- **Not likely to adversely affect**
- **Is likely to adversely affect**

Make a Recommendation

- No Species Present

No Effect:

Nature of work is not on the ground. To the knowledge of state ES experts there are no species in the location where ground work is taking place, and work is non-destructive. If work is destructive add caveat that work will stop if ES species are discovered.

Notes:

Consultation Process

Species Present – Work undertaken is in an area with/potential for Endangered Species

No Effect: Activity will not affect a listed species or critical habitat. For example: administrative work. **No consultation, no concurrence required**

Is Not Likely to Adversely Affect: A “take” is not likely. Effects are expected to be discountable, insignificant or completely beneficial. **Informal consultation....Request ES concurrence letter.**

Is Likely to Adversely Affect: A “take” is likely. **Formal consultation** is required with ES. Grantee provides a biological evaluation/assessment, ES provides a **Biological Opinion** to determine if Jeopardy or Adverse Modification will result

No Effect: No consultation
Is Not Likely to Adversely Affect: Informal Consultation
Is Likely to Adversely Affect: Formal consultation

Document Your Analysis

Administrative Procedures Act...(decisions must not be arbitrary and capricious)

- Identify & Describe Action(s)
- Identify Area of Effect (direct/indirect)
- List Species/Critical Habitat
- Assess Effects on Species/Critical Habitat
- Make an Effect Recommendation

Notes:

Historic and Cultural Preservation

Section 106 of the National Historic Preservation Act requires federal agencies to account for undertakings on historic properties listed or eligible for listing on the National Register of Historic Places.

The Section 106 process is:

- Consultation between the Agency and the State Historic Preservation Office (SHPO) and/or the Tribal Historic Preservation Office (THPO)
- Required if the project or action is an *undertaking* with potential to cause effects on historic properties

Historic Property Examples

- Prehistoric or historic district, site, building or structure
- Artifacts, records, and remains related and located within such properties

What is an 'Undertaking'?

An undertaking is any project, activity, or program funded in whole or in part by a Federal agency, including those

- carried out by or on behalf of a Federal agency
- carried out with Federal financial assistance
- requiring a Federal permit, license, etc

If the undertaking has no potential to cause effects on historic properties, the agency official has no further obligations under section 106 if SHPO concurs

Grantee Responsibility

- Provide description of the undertaking and Area of Potential Effects (APE)
- Include photographs, maps, and drawings

SHPO Responsibility

Provide a written response: (1) agreement with a finding of no historic properties present or (2) no adverse effects on historic properties or determine actions that the agency can take to resolve adverse effects.

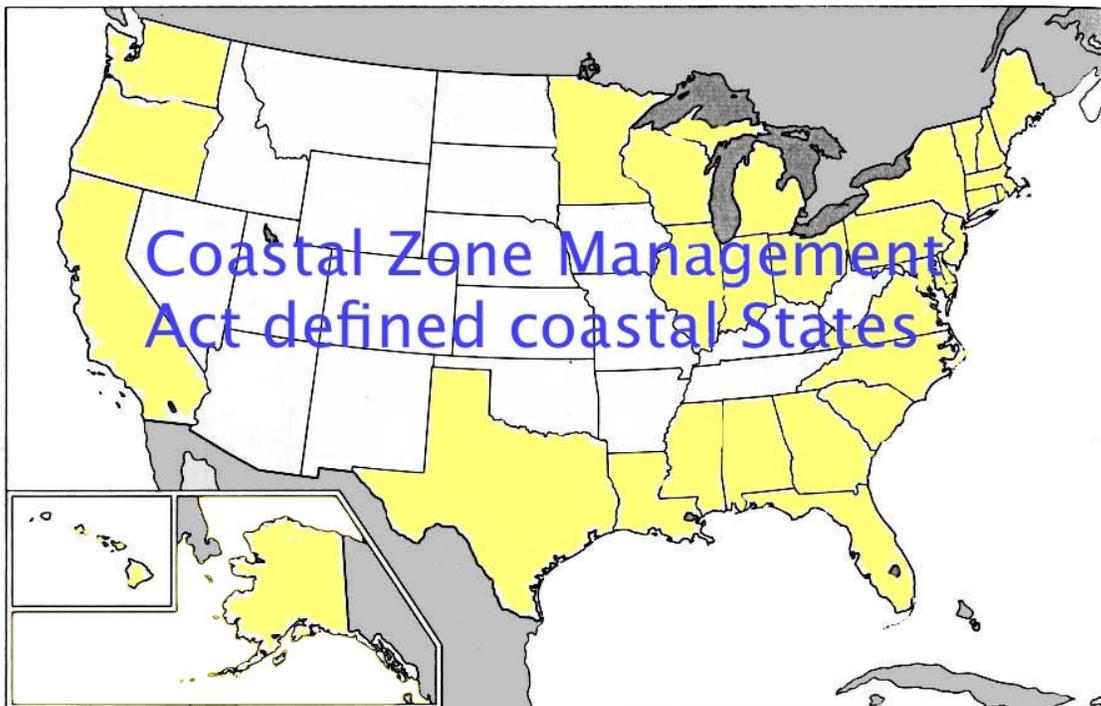
	Historic and Cultural Compliance
Congressional Acts	National Historic Preservation Act
Federal Regulations	36 CFR part 800 Protection of Historic Properties

Coastal Zone Management Act of 1972

The CZMA encouraged coastal States, Great Lake States, and US territories and commonwealths (collectively, 'Coastal States') to establish a voluntary national program to develop and implement coastal zone management plans.

Funds were authorized for cost-sharing grants to States to develop their programs. Subsequent to Federal approval of their plans, grants would be awarded for implementation purposes. In order to be eligible for Federal approval, each State's plan required: defined coastal zone boundaries; identified uses of the area regulated by the State; established mechanism (criteria, standards or regulations) for controlling such uses; and broad guidelines for priorities of uses within the coastal zone.

In addition, the CZMA established a system of criteria and standards for requiring **Federal actions be conducted in a manner consistent with the federally approved plan.** Federal agency activities that have reasonably foreseeable effects on any land or water use or natural resource of the coastal zone must be consistent to the maximum extent practicable with enforceable policies of a coastal state's federally approved coastal management program.



The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

What is it?

Establishes the minimum standards—including an offer of just compensation—for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The Uniform Act protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects.

Objectives of the Act

- Provide uniform, fair and equitable treatment of persons whose real property is acquired or who is are displaced in connection with federally funded projects
- Ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement
- Ensure that no individual or family is displaced unless decent, safe, and sanitary (DSS) housing is available within the displaced person’s financial means
- Help improve the housing conditions of displaced persons living in substandard housing
- Encourage and expedite acquisition by agreement without coercion
- Establish and offer just compensation for the real property

	The Uniform Act
49 CFR 24	Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs

The Uniform Act – The Simplified Acquisition Process

(49 CFR 24.101)

Allows exception to the Default Acquisition Process requirements for programs and projects receiving Federal Financial Assistance when all of the conditions listed below are met.

A buyer without eminent domain authority may use this process if:

- Acquiring real property from a Federal agency or from a State as long as the buyer gives the owner a written statement of the amount that the buyer believes is the market value of the property, or
- Other owners as long as the buyer gives the owner the following documents before making an offer:
 - a) A written notice that the buyer will not be able to acquire the property if negotiations do not result in an agreement, and
 - b) A written statement of the amount that the buyer believes to be the market value of the property

Simplified Process applies to buyers without eminent domain authority or to buyers with eminent domain authority who meet certain conditions

The buyer carries out each step of the simplified acquisition procedures
(handout 6-6)

The Simplified Acquisition Process (Continued)

A buyer with eminent domain authority may use this process if the buyer:

- Does not intend to use eminent domain authority if owner is unwilling to sell
- Is willing to acquire other sites or parcels if a specific site or parcel is not available
- Does not intend to acquire substantially all property in an intended, planned, or designated area in specific time limits
- Treats all owners similarly if it limits its search for real property to a general geographic area.
- Gives an owner documents a and b listed on previous page before agreeing on the purchase price

Neither sellers nor government tenants receive relocation benefits under the Simplified Acquisition Procedures

Buyer Responsibilities

- Buyer follows 49 CFR 24.105 to acquire tenant-owned improvements
- Buyer follows 49 CFR 24, Subparts C–F, to provide relocation assistance to any qualifying tenant(s)

The Uniform Act (Continued)

Default Acquisition Process - Who may use it?

Any grantee may use the Default Acquisition Procedures, but the following buyers must use them:

A buyer who has eminent domain authority and intends to use it to acquire a parcel that the owner is unwilling to sell,

A buyer who is not eligible to use the Simplified Acquisition Procedures

A buyer who does not complete each step of the Simplified Acquisition Procedures (**handout 6-6**)

Buyer Responsibilities

- Buyer follows 49 CFR 24.105 to acquire tenant-owned improvements.
 - Buyer provides relocation assistance to a qualifying seller or tenant(s) following 49 CFR 24, Subpart C–F
- **For Residential Displacements**
 - Provide relocation advisory services to displaced tenants and owner occupants
 - Provide a minimum 90 days written notice to vacate prior to requiring possession
 - Reimburse for moving expenses
 - Provide payments for the added cost of renting or purchasing comparable replacement housing
- **For Nonresidential Displacements** (businesses, farms, and nonprofit organizations)
 - Provide relocation advisory services
 - Provide a minimum 90 days written notice to vacate prior to requiring possession
 - Reimburse for moving and reestablishment expenses

A governmental entity is not eligible for relocation assistance as a seller or tenant under the Basic Acquisition Process



Exercise: Default or Simplified Acquisition Process

Based on the scenario given and using handout # 6-6, determine which acquisition process can be used.

Scenario	Default or Simplified?
Buyer plans to use eminent domain authority to acquire property if necessary	Default
Buyer has eminent domain authority but does not intend to use it but plans to treat all owners differently while limiting its search for real property to a general geographic area	Default
Buyer has no eminent domain authority and is interested in purchasing a parcel which is owned by the State of Grace	Simplified
Buyer has eminent domain authority but does not intend to use it and is unwilling to acquire other parcels other than the specific parcel the buyer is interested in acquiring.	Default
Buyer has no eminent domain authority, owner is private citizen, buyer will provide written notice that buyer will not acquire property if negotiations fail, buyer provides written statement of amount buyer believes is market value	Simplified
Buyer has no eminent domain authority and is interested in purchasing a parcel which is owned by the U.S. Department of Agriculture	Simplified
Buyer with eminent domain authority who does not intend to use it intends to acquire all parcels in an intended, planned or designated habitat focus area within a year.	Default



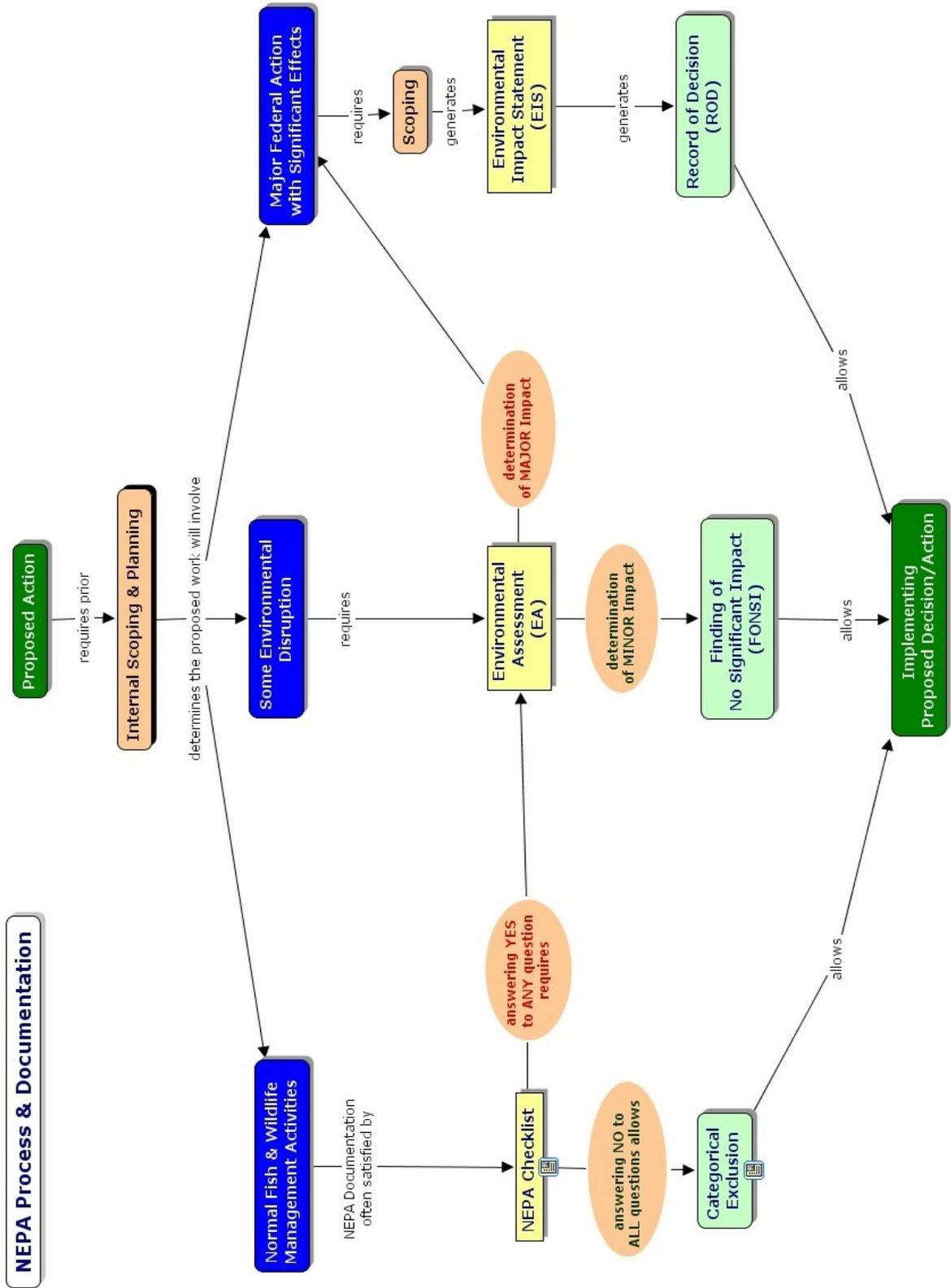
Exercise: Review of Sample Grant Compliance Documentation

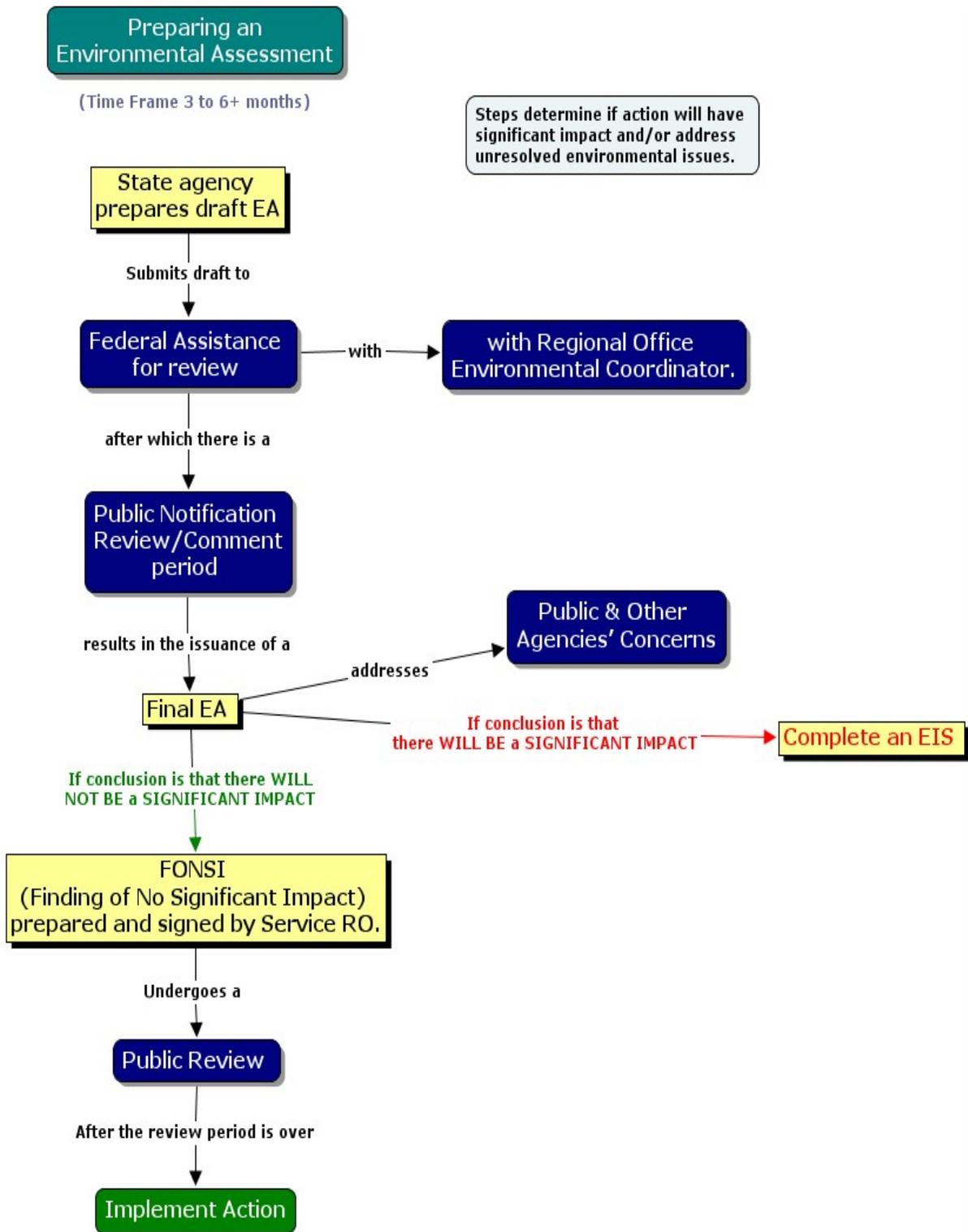
Use the State of Grace exercise handout for module #6 provided in your workbook to complete a review of the State of Grace grant documentation for environmental compliance.



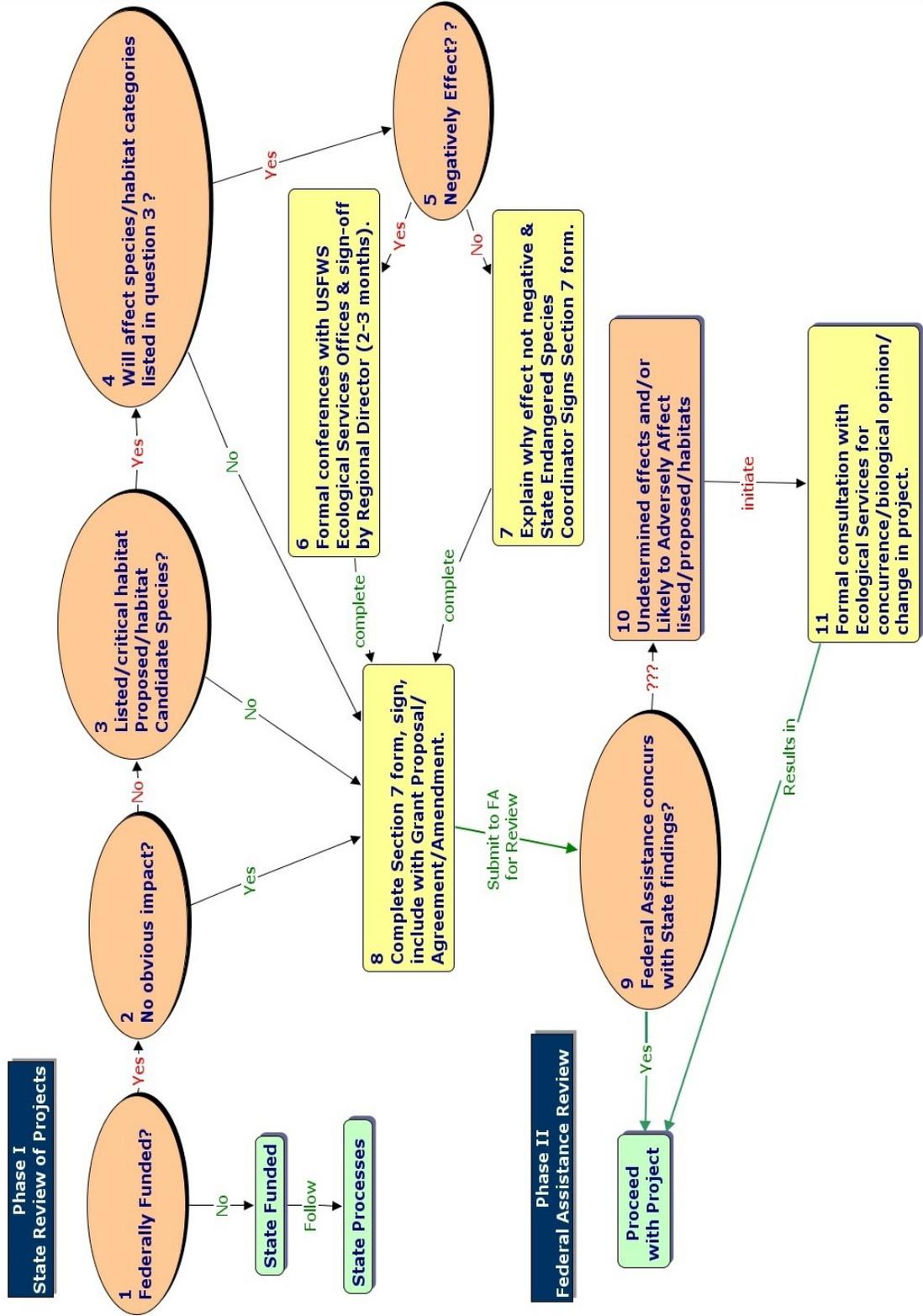
Learning Points

- ✓ The NEPA process assesses project effects on the human environment
- ✓ Federal funds cannot be used on a project prior to NEPA decision
- ✓ The three types of NEPA documentation are Categorical Exclusion, Environmental Assessment, and Environmental Impact Statement
- ✓ The scope, potential for significant effect on the human environment, and the public interest and/or controversy of a project, will determine the documentation process
- ✓ The NEPA process requires documenting the effect a project has on endangered species
- ✓ The Section 7 process supports the NEPA decision
- ✓ Establishing a record of action is important to the continuity of the grant if it comes under legal review
- ✓ The National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties
- ✓ The Uniform Act protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects
- ✓ When certain conditions apply, the Uniform Act offers an exemption process for the requirements of the Act for project and programs receiving Federal financial assistance
- ✓ Compliance requirements will vary depending upon the grant program and project type





Section 7 Compliance Process



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APPENDIX 2

Categorical Exclusions: Extraordinary Circumstances

Extraordinary circumstances exist for individual actions within CXs which may:

- 2.1 Have significant impacts on public health or safety.
- 2.2 Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
- 2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].
- 2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
- 2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
- 2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
- 2.7 Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.
- 2.8 Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.
- 2.9 Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
- 2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).
- 2.11 Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).
- 2.12 Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

6/21/05 #3675

Replaces 5/27/04 #3612

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NATIONAL PARK SERVICE
NATIONAL REGISTER CRITERIA FOR EVALUATION

Criteria for Evaluation

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of significant persons in or past; or
- C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded or may be likely to yield, information important in history or prehistory.

Criteria Considerations:

Ordinarily cemeteries, birthplaces, graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

- a. A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
- b. A building or structure removed from its original location but which is primarily significant for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or

- c. A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building associated with his or her productive life; or
- d. A cemetery that derives its primary importance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
- e. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
- f. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or
- g. A property achieving significance within the past 50 years if it is of exceptional importance.
 - This exception is described further in NPS "How To" #2, entitled "How to Evaluate and Nominate Potential National Register Properties That Have Achieved Significance Within the Last 50 Years" which is available from the National Register of Historic Places Division, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

Section 106 of National Historic Preservation Act

Area of Potential Effects (APE) means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for various kinds of effects caused by an undertaking.

Important points to consider when establishing an APE:

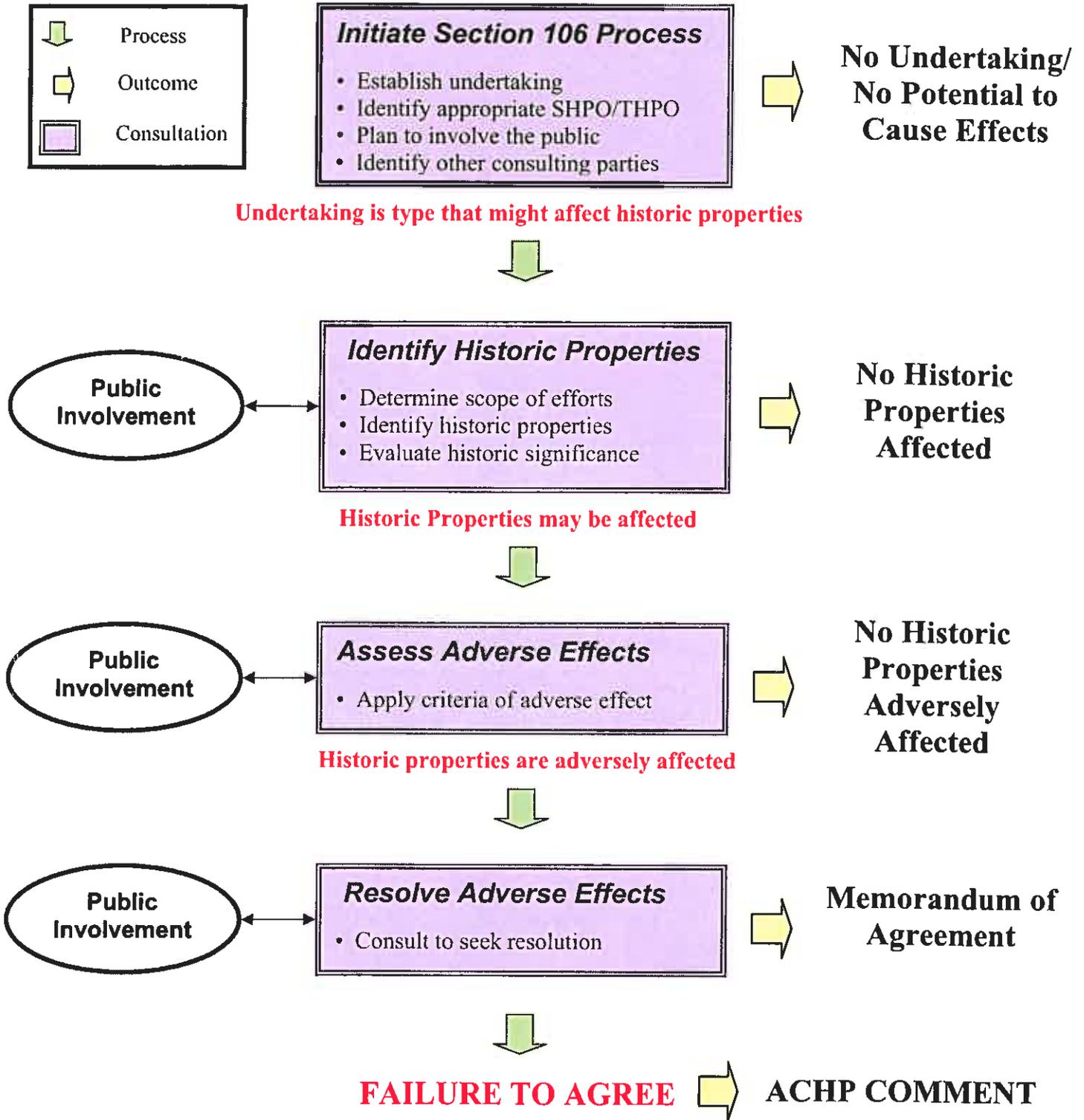
- The APE is determined before the systematic identification of historic properties begins. Accordingly, all of the historic properties in the project vicinity need not be known to initially establish the APE. It is important at this point to thoroughly understand the undertaking and the nature of its potential effects.
- The determination of the APE must include indirect as well as direct effects.
- An APE need not be a single contiguous area but may consist of more than one area, depending on the specific features of the undertaking.
- The determination of the APE should address all project alternatives. Different alternatives may have different APE's. Also, the APE need not be uniform for all kinds of effects; a single undertaking may have different APE's for different kinds of effects.
- An APE is not defined or limited by boundaries of land ownership.
- An APE should be envisioned in three dimensions and must include all areas of horizontal and vertical ground disturbance.
- The determination of the APE must be reconsidered if there are changes to the undertaking during project development. The APE may need to be modified or changed (e.g., expanded or contracted) during the course of an undertaking and if so, additional consultation may be necessary. Any subsequent changes to the APE shall be documented.

In the event the Applicant determines, or the SHPO/THPO recommends, that an alternative APE is necessary, the Applicant and the SHPO/THPO may mutually agree to an alternative APE.

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THE SECTION 106 PROCESS

6-5 (b)



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Effectively Managing the Section 106 Consultation Process

Complying with Section 106 of the National Historic Preservation Act requires careful planning, consultation with interested parties, and weighing of project alternatives to avoid or minimize damage to significant historic properties.

If you are involved in planning or approving Service restoration, construction, or other projects that may effect cultural resources, the following points will help in navigating the Section 106 review process:



Initiate the Section 106 process early in project planning. This allows maximum flexibility in designing projects to avoid impacts to significant sites. Make certain to involve your Regional Historic Preservation Officer as early in the process as possible.



The Section 106 process requires open, good faith consultation with Indian tribes, Native Hawaiian organizations, State Historic Preservation Officers, and other interested parties. Remember that the Service is, in essence, a “trustee” of many historic and traditional cultural sites on its national wildlife refuges and national fish hatcheries that are important to local communities and tribes.



The Section 106 regulations, 36 CFR 800, do not mandate an outcome or a determination that all historic properties be preserved. Rather, the review process is collaborative, seeking the input and perspectives of various parties to ensure that reasonable alternatives have been carefully examined and that important historic and cultural values are protected. The final decision on proceeding with undertakings rests with the Federal agency (FWS). Federal agencies have successfully integrated the Section 106 process into their agency missions for over 25 years. Rarely is a project stopped due to unresolvable conflicts with cultural resources.



Overall responsibility for complying with Section 106 cannot be delegated. The Service is responsible for ensuring that the Section 106 process has been completed satisfactorily for agency undertakings. For large undertakings involving multiple Federal agencies, it is acceptable to designate a lead agency for complying with the National Historic Preservation Act.



The Steps in the Section 106 Process

Define an undertaking: Under the terms of Section 106, the Service must determine whether it has an undertaking that could result in changes in the character or use of historic resources which are eligible for listing on the National Register of Historic Places (see page 7 of this chapter for legal and regulatory definitions of Undertaking).

Define the area of potential effects: If the proposed activity does constitute an undertaking, the Service must identify the geographic extent of the area which may be impacted by the undertaking, in other words, the area of potential effects (APE) (see page 8 of this chapter for the definition of APE and guidelines to determining it).

Identify and evaluate historic properties: By reviewing background information, consultation with SHPO and others, and conducting field survey for the APE, the Service considers the presence of any buildings, structures, archaeological sites, or sacred or traditional sites. Previously unevaluated historic properties must be evaluated to determine their eligibility for listing to the National Register.

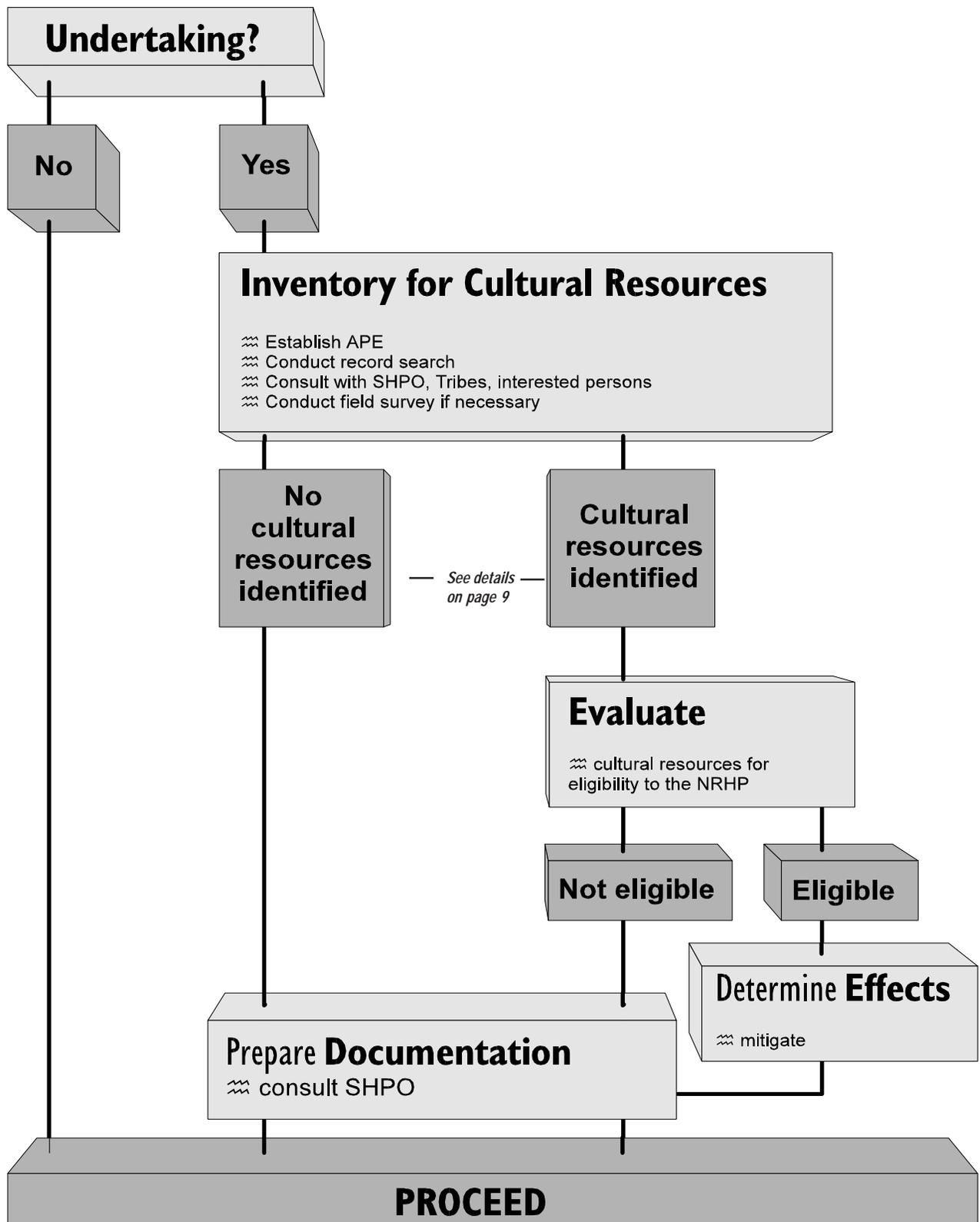
Assess effects: If listed or eligible properties are identified, the Service must assess the potential effects of the proposed undertaking on the resource. Working with SHPO and other interested parties, the Service determines that a) the undertaking will not effect historic properties-no effect, b) the undertaking will effect an historic property, but the effect will not be harmful- no adverse effect, or c) the undertaking will have a harmful effect on an historic property- adverse effect.

Consultation to Mitigate Adverse Effects: In the event of an adverse effect determination, the Service consults with SHPO and others to identify ways to mitigate the harmful effects of the undertaking. This consultation process should result in the development of a Memorandum of Agreement (MOA) which identifies the steps the Service will take to reduce, avoid, or mitigate the adverse effect.

Council comment: The Service must provide the Advisory Council on Historic Preservation (ACHP) an opportunity to comment and participate in the development and signing of an MOA resulting from an adverse effect determination.

Proceed/Implement MOA: If the Service determines that historic properties in the APE will receive no effect or no adverse effect from the proposed undertaking, the project proceeds as planned. If an adverse effect determination has resulted in the development of an MOA, the Service may proceed with the undertaking under the terms of the MOA.

Diagram of the Section 106 Process





The Role of the Cultural Resources Staff in Section 106

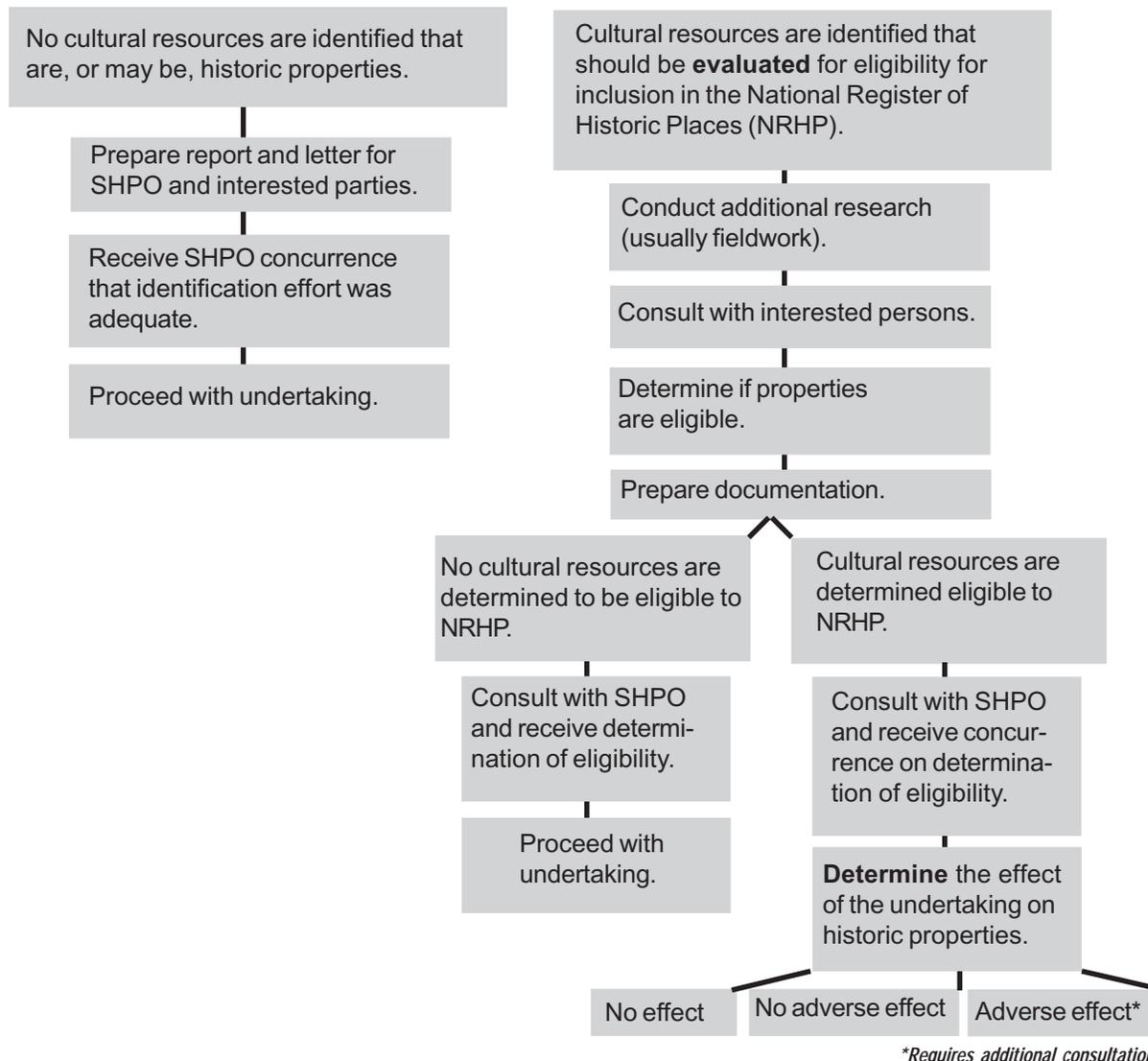
Identification Process

Under NHPA, the Service must make a reasonable and good faith effort to identify historic properties before implementing an undertaking. The role of your cultural resources specialist(s) is to conduct this identification process and the subsequent evaluation, effect determination, and reporting in compliance with the law.

This responsibility rests squarely with the Federal Agency and cannot be delegated to another party except by written agreement. The agency can solicit the help of applicants, contractors, or others to carry out this work, but it is up to the agency to see that the work is carried out properly and to make appropriate use of the results.

Evaluation, Effect Determination, and Reporting

Upon completion of an **identification** effort in the Area of Potential Effects (APE), there are two possible outcomes.





**Memorandum of Understanding
Among the
U.S. Department of Defense,
U.S. Department of the Interior,
U.S. Department of Agriculture,
U.S. Department of Energy,
and the Advisory Council on Historic Preservation
Regarding Interagency Coordination and Collaboration for the
Protection of Indian Sacred Sites**

I. Purpose and Principles

The Departments of Defense, the Interior, Agriculture, and Energy and the Advisory Council on Historic Preservation (Participating Agencies) enter into this Memorandum of Understanding (MOU) to improve the protection of and tribal access to Indian sacred sites through enhanced and improved interdepartmental coordination and collaboration.

II. Background

Federal land managing agencies hold in public trust a great diversity of landscapes and sites, including many culturally important sites held sacred by Indian tribes. Indian tribes are defined here as an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior has published on the list of federally-recognized tribes pursuant to Public Law No. 103-454, 108 Stat. 4791. All Federal agencies are responsible for assessing the potential effects of undertakings they carry out, fund, or permit on historic properties of traditional cultural and religious importance to Indian tribes. While the physical and administrative contexts in which Federal agencies encounter sacred sites vary greatly, similarities do exist. Because of those similarities, the Participating Agencies recognize that consistency in policies and processes can be developed and applied, as long as they remain adaptable to local situations.

For purposes of this MOU, a “sacred site” retains the same meaning as provided in Executive Order 13007; that is, “any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site.” Such sacred sites may also be eligible for the National Register of Historic Places as historic properties of religious and cultural significance to Indian tribes.

Sacred sites often occur within a larger landform or are connected through features or ceremonies to other sites or a larger sacred landscape. Agencies should consider these broader areas and connections to better understand the context and significance of sacred sites. Sacred sites may include, but are not limited to geological features, bodies of water, archaeological sites, burial locations, traditional cultural properties, and stone and earth structures.

III. Authorities Which May be Relevant to the Protection and Preservation of Sacred Sites

The Participating Agencies will review the following authorities to determine their potential relevance to sacred sites and to determine if additional inter-agency measures may be warranted to better protect sacred sites:

Executive Order 13007: Indian Sacred Sites
National Historic Preservation Act
National Environmental Policy Act
Native American Graves Protection and Repatriation Act
American Indian Religious Freedom Act
Religious Freedom Restoration Act
Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

IV. Participating Agency Agreement

The Participating Agencies hereby agree to work together to accomplish and consult with Indian tribes as appropriate in developing and implementing the following actions:

1. Creating a training program to educate Federal staff on (a) the legal protections and limitations regarding the accommodation of, access to, and protection of sacred sites and (b) consulting and collaborating effectively with Indian tribes, tribal leaders, and tribal spiritual leaders to address sacred sites;
2. Developing guidance for the management and treatment of sacred sites, including best practices and sample tribal-agency agreements;
3. Creating a website that includes links to information about Federal agency responsibilities regarding sacred sites, agency tribal liaison contact information, the websites of the agencies participating in this MOU, and information directing agencies to appropriate tribal contact information for project consultation and sacred sites issues; this website would be hosted by one of the Participating Agencies;
4. Developing and implementing a public outreach plan focusing on the importance of maintaining the integrity of sacred sites and the need for public stewardship in the protection and preservation of such sites;
5. Identifying existing confidentiality standards and requirements for maintaining the confidentiality of sensitive information about sacred sites, analyzing the effectiveness of these mechanisms, and developing recommendations for addressing challenges regarding confidentiality;
6. Establishing management practices that could be adopted by Participating Agencies; for example, these could include mechanisms for the collaborative stewardship of sacred sites with Indian tribes, such as Federal-tribal partnerships in conducting landscape-level cultural geography assessments;
7. Identifying impediments to Federal-level protection of sacred sites and making recommendations to address the impediments;

8. Developing mechanisms to exchange and share subject matter experts among Federal agencies and identifying contracting mechanisms for obtaining tribal expertise;
9. Developing outreach to non-Federal partners to provide information about (a) the political and legal relationship between the United States and Indian tribes; (b) Federal agency requirements to consult with Indian tribes; and, (c) the importance of maintaining the integrity of sacred sites;
10. Exploring mechanisms for building tribal capacity to participate fully in consultation with Federal agencies and to carry out the identification, evaluation, and protection of sacred sites;
11. Establishing a working group of appropriate staff from each of the Participating Agencies to facilitate the implementation of the provisions of this MOU and address issues as they arise. The working group will develop an action plan for implementation of this MOU within 90 days. Participating Agency representatives will serve on the working group until replaced by their agencies. The working group will be chaired by one of the Participating Agencies chosen by majority vote of the working group and will serve a 2-year term. At the expiration of the chair's term, the Participating Agencies shall select a new chair from among the Participating Agencies.

V. Non-Funding Obligating Document

Participating Agencies will handle their own activities and use their own resources in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.

Nothing in this MOU shall obligate any Participating Agency to obligate or transfer funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various Participating Agencies will require execution of separate agreements and will be contingent upon the availability of appropriated funds. Any such activities must be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.

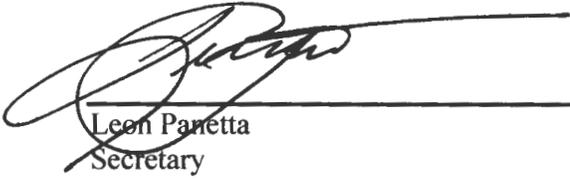
VI. Third Parties

This MOU is not intended to and does not create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by any party against the United States, its agencies, its officers, or any person.

VII. Administrative Provisions

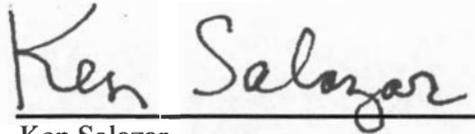
1. This MOU takes effect upon the signature of all Participating Agencies and shall remain in effect until December 31, 2017. This MOU may be extended or amended upon written consent from any Participating Agency and the subsequent written concurrence of the others.
2. Any Participating Agency can opt out of this MOU by providing a 60-day written notice to the other signatories.
3. Other Federal agencies may participate in this MOU at any time while the MOU is in effect. Participation will be evidenced by an agency official signature on the MOU.

VIII. Signatures of the Participating Agencies of the MOU on Indian Sacred Sites



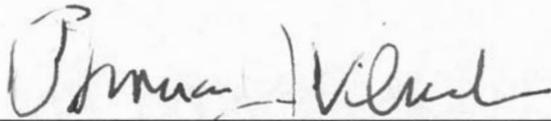
Leon Panetta
Secretary
U.S. Department of Defense

12/4/12
Date



Ken Salazar
Secretary
U.S. Department of the Interior

11/30/12
Date



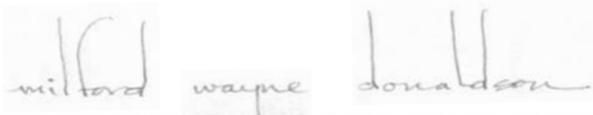
Thomas J. Vilsack
Secretary
U.S. Department of Agriculture

11/30/12
Date



Steven Chu
Secretary
U.S. Department of Energy

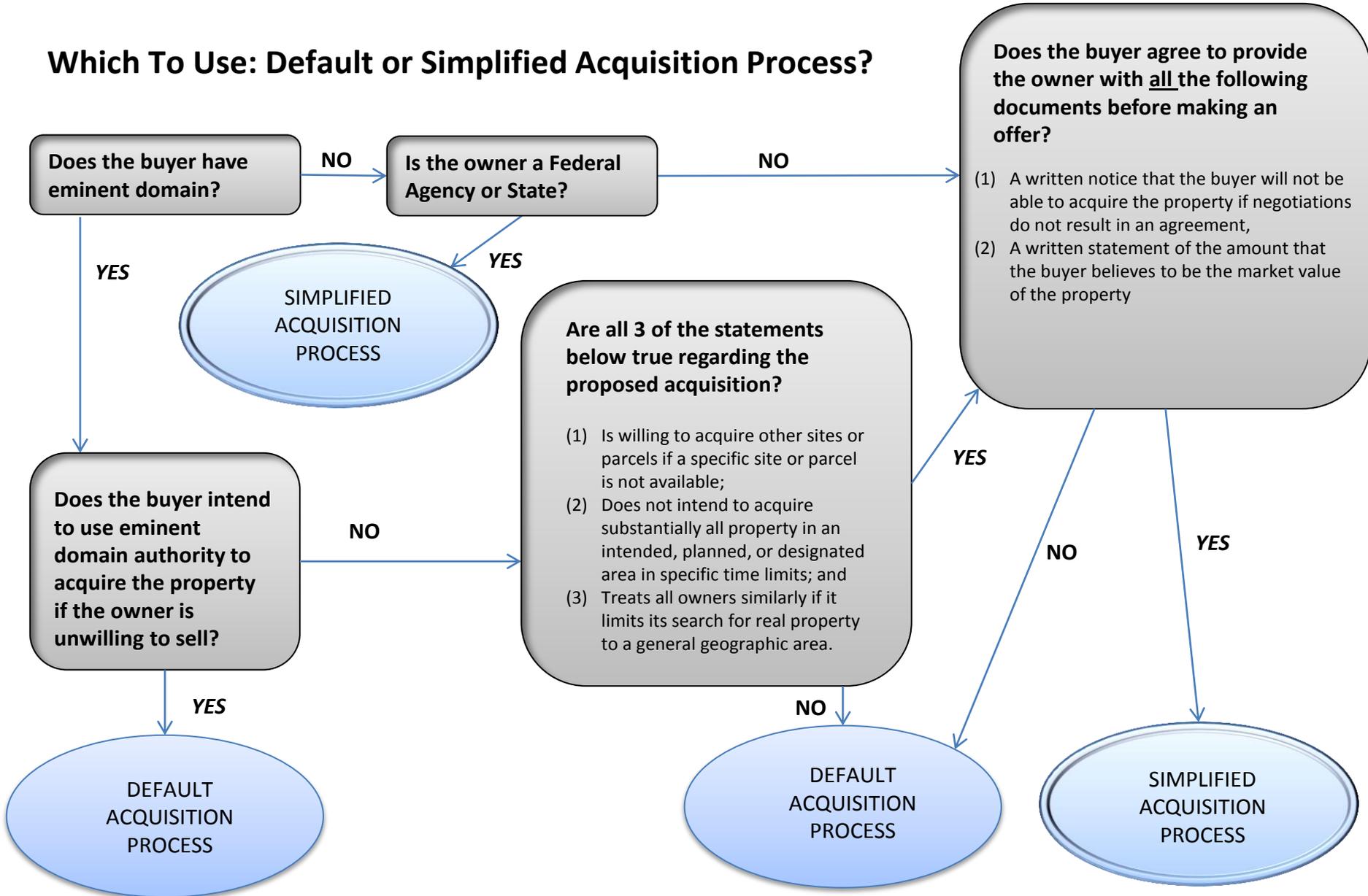
NOV 30 2012
Date



Milford Wayne Donaldson, FAIA
Chairman
Advisory Council on Historic Preservation

NOV 30 2012
Date

Which To Use: Default or Simplified Acquisition Process?



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Step 1 - Buyer obtains WSFR approval to acquire one of the following types of real property interests:

- Fee Simple
- Fee with exception to title
- Partial interest

Step 2 - Buyer obtains WSFR approval of the qualifications of the appraiser and review appraiser

Step 3 - Buyer obtains an estimate of market value and bases it on:

(a) an appraisal report and appraisal review report,
 (b) a waiver valuation report,...to use waiver valuation the estimate of market value must be less than \$25,000 and the valuation of the property must not be complicated., or
 (c) a report estimating the value of real property subject to auction

Step 4 - Buyer gives the owner the following documents before making an offer:

(a) A written notice that the buyer will not be able to acquire the property if negotiations do not result in an agreement, and
 (b) A written statement of the amount that the buyer believes is the market value of the property.

Step 5 - Buyer negotiates a purchase price of no more than the amount determined by the estimate of market value as determined by a WSFR approved valuation method

Step 6 - Buyer and seller enter into a purchase agreement.

- Buyer conducts a due-diligence inspection of the property
- Buyer arranges for a boundary survey if necessary
- Buyer arranges for a title search and the subsequent issuance of a title insurance policy or a certificate of title

Step 7 - Seller delivers the deed or other conveyance document to the buyer in exchange for payment of the negotiated price. Buyer pays seller's eligible expenses incidental to transfer following 49 CFR 24.106

Step 8 - Buyer records the deed or other instrument transferring title or other real property interest, and a Notice of Federal Participation.

Step 9 - Buyer follows 49 CFR 24.105 to acquire tenant-owned improvements

Step 10 Buyer follows 49 CFR 24, Subparts C–F, to provide relocation assistance to any qualifying tenant(s). Neither sellers nor government tenants receive relocation benefits under the simplified acquisition procedures

Step 1 - Buyer obtains WSFR approval to acquire one of the following types of real property interests:

- Fee Simple
- Fee with exception to title
- Partial interest

Step 5 - The buyer establishes just compensation and gives the owner:

- (a) the written offer, and
- (b) a summary of the basis of the offer (see 49 CFR 24.102(d-g)). The offer of just compensation must not be less than the estimated market value in an approved waiver-valuation report or an approved appraisal report as confirmed or modified by an approved appraisal-review report. The offer of just compensation must also take into account the value of allowable damages or benefits to any remaining property. If the acquisition of only a portion of the real property would leave the owner with an uneconomic remnant, the buyer must offer to buy the uneconomic remnant along with the portion of the property needed for the project.

Step 2 - The buyer gives the owner of the real property a Notice of Intent to Acquire. This tells the owner of the buyer's interest in acquiring the real property and basic protections available to the owner under 49 CFR 24 (see 49 CFR 24.102(b) and 24.203(d)).

Step 6 -The seller delivers the deed or other conveyance document to the buyer in exchange for payment of an amount based on:

- (a) the offer of just compensation, or
- (b) one of the exceptional valuation procedures which WSFR must approve in advance.

The buyer pays the seller's eligible expenses incidental to transfer following 49 CFR 24.106.

Step 3 - Buyer obtains WSFR approval of the qualifications of an appraiser and review appraiser

Step 7 - If the buyer has started a condemnation action, the buyer deposits with the court, for the benefit of the owner, an amount not less than the buyer's approved waiver valuation or approved appraisal of the fair market value supported by an appraisal review or the court award of compensation

Step 4 - The buyer obtains an appraisal of the real property (as confirmed or modified by an appraisal review) if the informal estimate of market value is more than \$10,000 OR if the valuation is complicated. Otherwise, the buyer obtains a waiver valuation of the real property. We may approve a threshold up to \$25,000 for using a waiver valuation if the buyer offers the owner the option of having the property appraised and the owner declines.

Step 8 - Buyer records the deed or other instrument that transfers title or other real property interest, and a Notice of Federal Participation.

If the buyer obtains an appraisal and appraisal review, they must conform to the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA).

WSFR must approve the appraisal and appraisal-review reports (or waiver valuation report) before the buyer moves to Step 5.

Step 9 - The buyer follows 49 CFR 24.105 to acquire any tenant-owned improvements.

Step 10 - The buyer provides relocation assistance to a qualifying seller or tenant(s) following 49 CFR 24, Subpart C-F. A governmental entity is not eligible for relocation assistance as a seller or tenant (see 49 CFR 24.202, 24.301, 24.401, and 24.501, and the definitions of person and displaced person at 49 CFR 24.2(a)(9) and 49 CFR 24.2(a)(21)).



Work with your tablemates and review the sources listed below to answer the following questions.

- Handout #5-1 “**Project Narrative SWG Conservation Easement: Harmony Road Wetlands – Cattail Property**” found in Tab #12 in the workbook
- The Toolkit: Policy & Guidance/ NEPA 516 DM8
- Lands Chapter Part 520 7

1. List specific actions or activities described in the approach section that need to be reviewed for compliance with NEPA, Sec 7 and Historic Preservation?

A conservation easement on 175 acres of land will be conveyed

Easement monitoring,, Hay and Timber harvest operations

Conservation Management Plan for wildlife and habitat management

Management activities may be considered separate from an easement

acquisition by some in the WSFR program.. thus compliance comes later.

2. Does the project statement (handout 5-1) provide documentation that the actions you listed above were reviewed for compliance with NEPA, Sec 7 and the Historic Preservation Act?

Documentation provided but not for all individual actions

3. Is this conservation easement acquisition eligible for a categorical exclusion?
If, so which categorical exclusion applies?

Yes, purchase of a conservation easement is acquiring a real property
interest so cat-ex 1.4 A4 would apply, but all 12 of the extraordinary
circumstances must be answered "NO."

4. Is there a need for this project to provide relocation benefits according to the
Uniform Relocation Assistance and Real Property Acquisition Policies Act of
1970?

No...the Uniform Act does not apply as no displacement will occur.
Exhibit 2, 520 FW 7 See flow chart

TAB 7

Objectives:

1. Identify and explain the purpose of the components of the grant application package for real property acquisitions
2. Determine the need for inclusion of supporting documents unique to each type of real property transaction grant application package
3. Recognize the consequences of submitting incomplete grant application packages



Exercise: Examining the Grant Application Package

Use the State of Grace exercise handout for module #7 provided in your workbook to complete an exercise on the grant application package.



Learning Points

- ✓ The Grantee/State is responsible for submitting the correct documentation
- ✓ Grants cannot be approved without the submission of the appropriate documents. Documents may vary depending on the type of real property transaction
- ✓ Grant application is submitted to the Wildlife and Sport Fish Restoration Program Regional Office for review and approval

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Work with your tablemates and review the sources listed below to answer the following questions.

- Toolkit: Service Manual Chapter Part 522 FW 1 (**appendix 1**)
- SM Chapter Part 522 6.5
- Handouts 5-1 through 5-6 (the sample grant application package) in tab #12

1. List the documents WSFR requires in a fee simple land acquisition grant application package.

SF-424 Application for Federal Assistance, SF-424D),
Statement of Assurances, State process documents EO 12372
Project Statement that includes all the required elements
Supporting documents:for compliance with NEPA, Sec 7 ESA **part 522 FW1**
appendix 1 and SM part 522 6.5 A) Legal description of property
B)Appraisal/Appraisal Review
or other C)Purchase option or agreement

2. Is the sample grant application complete? If not, list the missing documents.

Purchase option or agreement **part 522 FW 6.5** ????

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TAB 8

Objectives:

1. Understand the various valuation methods used to determine reasonable cost for interest in real property acquired with WSFR grant funds
2. Recognize the standards for appraisals and appraisal review reports
3. Identify the requirements and conditions for using land as match
4. Determine the date the grantee becomes legally obligated for a real property acquisition
5. Summarize requirements and eligibility of pre-award costs
6. Determine when WSFR funds can be used to fund acquisition projects involving multiple partners

Determining Reasonable Cost

WSFR may determine that the cost of real property acquired by a grantee or subgrantee is reasonable as long as the price paid was the result of an approved valuation method.

Price is the amount that a particular purchaser agrees to pay and a particular seller agrees to accept under the circumstances of the transaction.

Value is an opinion of the worth of a property at a given time according to a specific definition of value.

Appraisals need to be updated when value estimate no longer reflects the conditions in the local real estate market
***(Must use within 6 months or within life span designated)**

Methods of Valuation

Appraisal Method

- A certified general appraiser uses the Uniform Standards of Professional Appraisal Practice (USPAP) and conditions in 49 CFR 249 for buyers using Simplified acquisition procedures
 - Develops opinion of value of the real property, prepares appraisal report **(must be self-contained)**
- Grantee is required to direct the appraiser to use the Uniform Appraisal Standards for Federal Land Acquisition (Yellow Book) for all Default acquisition procedures
- A review appraiser examines the market analysis and supports the appraiser's opinion of value

WSFR must be able to approve the qualifications of the appraiser and review appraiser before the grantee commits to using them. **Include the U.S.F.W.S as an intended user of the appraisal report.**

Both appraisers and review appraisers must be:

- State-certified general appraisers consistent with Title XI
- Certified by state or another state through reciprocity agreement
- Completed Appraisal Qualifications Board course (within last 10 years)
- Have training or significant experience in appraising land similar to the subject property
- No public record of disciplinary action by state regulatory agency
- Have experience as expert witness on real property valuation where condemnation authority has been exercised

Review Appraisers Only must have one of the following:

- A. Have professional growth designation from American Society of Farm Managers and Rural Appraisers or American Society of Appraisers or state employee with documentation of professional growth beyond minimum requirements for state certified appraiser

- B. Minimum Training and Experience
Have 32 classroom hours in the last 10 years of AQB-approved appraisal-review courses, which must be supported by a transcript or other documentation, and at least 12 technical review reports or self-contained/summary appraisal reports within the last 3 years.

- C. WSFR may approve a one-time nonrenewable waiver of the qualification standards in A and B (not to exceed 3 years) for a State-employed review appraiser if we receive:
 - (1) A commitment from the State agency that its review appraiser will meet the qualification standards in Alternatives A or B by a date not to exceed 3 years; and
 - (2) Documentation of significant professional growth by the review appraiser beyond the minimum requirements of a State-certified appraiser to include all of the following:
 - (a) A transcript or other documentation that the review appraiser received AQB-approved training relevant to appraisal review above the minimum requirements for a State-certified appraiser.
 - (b) A demonstration report (without confidential information) that shows proficiency in appraisal review.

Notes:

Waiver Valuation Method

- Grantee or subgrantee estimates the value by preparing a waiver valuation following 49 CFR 24.102(c)(2)(ii)
- WSFR must concur with grantee that valuation is uncomplicated (examples of complicated valuations are encumbrances easements, deed restrictions, permit requirements, rapidly changing local real property market)
 - Estimated value is \$25,000 or less if buyer uses the Simplified Acquisition Process or
 - \$10,000 or less if the buyer uses the Default Acquisition Process. WSFR may approve exceeding the \$10,000 threshold up to maximum of \$25,000 if grantee offers owner the option of having property appraised

Waiver Valuation Reports must include:

- Description of qualifications of person developing the waiver valuation
- Description of process used to determine estimate of value
- Opinion of the market value and supporting data
- Opinion of amount of tenant-owned improvements contributing to value
- Compensation for damages to remaining real property (default process only)
- Estimated value of any uneconomic remnant (default process only)

Qualifications needed to prepare a waiver valuation or decide when appropriate to use one

Although the person who decides to use a waiver valuation does not have to be an appraiser, we must ensure that he or she understands appraisal principles well enough to determine whether:

- (1) The valuation problem is uncomplicated, and
- (2) The estimated value of the proposed acquisition does not exceed the threshold for use of a waiver valuation.

WSFR must ensure that the person preparing the waiver valuation understands the local real estate market and has enough understanding of appraisal principles to review the available data, estimate the fair market value, and establish a credible basis for that estimate

Administrative Settlement Method

WSFR may approve a request to pay a parcel's owner more than the offer of just compensation if:

- Reasonable efforts to negotiate an agreement at just compensation have failed
- It is reasonable, prudent and in the public interest
- Grantee prepares a written justification
- It would avoid unnecessary litigation (see SM Part 520 7.9 D 2 for other examples of being in the public interest)

The Regional Director (unless delegated to another Regional official) must approve the settlement beforehand as being reasonable prudent, and in the public interest.
(49 CFR 24.102(i))

State Procedures Method (49 CFR 24.4 (a))

The State establishes by statute or regulation the selling price of State-owned real property, or a process that results in the selling price of State-owned real property.

A buyer may propose in writing that a State law justifies making an exception to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. We must be able to concur with the proposal before we approve the acquisition of real property based on this proposal.

Judicial Method

A court establishes the price of real property in a condemnation proceeding or concurs with the price of real property established in a settlement proceeding.

Public Auction (49 CFR 24.101 (b) (1-3))

WSFR may approve this method if the following conditions are met

- Sale must be widely advertised to many potential bidders well in advance
- Buyer determines an amount it believes is the market value of property
- Buyer completes due-diligence examination of title and property before placing bid or terms allow for winning bid contingent on outcome of post auction inspection.
- Buyer with eminent domain authority complies with SM Part 520 7.6 B (2-4) (part B of Simplified Acquisition Procedures)
- If property is state owned and buyer does not have eminent domain authority, no notice to owner required before the auction.
- If buyer has eminent-domain authority or if the property is not State-owned, the buyer must give the owner a written notice with the following information before the auction
 - The amount that the buyer believes is the market value of the property
 - A statement that the buyer's bid may be less than what it believes is the market value of the property
 - A statement that unless the buyer submits the winning bid at the auction, it will be unable to acquire the property
- After the buyer submits the winning bid and completes any inspection the owner transfers the property to buyer in exchange for payment of bid amount. The buyer must complete Steps 5–7 of the Simplified Acquisition Process.

Notes:

Grantee Match Requirements

Most WSFR grants have a grantee cost share requirement, either through direct or indirect cash expenditures. Match can also be provided through in-kind contributions, bargain sales or real property interests donated as match.

Land as Match

WSFR may approve the market value of land to be used as match for real property acquisition, facilities acquisition and construction activities, *provided* the land is necessary and reasonable to accomplish the project objectives. (2 CFR Part 225, SM 520 chapter 8.17)

- A site specific-acquisition project may use donated land value within the defined project area if it is suitable to the land acquisition purpose
 - An acquisition project with objectives based on specific habitat types by location in the State may use donated land which meets the plan
 - For a construction project, only the amount of land required may be counted for in-kind matching purposes
-
-
-

Valuation of Land as Match

- Grantee must identify a parcel of land that they will use as match in a grant
 - Grantees must use an approved valuation method to determine the market value for the parcel
 - The grantee incorporates that value into a grant application as match for the grant
-
-
-

Remaining Land Value as Match

If the value of a parcel of land is more than needed for match, the State may use remaining unused value on a subsequent grant, if

- A covenant is placed on the deed ensuring entire parcel will be used in perpetuity for the purposes of applicable grant program
- Purpose does not conflict with purpose of the original grant
- Value of the match is an allowable and applicable cost
- Value not used as match for any other Federal grant
- State maintains records to track the remaining value available for match

Land used as match becomes subject to the regulations of WSFR or SWG Programs, as applicable, at the time the State uses any portion of the parcel value as match. NOFP is required for all land used as match.

Valuing Third Party Donated Equipment, Buildings and Land

If a third party donates equipment, buildings, or land, and title passes to a grantee or subgrantee, the treatment of the donated property will depend upon the purpose of the grant or sub-grant, as follows:

1. If the purpose of the grant or subgrant is to assist the grantee or subgrantee in the acquisition of property, the market value of that property at the time of donation may be counted as cost sharing or matching
 2. If assisting in the acquisition of property is not the purpose of the grant or subgrant (e.g. species composition survey), and if approval is obtained from the awarding agency, the market value at the time of donation of the donated equipment or buildings and the fair rental rate of the donated land may be counted as cost sharing or matching.
-
-

Land donated by a Grantee or Subgrantee for Land or Facilities Acquisition or Construction

If a grantee or subgrantee donates real property for a construction or facilities acquisition project, the current market value of that property may be counted as cost sharing or matching

Land donated by a Grantee or Subgrantee for Other Activities

43 CFR 12.64 is silent on how to value land donated by a grantee or subgrantee and deemed necessary and reasonable as match for anything besides construction, land acquisition, or facilities acquisition. Based on a September 5, 2007 DOI solicitor review and opinion, WSFR is unable to imagine a situation where a grantee (or subgrantee) must "rent" from itself real property already under its control in order to achieve a grant/project objective.

If the objective of the grant/project is not acquisition or construction, but ownership of the land by the grantee or subgrantee is both necessary and reasonable to achieve the grant/project objective, then the market value of that land may be used as match.

NOTES

Allowable Costs

Costs associated with real property acquisition must be necessary and reasonable to accomplish the project objectives. The standard for necessary and reasonable can be found in 2 CFR Part 225, Appendix A

Common costs associated with real property acquisitions may include

- Market Value of Real Property
- Appraisals or other methods of property valuation
- Appraisal review and legal review
- Surveys
- Title Searches
- Biological, Environmental and Engineering reconnaissance
- Deed preparation and Closing costs
- Rollback taxes
- Relocation costs
- Seller's incidental transfer expenses
- Development of management plan

Grantees and sub-grantees may acquire any interest in real property if the acquisition is consistent with State laws and regulations and the laws and regulations are applicable to the grant program. The interests most commonly acquired in WSFR-administered grant programs are fee title, easement and leasehold. Only the grantee (state) may hold title to real property ownership interests acquired with WR, SFR or HE funds.

The grantee incurs the costs for real property on the date the grantee or subgrantee becomes legally obligated for the purchase. Examples of when an acquisition cost is incurred are when a contract to purchase is executed or an option is exercised.

WSFR may approve costs that are preliminary to the acquisition of real property as pre-agreement costs if they conform to the applicable Cost Principles at 2 CFR 220, 2 CFR 225, or 2 CFR 230.

Allowable Costs

A grantee or subgrantee may enter into an agreement to purchase real property before approval of a grant. However, the grantee or subgrantee may be assuming substantial risk if the agreement is legally binding. We recommend the following language for inclusion in the document:

“Seller and Purchaser agree that this contract and the contemplated funding from the (grant program name) are all subject to approval from the U.S. Fish and Wildlife Service (USFWS). Purchaser has the right, but not the obligation, to terminate this contract in the event the USFWS fails to approve the funding for this acquisition project.”

WSFR may approve a grant application when the parcels are not known at the time of the application. Funding of land acquisition retrospectively is allowed via pre-agreement costs and subject to risk by grantee/subgrantee if the grant is not approved.



Exercise: Reviewing WSFR Acquisition Procedures

Use the State of Grace exercise handout for module #8 provided in your workbook to complete an exercise on WSFR acquisition procedures.



Learning Points

- ✓ WSFR may determine that the cost of real property acquired by a grantee is reasonable as long as the price paid was the result of an approved valuation method
- ✓ Match for real property acquisitions can be provided through direct or indirect cash expenditures, in-kind contributions, or mitigation funding
- ✓ WSFR may approve the market value of land to be used as match for real property acquisitions provided the land is necessary and reasonable to accomplish the project objectives
- ✓ A third party cannot retain title of the property if the market value of the land is being pledged as match
- ✓ The grantee incurs the costs for real property on the date the grantee or subgrantee becomes legally obligated for the purchase
- ✓ WSFR may approve preliminary or other costs to the acquisition of real property as pre-award costs if they conform to the applicable Cost Principles
- ✓ A grantee or subgrantee may enter into an agreement to purchase real property before approval of a grant. However, the grantee or subgrantee may be assuming substantial risk if the agreement is legally binding, committing both buyer and seller to the sale of the property
- ✓ WSFR may approve a grant application when the parcels are not known at the time of the application
- ✓ Funding land acquisition retrospectively is allowed via pre-award costs and subject to risk by grantee/subgrantee if grant is not approved

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ASSIGNMENT CONDITIONS FOR AN APPRAISAL THAT CONFORMS TO THE USPAP

The appraiser must prepare a self-contained appraisal in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). The appraiser must also comply with the following conditions:

The appraiser must not use the mass appraisal process for acquisition of multiple parcels (see USPAP, Standard 6), but project appraisal reports are acceptable (see *Uniform Appraisal Standards for Federal Land Acquisition (UASFLA), D-17*).

The appraiser must not decrease or increase the fair market value of the real property because of the project for which the property will be acquired or likely acquired, other than that due to physical deterioration within the reasonable control of the owner (*Title 49 of the Code of Federal Regulations (CFR), Part 24, subsection 103(b)*). The USPAP regard this requirement as an assumed condition contrary to fact, which requires a hypothetical condition in a USPAP appraisal.

The appraiser must identify only one highest and best use for each parcel, and it must be an economic use. Noneconomic uses such as conservation, natural lands, and preservation are not acceptable. The government's intended use of the property is an improper highest and best use unless the appraiser conclusively shows that private demand exists for that use. (*UASFLA, A-14*).

The appraiser may use sales to government and nonprofit organizations as comparable sales only as a last resort and only with extraordinary verification. If the appraiser uses them, he or she must follow recommendations in the UASFLA, section D-9.

The appraiser must state which property rights and interests will be retained, acquired, or transferred. The appraiser must list any exceptions to title if the appraisal estimates the market value of a fee with exceptions to title.

The appraiser must ensure a mutual understanding of all terms and concepts used in the appraisal, especially those describing a specific real property interest and those subject to more than one interpretation in different jurisdictions or by different user groups.

The appraiser must authorize the U.S. Fish and Wildlife Service, in addition to the client [and the grantee if a subgrantee is the client], to receive copies of the report and to discuss the contents with the appraiser and review appraiser.

The provisions of 49 CFR 24 that apply to the valuation and acquisition of real property under the simplified acquisition procedures are: Subpart A; Subpart B, section 24.101; Subpart B, subsection 24.102(i)(m) and (n); Subpart B, section 24.103 except the requirement in subsection (a)(2)(iv) to state the value of damages and benefits to the remaining real property in a partial acquisition; Subpart B, section 24.104 except the requirement of subsection (c) to identify damages and benefits to any remaining property in a partial acquisition; Subpart B, sections 24.105, 24.106, and 24.108; and Subparts C-F, but only as applicable to relocation assistance and benefits for tenants. The terms and conditions of the grant that funded the acquisition of the real property clarify and supplement the applicable provision of 49 CFR 24.

ASSIGNMENT CONDITIONS FOR AN APPRAISAL REVIEW THAT CONFORMS TO THE USPAP

The review appraiser must prepare a self-contained appraisal review in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP).

The review appraiser must do one of the following with the appraisal:

- (1) Recommend it as the basis of the estimate of market value,
- (2) Accept it as meeting all the requirements, but not recommend it as the basis of the estimate of market value, or
- (3) Not accept it because it does not meet all requirements.

The review appraiser must authorize the U.S. Fish and Wildlife Service, in addition to the client [and the grantee if a subgrantee is the client], to receive copies of the appraisal review report and to discuss the contents and supporting data with the appraiser and review appraiser.

The provisions of Title 49 of the Code of Federal Regulations (CFR), Part 24, that apply to the valuation and acquisition of real property under the simplified acquisition procedures are: Subpart A; Subpart B, section 24.101; Subpart B, subsection 24.102(i)(m) and (n); Subpart B, section 24.103 except the requirement in subsection (a)(2)(iv) to state the value of damages and benefits to the remaining real property in a partial acquisition; Subpart B, section 24.104 except the requirement of subsection (c) to identify damages and benefits to any remaining property in a partial acquisition; Subpart B, sections 24.105, 24.106, and 24.108; and Subparts C–F, but only as applicable to relocation assistance and benefits for tenants.. The terms and conditions of the grant that funded the acquisition of the real property clarify and supplement the applicable provision of 49 CFR 24.

The FWS Office awarding the grant may apply the following condition at its discretion:

The review appraiser must:

- (1)** Assign a life span to the review appraiser's approval, at the end of which the review appraiser evaluates the appraisal and recommends: (a) an extension of the appraisal's life span for a specific period, or (b) an appraisal update followed by an appraisal review; and
- (2)** Specify the events, thresholds, trends, or conditions in or affecting the local real estate market that would trigger the need for an update at any point during the life of the appraisal and at the end of its designated life span.

ASSIGNMENT CONDITIONS FOR AN APPRAISAL THAT CONFORMS TO THE UASFLA

The appraiser must prepare a self-contained appraisal in compliance with the Uniform Appraisal Standards for Federal Land Acquisition and Title 49 of the Code of Federal Regulations (CFR), Part 24, with special attention to sections 24.2, 24.102–24.105, and the corresponding sections of *Appendix A to Part 24—Additional information*. The terms and conditions of the grant that funded the acquisition of the real property clarify and supplement 49 CFR 24.

The appraiser must state which property rights and interests will be retained, acquired, or transferred. The appraiser must list any exceptions to title if the appraisal estimates the market value of a fee with exceptions to title.

The appraiser must ensure a mutual understanding of all terms and concepts used in the appraisal, especially those describing a specific real property interest and those subject to more than one interpretation in different jurisdictions or by different user groups.

The appraiser must authorize the U.S. Fish and Wildlife Service, in addition to the client [and the grantee if a subgrantee is the client], to receive copies of their reports and to discuss the contents and supporting data with the appraiser and review appraiser.

ASSIGNMENT CONDITIONS FOR AN APPRAISAL REVIEW THAT CONFORMS TO THE UASFLA

The review appraiser must prepare a self-contained appraisal review in compliance with the Uniform Appraisal Standards for Federal Land Acquisition and Title 49 of the Code of Federal Regulations (CFR), Part 24. The terms and conditions of the grant that funded the acquisition of the real property clarify and supplement 49 CFR 24.

The review appraiser must do one of the following with the appraisal report:

- (1) Recommend it as the basis of the amount believed to be just compensation,
- (2) Accept it as meeting all the requirements, but not recommend it as the basis of the amount believed to be just compensation, or
- (3) Not accept it because it does not meet all requirements.

The review appraiser must authorize the U.S. Fish and Wildlife Service, in addition to the client [and the grantee if a subgrantee is the client], to receive copies of the appraisal review report and to discuss the contents and supporting data with the appraiser and review appraiser.

The FWS Office awarding the grant may apply the following condition at its discretion:

The review appraiser must:

- (1) Assign a life span to the review appraiser's approval, at the end of which, the review appraiser evaluates the appraisal and either (a) recommends an extension of the appraisal's life span for a specific period, or (b) recommends an appraisal update followed by an appraisal review; and
- (2) Specify the events, thresholds, trends, or conditions in or affecting the local real estate market that would trigger the need for an update at any point during the life of the appraisal and at the end of the designated life span.

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Major Differences Between USPAP and Yellow Book (UASFLA) 8-2

Yellow Book requires consideration of the larger parcel

When the United States acquires only part of a unitary holding, Federal law requires that compensation be made not only for the property interest acquired, but also for the diminution, if any, in the value of the remainder directly caused by the acquisition and/or by the use to which the part acquired will be put. This diminution in the value of the remainder is often and “somewhat loosely” referred to as *severance damage*. When the remainder is specially benefited as a result of the government’s project, the value of the remainder will reflect that fact, which will result in a lessening of the compensation paid to the landowner.

- It is essential to a partial taking and to the application of the rules on severance damages and special benefits that the land acquired be part of a unitary holding (a “whole”), commonly referred to as the *larger parcel*
- Allowable severance damages include diminution in the value of the remainder caused by the use to which the United States will put the part of the land acquired; however, diminution in value of the remainder caused by the use to which the United States will put the land taken from others or from use of land it owns cannot be considered

Yellow Book requires a before and after approach for easement valuation

An easement acquisition is a partial acquisition leaving a remainder estate in the owner. Federal courts have long held that the appropriate measure of compensation in a partial acquisition is the difference between the value of the whole parcel before the acquisition and the value of the remainder after the acquisition.

Yellow Book requires use of the Unit Rule

The unit rule requires that property be valued as a whole rather than by the sum of the values of the various interests into which it may have been carved. Different elements or components of a tract of land are not to be separately valued and added together.

Project Influence (Prohibited by 49 CFR 24.103 (2)(b) is Automatically Excluded Under Yellow Book

Changes in the neighborhood, brought about by the government’s project for which the property under appraisal is being acquired, shall be disregarded. This specific standard is contrary to USPAP Standards Rule 1-4(f) and is considered a jurisdictional exception. Compliance with 49 CFR 24.103 (2)(b) requires the use of a hypothetical condition because it would be contrary to the behavior of real estate markets to disregard the influence of the project on market value.

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TYPES OF APPRAISAL REPORTS

WSFR only accepts Self-Contained Appraisal Reports

Self Contained Appraisal Report

Includes all data and information utilized by the appraiser; along with the rationale as to how and why he or she arrived at the conclusions and valuations.

Summary Appraisal Report

The essential difference between the Self Contained Appraisal Report and the Summary Appraisal Report is the level of detail in the report. This report offers a more concise presentation of the information gathered in the appraisal process.

Restricted Use Appraisal Report

The essential difference between the Self Contained and the Restricted Use Appraisal Report is the level of detail in presentation and use restrictions that limits the reliance on the report to the client and considers anyone else using the report an unintended user. The Restricted Use Report is a minimal presentation of the information gathered in the appraisal process.

Note: The Market Value in each type of report is determined by utilizing all applicable appraisal techniques. The Market Value presented in all three report options are identical.

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Match Property Name	Appraised Value	Grant match	Project Name	Amount of Value Used for Match	Remaining Value
Charley Creek West TLT	\$17,000,000	E-14-HL-3	Hoh, Phase I	\$3,639,558	\$13,360,442
		E-19-HL-2	Hoh, Phase II	\$2,389,673	\$10,970,769
		E-23-HL-1	Hoh, Phase III	\$2,327,526	\$8,643,243
		E-35-HL-1	Hoh, Phase IV	\$4,235,000	\$4,408,243
		E-14-HL-2	Stavis	\$98,590	\$4,309,653
		E-32-HL-2	Ashford, Phase II	\$420,813	\$3,888,840
Charley Creek East	\$20,740,000	E-31-HL-2	Little White Salmon, II	\$798,390	\$19,941,610
		E-32-HL-2	Ashford - Hancock 2, II	\$2,114,072	\$17,827,538
Skagit TLT - E-1	\$383,000			\$0	\$383,000
Skagit TLT - E-2	\$1,310,000	E-10-HL-2	Boulder Creek	\$852,903	\$457,097
Skatit TLT - E-2		E-36-HL-1	Barr Creek	\$346,578	\$110,519
Tahoma Forest South	\$5,938,000	E-10-HL-3	Squire Creek	\$256,385	\$5,681,615
		E-31-HL-1	Little White Salmon, Phase I	\$639,500	\$5,042,115
		E-32-HL-1	Ashford, Phase I	\$1,765,000	\$3,277,115
		E-32-HL-2	Ashford, Phase II	\$3,277,115	\$0
Stavis TLT	\$1,655,000	E-14-HL-2	Stavis	\$1,655,000	\$0
Sultan Basin TLT	\$7,000,000	E-24-HL-1	Swamp Lake / Amabilis, Phase I	\$3,406,411	\$3,593,589
		E-33-HL-1	Swamp Lake / Amabilis, Phase II	\$3,593,589	\$0
Mt. Si North	\$1,575,000	E-33-HL-1	Swamp Lake / Amabilis, Phase II	\$98,814	\$1,476,186
		E-34-HL-1	Hyak-Gold, Phase II	\$1,293,785	\$182,401
Lacamas Prairie NAP		E-38-RL-1	Boistfort		
Mt Amabilis					
Mt Si South	\$6,794,000	E-45-HL-1	I-90, Keechelus Ridge	\$3,851,321	\$2,942,679
					\$24,951,977
					Total remaining value

GRANT	UNIT NAME	STATE ID	ACRES	VALUE	Non-WSFR	GRANT USED	TOTAL USED	BALANCE
T-3-L-1	Red Banks Glades NA	NA-762	63.82	\$115,000.00	\$0.00	T-2-2	\$115,000.00	\$0.00
T-3-L-1	Battle Bluff Prairie NA	NA-845	53.45	\$96,200.00	\$0.00	T-2-2	\$96,200.00	\$0.00
T-3-L-1	Rush Creek SNA	NA-848	90.23	\$180,500.00	\$0.00	T-2-2	\$180,500.00	\$0.00
T-3-L-1	York Prairies NA	NA-853	25.24	\$97,200.00	\$0.00	T-2-2	\$97,200.00	\$0.00
T-3-L-1	Lulu Lake NA	NA-849	227.47	\$1,547,000.00	\$0.00	T-2-2	\$451,287.82	\$1,095,712.18
						T-2-3	\$446,814.64	\$648,897.54
T-3-L-2	Rush Creek SNA	NA-20045	80.13	\$240,000.00	\$0.00	T-2-5	\$0.00	\$0.00
T-3-L-2	Hogsback Prairie Sna	NA-20049	103.48	\$291,000.00	\$0.00			
T-3-L-2	Lower Narrows SNA	NA-20047	40	\$200,000.00	\$0.00			
T-3-L-2	Ridgeway Pine Relict SNA	NA-20051	40	\$163,200.00	\$0.00			



STATE OF WASHINGTON

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Upon recording return to:
 Conservation Lands Acquisition
 Asset Management and Recreation Division
 Department of Natural Resources
 PO Box 47014
 Olympia, WA 98504-7014

Grantor: State of Washington, Department of Natural Resources
Grantee: None
Abbreviated Legal Description: Pt. of Sec. 32 and 33, T14N, R6E and Pts. of Sec. 4, T13N, R6E
Assessor's Parcel Nos: 34704 and 37908

NOTICE OF GRANT AGREEMENT

Tahoma Forest South TLT Match Property
 for Ashford Spotted Owl--Phases I and II (USFWS Grants E-32-HL-1 and E-32-HL-2),
 Little White Salmon Corridor--Phase I (USFWS Grant E-31-HL-1),
 and Squire Creek Forest (USFWS Grant E-10-HL-3)
 Cooperative Endangered Species Conservation Fund HCP Land Acquisition Grants

THE STATE OF WASHINGTON, acting by and through the Department of Natural Resources, ("State") is the owner of real property located in Lewis County, State of Washington, more particularly described in Exhibit A, which is attached hereto and made part hereof (the "Property"). The Property consists of approximately 250 acres.

Notice is hereby given that the State has agreed to use the Property, managed as a portion of the State's Tahoma Forest Natural Resources Conservation Area pursuant to Chapter 79.71 RCW, as match for Habitat Conservation Plan Land Acquisition funds in support of land acquisition and management projects known as "Ashford Spotted Owl--Phases I and II", "Little White Salmon Corridor--Phase I" and "Squire Creek Forest", (hereinafter "Projects"). The Projects are funded under the Cooperative Endangered Species Conservation Fund through the Habitat Conservation Plan Land Acquisition Program pursuant to Grant Agreements between the U.S. Fish and Wildlife Service and the State, under Federal Grant Agreement Nos. E-32-HL-1, dated April 1, 2006; E-32-HL-2, dated April 13, 2007; E-31-HL-1, dated April 1, 2006, and E-10-HL-3, dated November 1, 2005; all under Catalog of Federal Domestic Assistance Number 15-615, (collectively, the "Grants"), copies of which are kept on file at the offices of the U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181 and at the offices of the State, 1111 Washington Street SE, PO Box 47014, Olympia, Washington 98504-7014.

The Property has a total approved appraised value of \$5,938,000. The total match value from the Property to be recognized in this Notice of Grant Agreement is \$5,938,000. The Projects each derive a match value percentage proportionate to the Property's total approved appraised value as follows:

- 29.724% (\$1,765,000) for E-32-HL-1 (Ashford Spotted Owl--Phase I/Pope Resources);
- 55.189% (\$3,277,115) for E-32-HL-2 (Ashford Spotted Owl--Phase II/Allen Estate, Elk Haven B, and Hancock A (part));
- 10.770% (\$639,500) for E-31-HL-1 (Little White Salmon Corridor—Phase I/St. Milly's); and



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Lewis Co, WA

- 4.318% (\$256,385) for E-10-HL-3 (Squire Creek Forest/Elk Haven A).

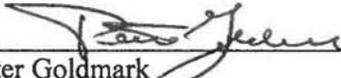
This Notice of Grant Agreement incorporates, supersedes, and replaces that previous Notice of Grant Agreement recorded September 12, 2008 under Auditor's File Number 3313370.

The State hereby agrees to manage its interest in the Property in perpetuity pursuant to the terms of the Grants including the obligation to ensure the permanent conservation of the Property and to obtain the consent of the U.S. Fish and Wildlife Service prior to the conveyance of any interest in the Property. The State acknowledges that the Property is provided as match for the purpose of protecting in perpetuity habitat for threatened or endangered species covered under the Grants. The State shall not dispose of or encumber the Property. In the event the Property is no longer necessary for the purposes of the Grants, the State will request disposition instructions from the Service, which will be provided in accordance with 43 CFR§12.71(c).

In witness whereof the State has set its hand and seal this 12th day of August, 2009.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated: 8/2/09

By: 
Peter Goldmark
Commissioner of Public Lands



Affix the Seal of the Commissioner of Public Lands

APPROVED AS TO FORM ONLY
This 3 day of August, 2009.
Rob McKenna, Attorney General

By 
Assistant Attorney General



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Lewis Co, WA

EXHIBIT A

**STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES**

TRUST LAND TRANSFER 02-077933

Tahoma Forest South

That portion of Section 32, Township 14 North, Range 6 East, Willamette Meridian, Lewis County, Washington, more particularly described as follows;

Beginning at the SE corner of said Section 32, with all features identified herein as scaled from the USGS Anderson Lake Quadrangle Map, Provisional Edition 1987, Minor Revision 1993; Thence northerly along the east line of said Section 32 to the E1/4 corner thereof; Thence westerly along the north line of said SE1/4 to the SE corner of the S1/2 of the SE1/4 of the SW1/4 of the NE1/4 of said Section 32; Thence northerly along the east line of said S1/2 to the NE corner thereof; Thence westerly along the north line of said S1/2 to the NW corner thereof; Thence southwesterly to the center 1/4 corner of said Section 32; Thence southerly along the west line of the SE1/4 of said Section 32 to the NE corner of the SE1/4 of the NE1/4 of the SW1/4 of said Section 32; Thence southwesterly to the SW corner of the SE1/4 of the NE1/4 of the SW1/4 of said Section 32; Thence southerly along the east line of the W1/2 of the SE1/4 of the SW1/4 of said Section 32 a distance of 600 feet, more or less, to the center of Ruby Creek; Thence southeasterly along the center of said Ruby Creek to the west line of the SE1/4 of said Section 32; Thence southerly along said west line to the S1/4 corner of said Section 32; Thence easterly along the south line of the SE1/4 of said Section 32 to the Point of Beginning,

Also together with that portion of the NW1/4 of Section 4, Township 13 North, Range 6 East, Willamette Meridian, Lewis County, Washington, more particularly described as follows;

Beginning at the N1/4 corner of said Section 4, and considering the north line of the NW1/4 of said Section 4 to bear N90°00'00"E, with all bearings contained herein relative thereto; Thence southerly along the east line of the NW1/4 of said Section 4 a distance of 1200 feet; Thence S79°W a distance of 300 feet; Thence N79°W a distance of 600 feet; Thence S61°W a distance of 1000 feet; Thence S 76°W to the west line of the NW1/4 of said Section 4; Thence northerly along said west line a distance of 250 feet, more or less, to a point lying 30 feet southerly from the center of an existing roadway, said 30 feet as measured perpendicularly from said road center; Thence northeasterly parallel with, and 30 feet southerly and easterly as measured perpendicularly from, the center of said existing roadway to the north line of the NW1/4 of said Section 4; Thence easterly along said north line to the Point of Beginning.

Dennis J. Gelvin, PLS 21674
Land Description & R/W Specialist
State Land Survey Unit
PO Box 47060
Olympia, WA 98504-7060



Dated: 3-14-06

Guidance on Land as Match for Federal Assistance Grants

Introduction

States are making frequent inquiries to Federal Assistance (FA) as to whether the value of lands acquired with non-Federal funds can be used as match for FA grants. Historically, FA has approved the market value of land to be used as match primarily for land acquisition, facilities acquisition and construction activities provided the match land is necessary and reasonable to accomplish the project objectives. As new grant programs get underway and non-Federal matching funds becomes more difficult to find, States are increasingly looking for new sources of funds to meet cost sharing requirements for a wide range of activities. This guidance is intended to describe a consistent process grounded in relevant Federal regulations and program guidance for use by States and FA staff to evaluate when land is an allowable source of match and how to value the use of this land as match in FA grants.

Approach

States and FA staff should take a two step approach to determining when land is an allowable source of match and how to value this land:

- First, determine whether the land is a necessary and reasonable cost for the grant. (Could the project be accomplished without fee title, easement or other control over the land?)
- Second, refer to 43 CFR 12.64 to determine how to properly value land used as match.

Necessary and Reasonable

The following regulations give particular guidance as to the definition and intent of the “necessary and reasonable” standard:

- 2 CFR Part 225, Appendix A Section (C)(1)(a): To be allowable under a Federal award, all costs must be *necessary and reasonable* for proper and efficient performance and administration of Federal awards.
- 2 CFR Part 225, Appendix A Section (C)(2): Reasonable costs are further defined as: “a cost is reasonable if, in its nature and amount, *it does not exceed that which would be incurred by a prudent person* under the circumstances prevailing at the time the decision was made to incur the cost.”
- 2 CFR Part 225, Appendix A Section (C)(2)(a): When determining reasonable costs, further consideration shall be given to: “whether the cost is of a type generally recognized as *ordinary and necessary* for the operation of the governmental unit or the performance of the Federal award.”
- The FA Handbook (522 FW1.11(A)(1)) further clarifies that costs must be “necessary and reasonable and allocable to the work covered by the Grant Agreement.”
- Section II.C. in Appendix 1. Guidelines for In-Kind Contributions referenced in the FA Handbook 1.13 further clarifies that “real property such as land or buildings, is an allowable in-kind contribution if it meets the test of necessary and reasonable for the planned project objectives.” The guidelines provide the following examples to assess whether the land is necessary and reasonable to meet planned project objectives (underlining added for emphasis):

- “A site specific-acquisition project may use the value of donated land within the defined project area if it is suitable to the purpose for which the land is acquired”
- “An acquisition project which has objectives based on specific habitat types by location in the State may use donated land which meets the plan.”
- “For a construction project, only the amount of land required may be counted for in-kind matching purposes. A test would be to consider the amount of land which would have been purchased for the specific construction.”

The underlined portions of these examples indicate that land should only be used as match within limits, and that the land used as match must be related (by location or habitat) to the land being acquired. The emphasis is at the project objective, not broad goals at the grant level.

Acquisition grants can be written in various ways in order to address individual State needs and eligible purposes. The need, as described in grant documents, must meet an eligible purpose under the grant program and be written at a level of detail where the objectives logically follow and, when accomplished, produce the desired results and benefits. Eligible purposes for land acquisition can be described in terms of habitat types, providing public access, protection of land for a particular species, facility construction, and to acquire land within a specific boundary. Land acquired with grant funds must meet the objective of that grant. Likewise, land used as match must meet the grant objective, fall within the scope of the grant, and provide the intended use and benefits.

Based on these regulations and guidance, States and FA staff can ask themselves the following questions when assessing whether a proposed use of land as match is a necessary and reasonable cost:

- Is the land necessary to achieve the grant/project objectives? Does the State need to own the land, or have control over it through a real property interest, in order to achieve the grant/project objective? Do the grant objectives support the acquisition or lease of land, regardless of whether it is to be cost-shared or used as match?
For example, if the objective is to complete surveys of at-risk species on a State Wildlife Management Area, does the State need to have control of the land through a real property interest (lease, fee, or easement) in order to complete the survey? Or, does the State conduct similar surveys on non-State land by simply obtaining permission from landowners?
- Is the cost of the land a reasonable charge to the grant/project? Under ordinary circumstances, would a prudent person (i.e. the State or other organization with similar mission) incur the cost of the land to ensure that the objectives of the grant/project could be met?
For example, does the State or the conservation organization under ordinary circumstances use its own funds to purchase land in fee, or an easement or a lease to conduct a short-term research project? Or would the State or other organization normally simply seek permission to access the land to conduct research without a formal lease or acquisition?
- Is the cost of the land generally recognized by the State as a cost that is ordinary and necessary to achieve the grant/project objective?
For example, does the State or other conservation organization ordinarily purchase land in fee or enter into a lease to ensure that restoration can take place to benefit several species of greatest conservation concern? Or, does the State or other conservation organizations ordinarily conduct restoration on lands they don't own or control by simply entering into some sort of an agreement or understanding with landowners?

All these questions require that grant objectives be written at a reasonable level of detail. Broad and generically written objectives (for example, "to implement the wildlife action plan") will not allow the grant reviewer to answer these questions in a reasonable manner. Any proposals submitted to FA must have discrete, specific objectives that allow the above questions to be answered. These objectives can either be at the grant or project level. If a grant objective is too vague and broad, the above questions should be applied to the project objectives.

Valuation of Land as Match

If it's determined that the land is necessary and reasonable to complete the grant/project objectives, then the provisions of 43 CFR 12.64 and the FA Handbook are used to determine what costs associated with the land are eligible for inclusion in the grant.

Land donated by a Third Party

*43 CFR 12.64 (e): Valuation of third party donated equipment, buildings, and land. If a third party donates equipment, buildings, or land, **and title passes to a grantee or subgrantee**, the treatment of the donated property will depend upon the purpose of the grant or subgrant, as follows:*

(1) Awards for capital expenditures. If the purpose of the grant or subgrant is to assist the grantee or subgrantee in the acquisition of property, the market value of that property at the time of donation may be counted as cost sharing or matching,

(2) Other awards. If assisting in the acquisition of property is not the purpose of the grant or subgrant, paragraphs (e)(2) (i) and (ii) of this section apply:

(i) If approval is obtained from the awarding agency, the market value at the time of donation of the donated equipment or buildings and the fair rental rate of the donated land may be counted as cost sharing or matching. In the case of a subgrant, the terms of the grant agreement may require that the approval be obtained from the Federal agency as well as the grantee. In all cases, the approval may be given only if a purchase of the equipment or rental of the land would be approved as an allowable direct cost. If any part of the donated property was acquired with Federal funds, only the non-Federal share of the property may be counted as cost-sharing or matching.

(ii) If approval is not obtained under paragraph (e)(2)(i) of this section, no amount may be counted for donated land, and only depreciation or use allowances may be counted for donated equipment and buildings.....

Implicit in this regulation is a requirement that a third party cannot retain title of the property if the market value of the land is being pledged as match. Rather, title to the property must be passed to either the grantee or a subgrantee.

Land donated by a Grantee or Subgrantee for Land or Facilities Acquisition or Construction

43 CFR 12.64(f): If a grantee or subgrantee donates real property for a construction or facilities acquisition project, the current market value of that property may be counted as cost sharing or matching. If any part of the donated property was acquired with Federal funds, only the non-Federal share of the property may be counted as cost sharing or matching.

FA Handbook 522 FW1.13(C): If the grantee donates real property for a construction or facilities acquisition project, the value of the real property is the current market value at the time of the donation.

Land donated by a Grantee or Subgrantee for Other Activities

43 CFR 12.64 is silent on how to value land donated by a grantee or subgrantee and deemed necessary and reasonable as match for anything besides construction, land acquisition, or facilities acquisition. After review and opinion dated September 5, 2007 of a Department of Interior solicitor, FA is unable to imagine a situation in which a grantee or subgrantee has real property under its control and must "rent" it from itself in order to achieve a grant/project objective.

If the objective of the grant/project is not acquisition or construction, but ownership of the land by the grantee or subgrantee is both necessary and reasonable to achieve the grant/project objective, then the market value of that land may be used as match. If ownership of the land by a grantee or subgrantee is not necessary or reasonable to achieve the grant/project objective, then no value associated with that land may be used as match.

Definition of Construction

The term construction though referred to frequently in 43 CFR 12.64 and the FA Handbook is not defined in regulations or guidance for FA programs. The following definition of construction has been developed based on definitions used for other grant programs and the historic use of the term in the FA program:

Construction activities are those activities that produce new capital improvements or new habitat conditions or restore pre-existing habitat conditions or restore capital improvements at the end of their useful life, and thus increase the value or usefulness of a property in a manner consistent with the grant objectives. Examples include, but are not limited to new buildings, new fences, constructing new dams or dikes, creating forest or woodland openings, and creating or restoring wetlands, riparian areas, grasslands or other habitats, and land acquisition. Activities involving the routine upkeep of existing capital improvements or habitat conditions are not considered construction.

A Note on Grant Program Specific Provisions

This guidance describes and explains the provisions of 43 CFR Part 12 and the FA Handbook and how they relate to the issue of using land as match. Specific program rules for some FA programs have been promulgated (Sport Fish Restoration, Wildlife Restoration, National Coastal Wetland Conservation Grants, etc). Some of these program rules may provide additional guidance on the eligibility, use and requirements for land as match and should be followed accordingly.

Methodology for Establishment of Just Compensation

Project:

Tchoutacabouffa River Nature Trail

CIAP MS.R.701 – Mississippi Coastal Impact Assistance Program – US Department of Interior, US Fish and Wildlife Service

Reasons for Acquisition:

The goal of the project is to acquire 30 acres of riverfront property on the upper Tchoutacabouffa River to create a nature area that will enhance the public's opportunity for access, use and enjoyment of this unique riverine ecosystem for recreational, educational and conservation purposes.

Property:

Flickner Parcel – the 0.0717 acre site is a vacant unimproved wedge-shaped parcel with a thick undergrowth and mostly small pine trees. The area floods 2-3 times a year. The soil type is predominantly hydric soil. See attached map for an aerial overview of the property.

Basis for Not Obtaining an Appraisal:

Due to the small acreage of the property to be acquired, the cost of an appraisal would be equal to or exceed the actual cost of the acquisition in some cases. The average cost of an appraisal and review appraisal would be \$2,500.00 to \$3,500.00 each. The acreage for this parcel is 0.0717 acres and the estimated acquisition cost is low.

Establishment of Just Compensation Methodology:

I have reviewed the Harrison County Tax Assessor's values as well as comparable sales included in appraisal reports performed by qualified appraisers that the City of D'Iberville obtained from another acquisition within the Tchoutacabouffa Nature Park area within the last two years. Recent sales that have occurred within the Tchoutacabouffa Nature Park area on the Island range from \$1,400.00 - \$1,800.00 per acre; these sales were for vacant land in close proximity to the subject parcels which were zoned R1 and had no improvements. The County Tax Assessor's values for the property in the Tchoutacabouffa Nature Park area were reevaluated in 2012 and are up for reappraisal in 2014. Average land evaluation, according to the Tax Assessor for the proposed parcel, is \$575.00 per acre. Using the two values obtained from the Tax Assessor for anything under 1 acre and the recent appraisal values, a value of \$0.22 per square foot was established as the starting point for negotiation.

Due to the nature of the Tchoutacabouffa Nature Park area and the primary zoning classification of R1, the median value of \$0.22 per square foot or \$9,583.00 per acre will be used.

Based on this information, I propose a value of \$687.50. A range for the offer could be \$700.00 - \$1,500.00.

Qualifications of Report Preparer:

Judy Steckler was hired as Executive Director of Land Trust for the Mississippi Coastal Plain (LTMCP) in 2000 and has continued in that position to date. One of the many responsibilities of this position is the acquisition of land, the vast majority of which is located in low lying areas similar to the ones being considered. Duties involved with land acquisition include hiring appraisers and learning the applicable rules, laws, standards, practices, grant requirements, and regulations with that process. Additional duties include a review of appraisals using the USPAP (Uniform Standards for Professional Appraisal Practice) and UASFLA (Uniform Appraisal Standards for Federal Land Acquisition) checklists to determine if requirements have been met. During her tenure, LTMCP has accepted donations and purchased 61 parcels of land.

Prior to being Executive Director for LTMCP, Judy worked in a law firm for 15 years and was in charge of title research and loan closings during which time she gained experience and knowledge of local community real estate categories, zoning, and other factors that affect values such as waterfront properties and wetlands.

Valuation Worksheet:

Owner Name	Parcel Size (acre)	Parcel Size (sqft)	Price per Square Foot	Proposed Purchase Price	Offer Range
Flickner	.0717	3,125	\$0.22	\$687.50	\$700 - \$1,500





Work with your tablemates and review the sources listed below to answer the following questions.

- Handout #5-1 “**Project Narrative SWG Conservation Easement: Harmony Road Wetlands – Cattail Property**” in Tab #12
- Handout #5-4 “**Appraisal Review Report**” in the sample grant application package in Tab #12
- Lands Chapters Part 520 chapter 7 and 8
- Toolkit: 49 CFR 24.101, 102, 103 and 2 CFR 225 appendix A, 50 CFR 80.131

1. Was the method used to determine the value of the real property interest in the sample grant an acceptable valuation method for the WSFR program? Does the sample provided meet all the criteria for this valuation method?

Appraisal valuation method is acceptable for WSFR Did a certified general appraiser perform the appraisal? Did appraiser use Standards of Professional Appraisal Practice (USPAP) or use the Uniform Appraisal Standards for conditions in Federal Land Acquisition (yellow book)? **49 CFR 24 and SM part 520 7.16** Did the appraisal develop an opinion of value of the real property in an appraisal report?.Did a review appraiser examine the market analysis and support the appraiser’s process as adequate to determine opinion of value?

2. Billy and Betty Cattail insist the value of the conservation easement exceeds the offer of just compensation therefore, purchase negotiations are failing. Is there a method of valuation that will allow acquisition at a price higher than established by just compensation using WSFR funds?

Administrative Settlement method is permitted when reasonable efforts fail to negotiate an agreement of purchase price as determined by the offer of just compensation. The WSFR Region Chief must approve the settlement beforehand as being reasonable, prudent and in the public interest.
520 chapter 7.9 D

3. The State of Grace Department of Inland Fisheries and Wildlife has an open WSFR land acquisition grant for pre-approved acquisitions in an established focus area that includes Harmony Roads Wetlands. The state agency purchased a 300 acre parcel at public auction that is adjacent to the Cattail property and within the focus area. Is sale through public auction eligible for WSFR funding?

Value paid at public auction is accepted as long as WSFR receives assurances that it conforms to the requirements of 49 CFR 24.101(b) also widely advertised, open for inspection, **See 520 Chapter 7.9 C**

4. A small 5 acre parcel next to Harmony Roads Wetlands is for sale and has an estimated value in the range of \$21,000 to \$25,000. The State of Grace Department of Inland Fisheries and Wildlife wants to purchase the property and apply the Waiver Valuation Method to determine market value. Is the Waiver Valuation Method allowed to be used for this property? Any special requirements?

Yes....but WSFR must approve the grantee's determination that the valuation is uncomplicated and the estimated value does not exceed \$25,000 if using Simplified process \$10,000 or less if using Basic process or up to \$25,000 if buyer offers owner the option of having the property appraised.

Part 520 7.36 B (pages 24-25) rules= 49CFR 24.102 2 A,B,C

5. Can the State of Grace use land donated by the Friends of Harmony Wetlands as match for the conservation easement acquisition?

WSFR may approve the market value of land to be used as match primarily for real property acquisition, facilities acquisition and construction activities provided the land is necessary and reasonable to accomplish the project objectives.

(2 CFR Part 225, Appendix A) 520 chapter 8.18 and 8.22

If third party donates land, title must pass to the grantee or subgrantee. If the purpose of the grant or subgrant is to assist the grantee or subgrantee in the acquisition of property, the market value of that property at the time of donation may be counted as cost sharing or matching.

6. The State of Grace Department of Inland Fisheries will concurrently hold an interest in the conservation easement with the Friends of Harmony Wetlands. Is this allowable?

Yes..more than one entity (grantee and sub-grantee) may hold a non-ownership interest in the WR, SFR, SWG and Cooperative Endangered Species programs. **50 CFR 80.131.**

Also see **Part 520 7.3 A 2** a grantee or subgrantee may hold an easement concurrently with the state fish and wildlife agency

TAB 9

Objectives:

1. Recognize the grantee responsibilities for managing, monitoring and inventory control of real property acquired or used as match through WSFR grant programs
2. Recognize the grantee responsibilities for managing and monitoring conservation easements acquired through WSFR grant programs
3. Cite the restrictions that apply to the type of activities that can take place on real property acquired with WSFR funds or contributed as match for a WSFR grant
4. Identify the grantee responsibilities when real property is used for activities that interfere with the purpose for which acquired
5. Specify the record keeping and inventory requirements for real property acquired with WSFR grant funds
6. Describe the desired functions of a Land Inventory Records System for real property acquired with WSFR grant funds
7. List the essential information fields of a Land Inventory Records System for real property acquired with WSFR grant funds
8. Reconciling grantee land records with WSFR records for an OIG Audit

Managing and Monitoring Real Property

During the open grant period the grantee must monitor the grant and sub-grant supported activities to assure compliance with all applicable Federal, State and local requirements. Additionally, the grantee must comply with any conditional statements specified in the award letter.

After the grant period the grantee or subgrantee has several post-grant responsibilities relating to real property acquisition grants:

- A monitoring plan must be in place for the period after the acquisition
- The real property must continue to serve the purpose for which it was acquired, either in perpetuity or for the length of the legal agreement
- Any commercial or recreational activities that interfere with this purpose must not be occurring on the property
- The objectives of the grant or cooperative agreement are achieved

The grantee should establish a Real Property Monitoring System. The cornerstone of a good monitoring program is a strong land inventory system and informed leadership and staff. The information the system contains assists the State in performing its compliance monitoring.

Suggested Elements of Monitoring Compliance for Real Property

- Monitor Land Use for:
 - Allowable Recreational Activities
 - Allowable Commercial Activities
 - Interference
-
-
-

Managing and Monitoring Real Property

- Control....what mechanisms will you use to maintain:
 - Ownership?
 - Management Control ?

A grantee or subgrantee may not allow an activity or facility that would interfere with the fulfillment of the grant objectives. Interfere means that activities impede, hinder or obstruct the achievement of grant objectives in any manner (50 CFR 80.135)

Real property disposal is not program income, but is treated in the same manner

- Income....how will you apply it?
 - Proper accounting and disposal of income
 - Disposal of Income from Sale or Transfer of Real Property Rights with:
 - A Federal Interest
 - A License Fee Interest
 - Neither Federal or License fee interest (unrestricted funds)

Real Property Acquired with Federal Funds (43 CFR 12.71)

Disposal of real property acquired with federal funds requires prior approval from the Regional Director, even if the grant is closed. Even though disposal of real property is not considered Program Income, proceeds from the sale of real property may be returned to WSFR using either the deductive or additive program income disposal methods. Grant terms and Regional Office will prescribe additional requirements.



Exercise: Managing and Monitoring Real Property

Using the toolkit, review Service Manual Part 522 FW 20, 21 and 22 to answer the questions below.

1. A field trial club conducts field trials on a WMA during hunting seasons and has exclusive use during field trials to a barn and bunk facility on the area which were constructed and maintained with State license fees and a Wildlife Restoration operation and maintenance grant. The original management purpose of the land was for grassland habitat for pheasant and quail hunting. At the club's request, the State Fish and Game mows 46 inch checker board lanes in 40 acres of grassland habitat. Does the State have a compliance issue(s)? If so, please detail the issues and what steps may be taken to bring the State back into compliance. What additional concerns did you identify that may require more investigation?

A field trials may be permitted as an allowable recreational use, but may not interfere with primary mgmt purpose. The State fish & wildlife agency must determine if the field trails interfere with the purpose for which the property was acquired, developed or is managed. (522 FW 21.5 & 22.6) It is clear that the activities above do interfere. The field trails must be halted. The mowing is in direct conflict with acquisition and mgmt. purpose of the prop.

2. A oil and gas company has approached your agency with a request to gain access to a State WMA that was acquired with WSFR funds and matched with state license revenue. The oil and gas company plans to extract their assets that lie below the surface of the WMA. The oil and gas company had purchased the mineral rights long before the state wildlife agency acquired the parcel. Can you allow the activity? Would the revenue generated from the extracted oil and gas be program income?

The state must provide surface access to an owner of subsurface assets. Laws vary from state to state but in many states subsurface rights outweigh surface rights. The state should develop an MOA on best practices for extraction operations with the objective to minimize interference with the purposes of the acquired property Revenue is not Program Income as the revenue is not received by grantee or subgrantee nor is it a direct result of a grant related activity. Mineral extraction is not an eligible WSFR activity nor is an activity with the sole purpose to produce revenue. (522 FW 22)

Lands Inventory and Record Keeping

- WSFR must keep all records related to real property acquired or contributed as match on file
- Real property records include electronic databases
- WSFR must maintain all real property records in perpetuity
- States must maintain management control of real property acquired or constructed with WSFR funds and ensure that acquisition/construction purpose continues to be met
- Title to real property acquired under a grant or subgrant will vest in the grantee or subgrantee upon acquisition, will not be encumbered, and will be used for the originally authorized purpose
- The grantee or subgrantee is responsible for maintenance of project records
- The grantee or subgrantee is responsible for the accountability and control of all assets to assure that they serve the purpose for which acquired throughout their useful life
- The grantee or subgrantee shall maintain current and complete financial, property and procurement records in accordance with requirements contained in the Service Manual
- Grantee land records may be reconciled with WSFR land records in association with Office of Inspector General (OIG) Audits

It is the responsibility of the grantee to maintain a real property management system which includes a comprehensive inventory of lands

	Real Property Inventory and Record Keeping
CFR	43 CFR 12.82

General WSFR Standards

- System information should be easily accessible in a timely manner. Ideally a Land Record Keeping System would be in an electronic, searchable format (Excel, Access, and Oracle) with a spatially-explicit mapping component
- If a State Fish and Wildlife Agency land records are integrated within a larger, statewide database of real property holdings, the State should ensure that properties purchased with WSFR funds are clearly identified and note that there are legal constraints for use, management and disposal
- This guidance does not exempt States from following Federal regulations regarding record keeping requirements for real property (e.g. 50 CFR 80.19; 43 CFR 12.82)

Best Practices for Strong Internal Controls

- Develop a Comprehensive Property Management System. In addition to the information from a Land Inventory Records System described above, the following elements and processes would be included in a comprehensive system
- Land Inventory Records System should be audited at reasonable intervals. All real property identified in the Land Inventory Records System should be physically verified at reasonable intervals to ensure management control and that the property is serving its intended purpose and is being properly maintained
- A checklist of items to inspect and information to collect during the physical verification should be developed and used

Notes:



Exercise: Reviewing the CE Management and Monitoring Plan

Use the State of Grace exercise handout for module #9 provided in your workbook to complete an exercise on managing and monitoring real property interests acquired with WSFR funds.

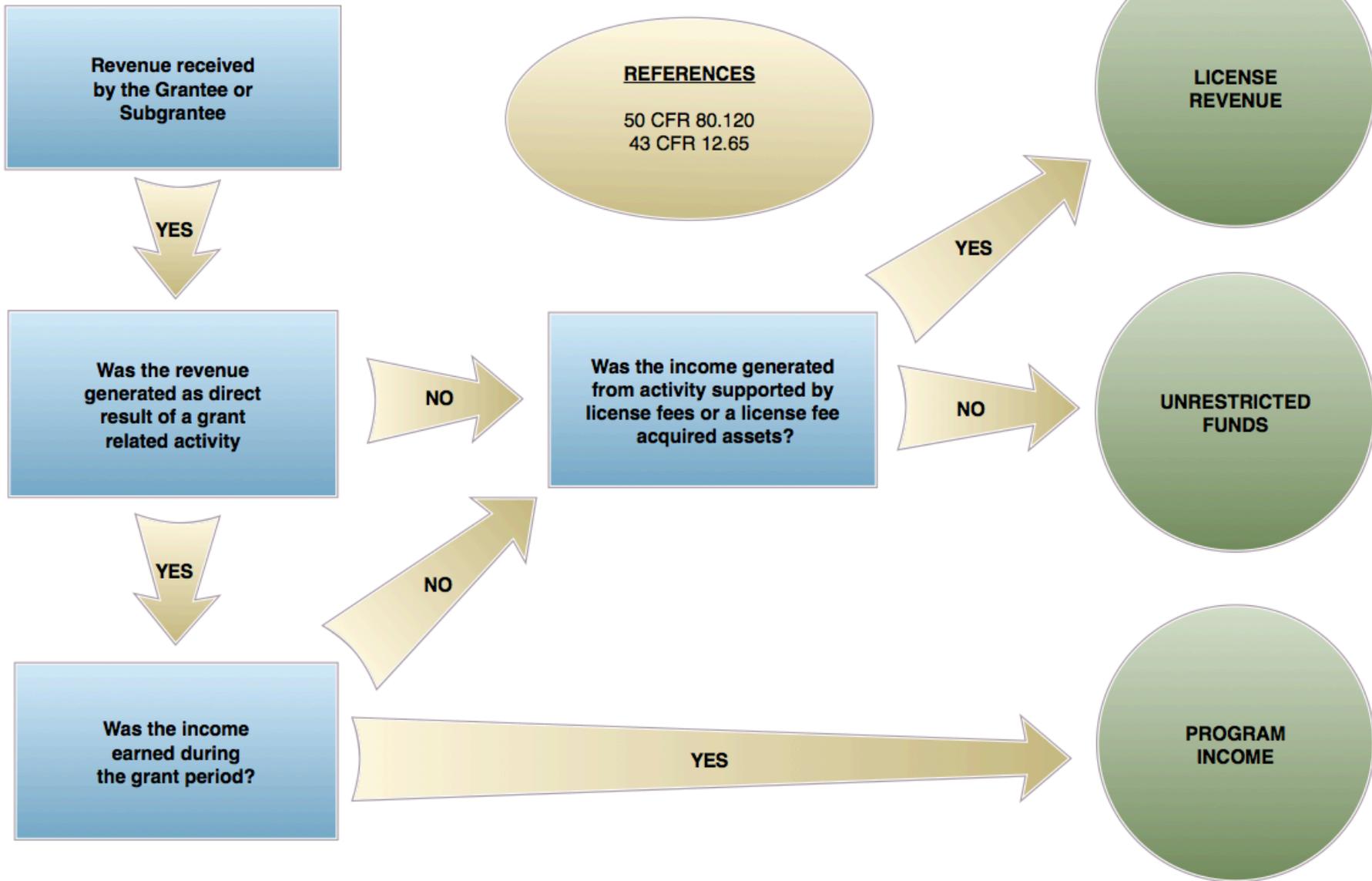


Learning Points

- ✓ Real property acquired or conservation easements established with a WSFR grant must continue to serve the purpose for which acquired. In the case of the conservation easement, it would be for the length of the easement
- ✓ Secondary recreational activities are allowable to the extent they do not interfere with the primary purpose of the grant
- ✓ Commercial activities are allowable to the extent they do not interfere with the primary purpose of the grant
- ✓ The State must maintain management control and ownership of property acquired with WSFR funding or license fees
- ✓ Income received by a grantee or subgrantee, during an open grant period, as a directed result of a grant related activity is program income
- ✓ Mitigation banks are not allowed on property acquired with WSFR funding, if it results in a net loss of habitat
- ✓ The grantee or subgrantee is responsible for maintenance of project records
- ✓ It is the responsibility of the grantee to maintain a Real Property Management System which includes a comprehensive inventory of lands
- ✓ There are general standards, required elements and recommended elements for a Land Inventory Records System for Real Property Acquired with WSFR funds
- ✓ The grantee or subgrantee shall maintain current and complete financial, property and procurement records in accordance with requirements contained in the Service Manual and OMB Circular A-102
- ✓ OIG Audits require comprehensive inventory of acquired lands and lands used as match

**Income Determination
Wildlife and Sport Fish Restoration Programs**

9-1



Real Property - Proceeds from the disposal of real property are not program income. Proceeds from the disposal of real property must be returned to the applicable program. Consult the FWS Regional Office for instructions. The disposal of real property requires prior approval from the FWS. (50 CFR 80.137)

Barter Transactions - The exchange of goods or services for other goods or services without the use of cash. Barter transactions are to handled in accordance with 50 CFR 80.98.

Governmental Revenues - Taxes, special assessments, levies, fines, and other such revenues raised by a grantee or subgrantee are not program income unless the revenues are specifically identified in the grant agreement or Federal agency regulations as program income. (43 CFR 12.65)

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Exhibit 6-IV-1. Director's Memo Regarding Real Property Management System



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240



In Reply Refer To:
FWS/AWSR-FA: 030301

MAR 29 2007

To: State Fish and Wildlife Agencies
Secretary, Department of Natural Resources of the Commonwealth of Puerto Rico
Governor of Guam
Governor of the U.S. Virgin Islands
Governor of American Samoa
Governor of the Commonwealth of the Northern Mariana Islands
Mayor of the District of Columbia

PURPOSE

The purpose of this letter is to ensure that your agency is maintaining a complete inventory of lands acquired with:

- (a) Federal financial assistance or non-Federal cost-share under programs administered by the U.S. Fish and Wildlife Service's Divisions of Federal Assistance (FA), or
- (b) State hunting and fishing license revenue.

In asking you to do this, I am following up on a recommendation made by the Joint Federal/State Task Force on FA Policy (JTF) in November 2006.

LANDS ACQUIRED THROUGH FEDERAL ASSISTANCE PROGRAMS

State fish and wildlife agencies have acquired almost 5 million acres of habitat with funds authorized by the Pittman-Robertson Wildlife Restoration Act in 1937 and the Dingell-Johnson Sport Fish Restoration Act in 1950. States have acquired an additional 300,000 acres under more recently established FA-administered grant programs. These lands are unquestionably among the most valuable assets owned by these agencies. They not only provide important fish and wildlife habitat and diverse recreational opportunities, but they are also economic assets that have significantly increased in value since acquisition.

The FA-administered grant programs through which a State may have acquired lands or less-than full-fee-interests in lands are below with their Catalog of Federal Domestic Assistance numbers:

- 15.605 Sport Fish Restoration
- 15.611 Wildlife Restoration
- 15.614 Coastal Wetlands Planning, Protection, and Restoration Act [National Coastal Wetlands Conservation grant program]
- 15.615 Cooperative Endangered Species Conservation Fund [Endangered Species Act, Sec.6]
- 15.616 Clean Vessel Act

TAKE PRIDE
IN AMERICA 

- 15.622 Sportfishing and Boating Safety Act [Boating Infrastructure Grants]
- 15.626 Hunter Education and Safety
- 15.633 Landowner Incentive
- 15.634 State Wildlife Grants

NEED

The lands purchased in these programs are a continuing legacy for both the Service and the States. It is crucial that together we ensure their use and management in accordance with approved acquisition objectives and program requirements.

Unfortunately, within the past few years, we have encountered situations where use and management of real property acquired under these grant programs has not conformed to the approved acquisition purposes or other requirements. We have also recently determined, in part through Inspector General audits, that real property management systems in some States do not sufficiently ensure management control of real property. Management control is a critical FA requirement.

REQUEST

The U.S. Fish and Wildlife Service and the JTF recognize that it is the responsibility of each State to maintain a real property management system that includes a comprehensive inventory of lands. Therefore, we are asking you to ensure that you have such an inventory and that it is accurate and complete. We are also asking you to assess whether your staff and management systems have the following knowledge or capabilities in compliance with regulations:

- Can your real property management system adequately determine the funding source of land under the jurisdiction of the fish and wildlife agency? [Title 50 of the Code of Federal Regulations, part 80.19 (50 CFR 80.19)]
- Are your field managers and realty staff aware that your agency must continue to use (a) FA-acquired land for its approved acquisition purpose [50 CFR 80.14(b)], and (b) land acquired with hunting and fishing license revenue for administration of the State fish and wildlife agency? [50 CFR 80.4]
- Do your field managers have a mechanism to identify such land under their supervision and are they implementing a monitoring process to inspect these lands regularly for compliance with FA requirements? [50 CFR 80.18(e)]
- Do your procedures for disposal of real property conform with FA requirements? [43 CFR 12.71]

If you are not in compliance, then you need to resolve these issues in order to avoid future adverse audit findings. The U.S. Fish and Wildlife Service's Regional FA Divisions are compiling and entering land data from all their land acquisition grant records into the Federal Aid Information Management System (FAIMS). Several Regions have completed this task while other Regions are still entering land data in FAIMS from their files.

In the spirit of cooperation and partnership in administering these important assets, we ask that you provide this information to the State's real property officer and to those persons in your agency who have responsibility for these matters. We appreciate your support of this effort.

This action will enable the States and the U. S. Fish and Wildlife Service to protect an invaluable network of lands stretching across the country and ensure that these lands continue to serve the purpose for which they were acquired. Please feel free to contact Rowan Gould, the Assistant Director for Wildlife and Sport Fish Restoration, at (202) 208-7337 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kenneth Starnes".

Acting DIRECTOR

Exhibit 6-IV-2:

**Information Requirements and Recommendations
For Land Inventory Records System
Based on WSFR Regulations**

Purpose:

To identify the required elements of a Land Inventory Records System that will enable a State Fish and Wildlife Agency to maintain management control over lands purchased with WSFR funds, including lands donated by the State Fish and Wildlife Agency or a third party used as match for an acquisition or development project.¹

Pertinent Regulations:

1. State fish and wildlife agencies must maintain management control of real property acquired or constructed with WSFR funds and ensure that acquisition/construction purpose continues to be met. (50 CFR 80.14)
2. Title to real property acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee, will not be encumbered and will be used for the originally authorized purposes. (43 CFR 12.71)
3. The State is responsible for maintenance of project records. (50 CFR 80.18(a)(2)).
4. The State is responsible for the accountability and control of all assets to assure that they serve the purpose for which acquired throughout their useful life. (50 CFR 80.18(c))
5. The State shall maintain current and complete financial, property and procurement records in accordance with requirements contained in the Service Manual and OMB Circular A-102. (50 CFR 80.19)

General Requirements for Land Inventory Records System for real property acquired with WSFR funds:

- System information must be easily accessible in a timely manner. Ideally a land record keeping system would be in an electronic, searchable format (Excel, Access, and Oracle) with a spatially-explicit mapping component. If an electronic system is not feasible, hard copies of inventory cards, ledgers, and relevant documents for each property should be maintained in an easily accessed location(s).
- If a State Fish and Wildlife Agency land records are integrated within a larger, statewide database of real property holdings, the State must ensure that properties purchased with WSFR funds are clearly identified and note that there are legal constraints for use, management and disposal.
- This guidance does not exempt States from following Federal regulations regarding record keeping requirements for real property (e.g. 50 CFR 80.19; 43 CFR 12.82)

Required Elements for Land Inventory Records System for real property acquired with WSFR funds:*Information Fields (electronic preferred):*

- Identification

¹ **The scope of this guidance is limited and in direct response to an audit finding regarding an insufficient inventory for lands purchased with funds from the Sport Fish Restoration and Wildlife Restoration Programs. To avoid future audit findings, WSFR strongly recommends that any inventory system should encompass (1) all lands purchased with federal funding administered by WSFR, (2) all lands purchased with hunting and fishing license revenue as defined by 50 CFR 80.4 and (3) all facilities constructed with federal funding administered by WSFR.**

- *Unit Name:* Current state-designated name of property (e.g. Montague Wildlife Management Area; State Game Land #165)
- *Grantor:* Name of seller (e.g. Michael Smith)
- Location
 - *Town in which property is located*
- Type of Interest (or Partial Interest) Acquired
 - *The estate or interest in land purchased.* (e.g. fee simple absolute; easement; lease; timber rights)
- Title Conveyance Information
 - *Deed Book and Page Number*
 - *Date Recorded:* The date (day, month, year) the deed was recorded in the town's (or county's) records (e.g. June 14, 2004)
 - *Location where deed recorded* (Town or County)
- *Federal Funding Source:* Identify whether Sport Fish Restoration and/or Wildlife Restoration funds were used to purchase property.
- *Federal Grant Agreement Number:* (e.g. W-64-L-2)
- *Total Acres Acquired in Specific Conveyance* (e.g. 35 acres)
- *Acquisition Objective/Purpose:* **as stated in** the original grant documentation (e.g.: The purpose of this acquisition is to protect 28 acres of forested habitat for the Delmarva fox squirrel).
- Lands Exchanged, Traded, Sold Information
 - *Grantee*
 - *Acres*
 - *Consideration, which is the recorded price for which a seller agrees to transfer real property as expressed in terms of cash or something of value*
 - *Date approved by USFWS*

Hard copies of the following documents must be on file, and easily accessible at the State agency's office:

- Full copy of the deed, easement, lease agreement, or other conveyance document
- Grant documentation: Application for Federal Assistance, project statement, and award letter.

Recommended Elements for Land Inventory Records System for Real Property Acquired with WSFR funds:

Recommended fields:

- Location information:
 - Street address
 - County
 - Universal Transverse Mercator Coordinates
 - Map of property in GIS database
- Historical information:
 - Previous names used for the property

- Description of previous management practices conducted on the property
- Additional information regarding funding source and amount:
 - Total purchase price
 - Amount of funds from each WSFR-administered grant program
 - Other Federal funds listed by source, such as Land and Water Conservation Fund or National Coastal Wetlands Conservation Grant program (e.g. Land and Water Conservation Fund; Coastal Wetlands Grant Program)
 - State license revenues
 - Other State funds
 - Grantee donations or third -party contributions listed by source
- Remarks/Comments: to record and/or track any pertinent information not addressed in other fields

It is recommended that hard copies of the title vesting information and maps be kept with the acquisition documents on file, and be easily accessible, at the State Agency office:

- Title Vesting Information:
 - Attorney General's opinion
 - Final title insurance policy
 - Title certificate
- Maps Related To Specific Conveyance
 - Survey
 - Plat map
 - Sketch plans

Additional recommendations regarding tracking, managing and monitoring land purchased and facilities constructed with Federal funding:

- WSFR encourages States agencies to develop a *Comprehensive Property Management System*. In addition to the information from a Land Inventory Records System described above, the following elements and processes would be included in a comprehensive system:
 - The Land Inventory Records System should be *audited* at reasonable intervals.
 - All real property identified in the Land Inventory Records System should be *physically verified* at reasonable intervals to ensure management control and that the property is serving its intended purpose and is being properly maintained. A checklist of items to inspect and information to collect during the physical verification should be developed and used.



Work with your tablemates and review the sources listed below to answer the following questions.

- Handout #5-5 “**Draft Conservation Easement**” in Tab #12
 - Handout #5-6 “**Draft Conservation Management Plan**” in Tab #12
1. Has a monitoring schedule been established to ensure lasting compliance with the terms of the easement and management plan? If yes, what is the monitoring schedule and where is it mentioned?

Yes. Sections C, E, and H of the Management. Plan have objectives for annual inspections by the Holder of the easement

2. Who is responsible for meeting the goals and objectives of the Management Plan for Harmony Road Wetlands?

The landowner and the easement Holder. See first paragraph of the Mgt. plan

3. Unauthorized use of motorized vehicles is occurring within the boundaries of the Ecologically Protected Areas of Harmony Roads Wetlands. Who is responsible for monitoring and enforcing the terms of the easement and what enforcement actions have been established to ensure compliance with the conservation easement for Harmony Road Wetlands?

11 B and 13J Only the Holder, the Third Party Holder and Grantor may bring an action to enforce this grant.

11.B.3. Holder has the right to enforce this Easement by proceedings at law and in equity, including without limitation the right to require the restoration of the Protected Property to a condition in compliance herewith and receive damages for irremediable harm due to violation hereof

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TAB 10

Objectives:

1. Identify reporting requirements
2. Explain the consequences of not meeting the reporting requirements
3. Recognize the need for and the required elements of a Notice of Federal Participation
4. Cite the information that must be included in a Summary of Land Costs and how it relates to the Federal Financial report

Reporting Requirements

Federal Financial Report (FFR)

- SF 425 Form
- Hard copy, electronic, scanned or faxed
- Signature of authorized representative (may be electronic)

Performance Report (the old way)

- No standard or printed form
- Required information
- Hard copy, electronic (scanned, faxed, email) with required information
- Must be received from grantee or authorized representative of grantee

Performance Reporting the TRACS Way

- Actions (approaches) are created any time after the post award phase
- Accomplishment reporting now occurs at the action level
- TRACS will generate a performance report bundle (PDF) that groups all actions by project and projects by WSFR grant
- Submit the performance report using the TRACS System

Reporting Requirements

Frequency

- Required at least annually for grants over one year (annual interim) and at end of grant period (final)
- Annual interim due 90 calendar days after the end of each 4 FULL Quarters based on fiscal quarters (March 31, June 30, September 30, December 31)
- Final report is due 90 calendar days after the grant ending date
- Extension may be requested for annual interim or final
 - Request must be in writing; letter, fax or email
 - Prior to original due date
 - Include justification, revised due date and type of report.
- If extension is approved
 - Issue extension in writing; letter, fax or email
 - Notification includes non-compliance sanctions that may be imposed
 - WSFR Program may approve one extension up to 90 days

WSFR may require reports quarterly or more frequently under certain conditions. This will be clearly stated in pre-award, award or post-award

The first performance report after a grantee acquires real property (or a license to use land) must confirm that the transfer of the real property (or license) is complete and legally valid, and include information to enable us to:

(a) Identify and monitor the real property to ensure that it is managed for the purposes of the grant, and

(b) Protect the Federal interest in the real property

If a final summary of land costs becomes available in a quarter other than the last quarter of the reporting period for an annual or final performance report, the grantee must submit it as a special report 30 days after the end of that quarter.

See SM Part 520 8.34 and 8.37 for additional interim reporting information

Financial Reports for Land Acquisition Grants

Interim and final reports for real property acquisitions (or contribution as match projects) must contain the following information.

- **Summary of Land Costs (may be submitted as financial report).** Furnish a schedule showing seller/buyer, type of interest (fee, easement, etc.), acreage, date acquired, appraised value and its effective date, purchase price, relocation costs, and other costs of acquisition for each tract. Other costs of acquisition (appraisal, negotiation, title search, land surveys, etc.) and may be shown as a lump sum. Include copy of closing statement.

Performance Reports for Land Acquisition Grants

- **Title Vesting Evidence:** For acquisition of long term real property interest such as fee title, permanent conservation easements, conservation easements greater than 10 years in length, and leases greater than 50 years in length.

Title-vesting evidence for each acquisition that demonstrates title to the property is vested with the grantee or subgrantee. The evidence must include the acreage or per unit measurement and a legal description which may refer to a deed or plat that is included with the certificate or policy. The following forms of title vesting evidence are acceptable:

1. A certificate by the State's Attorney General or designee
2. A **final** (not preliminary) title insurance policy
3. Final judgment in condemnation cases

As a best management practice, include state as additional insured on title insurance when subgrantee will hold title

- **Deed** (recorded copy) including a Notice of Federal Participation.
- **Survey** that includes a map and narrative signed by public land surveyor, if not provided with the grant application package (only if applicable)

	References
43 CFR 12	Uniform Admin Requirements to States
522 SM 1	Standards for Administration

Performance Reports for Land Acquisition Grants

For Acquisition of Conservation Easements: In addition to the items specified in the previous section, CEs require the following

- Final conservation easement, including all signatures
 - Final Management Plan (when required, see Chapter 6-III)
 - Final Baseline Documentation Report. Includes important conservation values protected by easement and the relevant conditions of the property for monitoring and enforcement of easement (may be in grant application)
 - Copy of recorded easement, lease, or document that includes the required Notice of Federal participation
-
-
-

- **For Acquisition of Grazing Permit:** The final signed agreement between the grantee and the land management agency controlling the grazing rights
-
-
-

- **For Acquisition of volumes of water:** The executed legal document as evidence of ownership of the water described in the Purchase Option
-
-
-

- **For Acquisition of water rights:** WSFR may require an Application for Water Rights, Application to Appropriate Water, or equivalent, or equivalent document, and additional documents¹, with the Performance Report
-
-
-

Depending on the nature and complexity of the project, WSFR may request additional documents.

<p>If the acquisition could not be acquired within the period specified, provide a statement of the problem, the actions to be taken to resolve the problem, and when it is anticipated that the acquisition will be completed.</p>

¹

Notice of Federal Participation

Real property acquired with WSFR funds (or used as in kind match) must document the federal participation in the transaction known as the *Notice of Federal Participation*, a publicly recorded statement indicating federal financial assistance (funds or match contribution) in a grantee or subgrantee real property acquisition. The NOFP is located in the conveyance deed, other conveyance documents, or in a separate recorded notice cross-referenced to the deed.

WSFR must ensure that the grantee includes all the following information in the Notice of Federal Participation:

- A.** The location of the real property with a reference to the deed or other recorded document that legally describes the property and the name of the owner or interest holder.
- B.** The grantee acquired the real property or received it as a matching in-kind contribution under:
 - A specific grant by name, number, effective date, and the name of the grantee (and subgrantee, if applicable), and
 - A specific grant program by its name and number in the Catalog of Federal Domestic Assistance.
- C** The U.S. DOI, Fish and Wildlife Service, WSFR program awarded the grant.
- D.** The purpose of the grant and the purpose of the real property acquisition project, if different from the grant's purpose.
- E.** The definition of *encumbrance* in 520 FW 6
- F.** The Service's share of the grant costs.
- G.** The grantee (and subgrantee, if applicable) ensures that the real property will be used for its originally authorized purpose as long as needed for that purpose.
- H.** The grantee (and subgrantee, if applicable) must not authorize or tolerate any activities on the real property that are incompatible with its originally authorized purpose. If such activities occur without the grantee's permission, the grantee must take immediate action to ensure that they cease
- I.** The grantee (and subgrantee, if applicable) will not dispose of or encumber the title or other interest without our approval.
- J.** There will be no discrimination during the useful life of the project.
- K.** The signature of chief executive of the grantee's agency or organization



Exercise: Review Reporting Requirements for WSFR Real Property Acquisitions

Use the State of Grace exercise handout for module #10 provided in your workbook to complete an exercise on WSFR real property acquisition reporting requirements.



Learning Points

- ✓ Financial and Performance reports are due 90 days after the grant period or annually, depending on award period
- ✓ Performance reports have specific information requirements
- ✓ There are negative consequences for not complying with reporting requirements
- ✓ All WSFR supported real property acquisitions must be publically recorded through a Notice of Federal Participation
- ✓ A summary of land costs, title vesting evidence and real property valuation documentation must be included in a performance report for WSFR supported real property acquisitions

Determining the Reporting Periods and Due Dates Reports

10-1

Funding Period Effective Date	Annual Interim Report End Effective Date	Annual Interim Report Due Dates
January 1	December 31	March 31
January 2- March 31	March 31	June 29
April 1	March 31	June 29
April 2- June 30	June 30	September 28
July 1	June 30	September 28
July 2- September 30	September 30	December 29
October 1	September 30	December 29
October 2 – December 31	December 31	March 31

Examples of Reporting Periods and Report Due Dates

Award Funding Period		Length of Award	First Annual Interim Reporting Period	First Annual Interim Report Due Date	Subsequent Annual Interim Reporting Periods	Subsequent Annual Interim Report Due Dates	Final Report Due Date
Award Start Date	Award End Date						
4/1/2009	3/31/2010	12 Months	Not Required	Not Required	Not Required	Not Required	6/29/2010
4/2/2009	6/30/2010	Almost 15 Months	Not Required	Not Required (See Note 1)	Not Required	Not Required	9/28/2010
4/1/2009	6/30/2010	15 Months	4/1/2009-3/31/2010	06/28/2010	Not Required	Not Required	9/28/2010 (See Note 2)
4/2/2009	9/30/2010	Almost 18 Months	4/2/2009-6/30/2010	9/28/2010	Not Required	Not Required	12/29/2010 (See Note 2)
4/2/2009	6/30/2011	Almost 27 Months	4/2/2009-6/30/2010	9/28/2010	Not Required	Not Required	9/28/2011
4/1/2009	9/30/2011	30 Months	4/1/2009-3/31/2010	6/28/2010	4/1/2010-3/31/2011	06/28/2011	12/29/2011
4/2/2009	9/30/2011	Almost 30 Months	4/2/2009-6/30/2010	9/28/2010	7/1/2010-6/30/2011	9/28/2011 (See Note 2)	12/29/2011 (See Note 2)

NOTES:

1 – An Annual Interim Report is not required until the award period contains 4 full quarters. In the example, the award start date of April 2nd prevents the 1st quarter from being a full quarter (short by 1 day).

2 - Grantees may submit the Final Report by the Annual Interim Report due date to avoid submitting both an Annual Interim and Final Report.

Final Performance Report

Date Generated: March 14, 2014

BMP_NH Blackwater Connector Land Acquisition

SAP/PO Number# SAMPLE1018

Mod Number- 0-BASE

Table of Contents

Grant Performance Snapshot

- Grant # SAMPLE1018 - BMP_NH Blackwater Connector Land Acquisition
 - Project Statement # 60046002 - BMP NH Blackwater Connector Land Acquisition

Appendix A: Grant Details

- Grant # SAMPLE1018 - BMP_NH Blackwater Connector Land Acquisition

Appendix B: Project Statement Details

- Project # 60046000 - BMP_Land Acquisition_ NH Blackwater Connector Project
 - Project Statement # 60046002 - BMP NH Blackwater Connector Land Acquisition

Appendix C: Project Details

- Project # 60046000 - BMP_Land Acquisition_ NH Blackwater Connector Project

Appendix D: Action Details

- Action # 60254451 - Acquired Blackwater Connector Property

Grant Performance Snapshot

Grant Snapshot #SAMPLE1018 - BMP_NH Blackwater Connector Land Acquisition

[View Grant Details] [top]

Grant SAP/PO Number SAMPLE1018
 Grant Mod Number 0-BASE
 Start Date May 1, 2010
 End Date June 30, 2011

Grant Funds Allocated to Actions

Action	Action Category	Est. WSFR Fed Cost	Est. WSFR Non-Fed Match	Est. Total Amount
Acquired Blackwater Connector Property	Land and Water Rights Acquisition and Protection	\$54,211	\$18,070	\$72,281
Totals		\$54,211	\$18,070	\$72,281

Project Statement Performance #60046002 - BMP NH Blackwater Connector Land Acquisition

[View Statement Details] [top]

Project Name BMP_Land Acquisition_ NH Blackwater Connector Project
 [View Project Details]

SMART Objectives - Purpose/Targets

Purpose/Target ID - Conserve species habitat

Purpose/Target Description Acquire 137 acres of early successional habitat to be managed as part of the NH DFG WMA
 Viability Status Increase
 Viability Status These special concern species are expected to increase with the

Justification protection and active management of these parcels of early successional forest land.

Indirectly Benefited Habitats

Habitat Name	Habitat Level	Parent Habitat
Montane	2	GRASSLAND(temperate, non-desert)

Indirectly Benefited Species

Scientific Name	Common Name	Status
Pipilo erythrophthalmus	Rufous-sided Towhee, Eastern Towhee	
Catharus fuscescens	Veery	
Bonasa umbellus	Ruffed Grouse	

Objectives

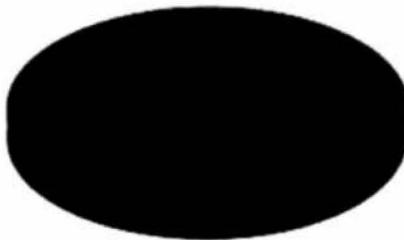
Objective ID - Objective #1

Objective Name Acquire 137 acres of early successional forest land
Objective Statement The NH DFG will acquire 137 acres of early successional forest lands in fee simple from the Nature Conservancy to add to the Knight's Wildlife Management Area.

Standard Indicators

Desired Future Value	Base Value	Output	Deadline
137	0	Acres	June 30, 2011

% of Desired Output Reported by Action



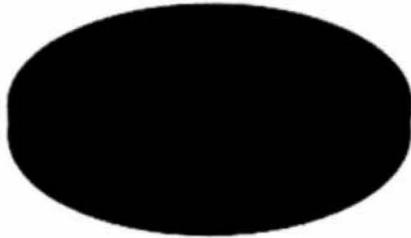
■ Action 60254451

Addressing Actions

Action # 60254451 - Acquired Blackwater Connector Property

[View Action Details]

% of Desired Output by Date



06/30/2011

Date Reported	Reported Value	Output	% of Desired Output
June 30, 2011	137	Acres	100%
Totals	137	Acres	100%

Appendix A: Grant Details

Grant Details #SAMPLE1018 - BMP_NH Blackwater Connector Land Acquisition

[top]

Grant SAP/PO Number SAMPLE1018
Grant Mod Number 0-BASE
Recipient State New Hampshire
Start Date May 1, 2010
End Date June 30, 2011

Grant Programs

Program	Est. WSFR Fed Cost	Est. WSFR Non-Fed Match
Wildlife Restoration Grants	\$54,211	\$18,070
Totals	\$54,211	\$18,070

Grantors U.S. Fish and Wildlife Service
Agency Grantees New Hampshire Fish and Game Department
Agency Sub-Grantees The Nature Conservancy

Appendix B: Project Statement Details

Project Snapshot #60046000 - BMP_Land Acquisition_NH Blackwater Connector Project

[View Project Details] [top]

Primary Agency New Hampshire Fish and Game Department
Start Date April 30, 2010
End Date June 29, 2011
Project Categories Conservation/Management

Project Statement Details #60046002 - BMP NH Blackwater Connector Land Acquisition

[top]

Properties

Is Revision? No
Grant Programs Wildlife Restoration Grants

Project Statement	Estimated WSFR Federal Cost:	\$54,211
Cost Breakdown	Estimated WSFR Non-Federal Match:	\$18,070
	Estimated Other Cost:	\$0
	Total Estimated Cost:	\$72,281

Cost Breakdown Graph



Need Statement

The NH DFG, the Nature Conservancy and the Ausbon-Sargent Land Preservation Trust have been cooperating for several years to protect important wildlife habitats in the Schoodac Brook Watershed. When this project is complete, more than 1,240 acres of private lands will be protected through conservation easements. This project will contribute an additional 137 acres that will be conserved and managed as part of the larger Wildlife Management Areas. These lands are necessary to provide early-successional habitat amongst an overwhelming number of acres of older growth forest land. These nearly denuded areas provide habitat to species which cannot use the old growth forests and are thus in serious decline. According to the recently published State of New Hampshire's Birds, "A disproportionate number of early successional species are in clear and persistent decline. Within the shrub-scrub and grassland habitat groups, ten times as many species are decreasing as increasing, a pattern repeated across much of the Northeast. The reasons for these declines are relatively clear, and involve a gradual reversion of open habitats to forest as a result of agricultural abandonment or altered natural disturbance regimes, as well as direct loss to development."

Approach

The NH DFG will acquire title to 137 acres from the Nature Conservancy for \$61,500 by June 30, 2011. The NH DFG will use \$46,125 in Wildlife Restoration funding toward the purchase and an additional amount toward other costs associated with the appraisal, survey and closing costs. These early-successional lands will be added to the Knight's Wildlife Management Area.

Expected Results

The protection of 137 acres of early successional lands will ensure permanent conservation and management of the subject parcels to protect and enhance its wildlife habitat values. Specifically, the proposed project will address these mutually supporting purposes: protection of the natural habitats and species; protection and conservation of open space; and protection of land for outdoor recreation and education. The protection of 137 acres of early successional lands will ensure permanent conservation and management of the subject parcels to protect and enhance its wildlife habitat values. Specifically, the proposed project will address these mutually supporting purposes: protection of the natural habitats and species; protection and conservation of open space; and protection of land for outdoor recreation and education.

General

NA

Useful Life

20-30 years without additional management. With management for early successional stages, in perpetuity.

Program Income

NA

Multipurpose Projects

NA

Relationship with Other Grants

NA

Timeline

NA

SMART Objectives - Purpose/Targets

Purpose/Target ID - Conserve species habitat

Purpose/Target Description	Acquire 137 acres of early successional habitat to be managed as part of the NH DFG WMA
Viability Status	Increase
Viability Status Justification	These special concern species are expected to increase with the protection and active management of these parcels of early successional forest land.

Indirectly Benefited Habitats

Habitat Name	Habitat Level	Parent Habitat
Montane	2	GRASSLAND(temperate, non-desert)

Indirectly Benefited Species

Scientific Name	Common Name	Status
Pipilo erythrophthalmus	Rufous-sided Towhee, Eastern Towhee	
Catharus fuscescens	Veery	
Bonasa umbellus	Ruffed Grouse	

Objectives

Objective ID - Objective #1

Objective Name	Acquire 137 acres of early successional forest land
Objective Statement	The NH DFG will acquire 137 acres of early successional forest lands in fee simple from the Nature Conservancy to add to the Knight's Wildlife Management Area.

Standard Indicators

Desired Future Value	Base Value	Output	Deadline
137	0	Acres	June 30, 2011

Appendix C: Project Details

Project Details #60046000 - BMP_Land Acquisition_ NH Blackwater Connector Project

[top]



Properties

Status	Active
Primary Agency	New Hampshire Fish and Game Department
Start Date	April 30, 2010
End Date	June 29, 2011
Is Project Sensitive?	No
Project Categories	Conservation/Management
Action Categories	Land and Water Rights Acquisition and Protection

Project Description

The New Hampshire Department of Fish and Wildlife will purchase approximately 137 acres of early-successional forestland adjacent to the Leonard and Knight's Meadow Wildlife Management Areas. The early-successional forest land on these parcels will provide habitat for the next 20-30 years for several bird species dependant on this type of habitat. Three of those bird species are species of greatest conservation needs (Eastern towhee, ruffed grouse, and veery).

Location Details

Is Statewide Project?	No
Acres	138.3

Action Summaries

Action # 60254451 - Acquired Blackwater Connector Property

[View Action Details]

Start Date	May 1, 2010
End Date	June 30, 2011
Action Category	Land and Water Rights Acquisition and Protection
Action Strategy	Land acquisition

Appendix D: Action Details

Action Details #60254451 - Acquired Blackwater Connector Property

[top]



Properties

Project Name	BMP_Land Acquisition_ NH Blackwater Connector Project [View Project Details]
Status	Completed
Start Date	May 1, 2010
End Date	June 30, 2011
Action Category	Land and Water Rights Acquisition and Protection

Action Strategy

Strategy	Measured Output	Output Unit
Land acquisition	135.341	Acres

Activities Fee title

Current Habitat

Habitat Level 1	WOODLAND (variable, non-closed canopy; typically a mix of grass, forb and low shrub)
Habitat Level 2	Mixed (Evergreen and Deciduous)

Directly Benefited Species

Scientific Name	Common Name	Status
Bonasa umbellus	Ruffed Grouse	
Pipilo erythrophthalmus	Rufous-sided Towhee, Eastern Towhee	
Catharus fuscescens	Veery	

Land Details

Tract Name	Blackwater Connector-Knights Meadow Marsh WMA
Transaction Type	Acquisition
Transfer Type	Cash
Interest Type	Fee Simple
Quantity	137.68 Acres
Federal Record ID	W-93-L-1
Deed Book and Page Number	Book 3200 Page 413
Deed Recorded Date	June 24, 2010
Encumbrances?	No
Appraised Value	\$61,500
Purchase Price	\$61,500
Miscellaneous Cost	\$10,782

Comments

The property will be managed as part of the Knight's Meadow Marsh Wildlife Management Area.

Sellers

Agencies The Nature Conservancy

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Work with your tablemates and review the sources listed below to answer the following questions.

- **Lands Chapter 520 chapter 7**

1. Using **Handout 10-4, Summary of Land Costs in the sample Final Performance Report Package** in Tab #13 to fill in the information listed below. Any missing info?

Seller's name:	Billy and Betty Cattail
Buyer's name:	Friends of Harmony Wetlands
Type of interest acquired (fee simple, leasehold etc...)	Conservation Easement
Acreage:	175
Date acquired:	October 15, 2010
Appraised value:	\$105,000
Purchase price:	:\$105,000
Closing costs:	\$2,400;
Appraisal, Survey & other costs:	appraisal \$12,000, survey \$3,800, other \$9,800

2. Your Director just received a public records request from a land conservancy group exercising the Freedom of Information Act. The Director has asked you to locate the records being requested and forward them to the land conservancy. Find and reference the following documents from the sample **Final Performance Report Package** found in Tab #13: Any missing info?

- Title Vesting Evidence
- Deed
- The Notice of Federal Participation

Title Insurance Policy	handout # 10-5 following Summary of Land Costs
Warranty Deed	handout # 10-6 and next to last page in Baseline
Documentation Report	10-9
NOFP is exhibit D in	handout #10-7, Conservation Easement next to last pg

3. Does the Notice of Federal Participation in the sample grant contain all the required elements listed on page 10-6 of the workbook (also Part 520 7.42)?

A. The location of the real property with a reference to the deed or other recorded document that legally describes the property and gives the number of acres and the name of the owner or interest holder.

B. The grantee acquired the real property or received it as a matching in-kind contribution under:

(1) A specific grant by name, number, effective date, and the name of the grantee (and subgrantee, if applicable), and

(2) A specific grant program by its name and number in the Catalog of Federal Domestic Assistance.

C The Service is the agency that awarded the grant.

D. The purpose of the grant and the purpose of the real property acquisition project, if different from the grant's purpose.

E. The definition of *encumbrance* in 520 FW 6.

F The Services's share of the grant costs

G. The grantee (and subgrantee, if applicable) ensures that the real property will be used for its originally authorized purpose as long as needed for that purpose

H Grantee and subgrantee must not authorize activities incompatible with originally authorized purpose

I. The grantee (and subgrantee, if applicable) will not dispose of or encumber title or other interest without our approval

J. There will be no discrimination during the useful life of the project.

K The signature of the director or chief executive of grantee agency

SM Part 520 7.42

TAB 11

Objectives:

1. Recognize grantee or subgrantee responsibilities for disposal of interests in real property acquired with WSFR funds or contributed as match for a WSFR grant.
2. Identify the documents WSFR must receive from a grantee to support the request for approval of disposition of a full or partial interest in real property acquired or contributed as match for a grant.
3. Explain the WSFR approval process for disposal, transfer and exchange of real property acquired with WSFR grant funds or contributed as match.

For Wildlife Restoration and Sport Fish Restoration Grants

The grantee must follow the procedures described in 522 FW 20 and 43 CFR 12.71 when disposing of real property acquired under the Wildlife Restoration and Sport Fish Restoration Acts. Sub-grantees follow 43 CFR 12.90.

When the grantee and Service Regional Director agree real property is no longer needed for the authorized purpose, the grantee (or subgrantee) will request disposition instructions from the WSFR. The instructions will provide for one of the following alternatives:

Disposal of real property constitutes a federal action under NEPA and for other Federal compliance purposes. There is no Cat Ex for disposal of real property interests.

- **Retention of Title**

Grantee retains title after compensating the awarding agency for their percentage of participation in the original purchase, at current fair market value. The net proceeds from the disposition may be used as an offset to the cost of the replacement property.

- **Sale of Property**

Property may be sold at current market value (as determined by an approved valuation method) and the awarding agency compensated by the percentage of their participation in the cost (less reasonable selling and fix up expenses). When a grantee or subgrantee is directed to sell property, sales procedures shall provide for competition to result in the highest possible return.

- **Transfer of Title**

Transfer title to the awarding agency or to a designated or approved third party. The grantee (or subgrantee) shall be paid an amount calculated by applying the grantee (or subgrantee) percentage of participation in the original purchase, at the current fair market value.

	Disposal, Exchange and Transfer of Real Property
43 CFR 12.71	Uniform Admin Requirements for States
522 FW 20	Loss of Control and Disposal of Real Property

All Other WSFR Grant Programs

For real property acquired under all other WSFR grant programs, the grantee and subgrantee must use the following disposal procedures:

- **If real property is no longer needed or useful to achieve the approved grant objectives**

The grantee and subgrantee must provide written justification demonstrating why the property no longer serves the purpose for which it was acquired and request disposal instructions from the Service Regional Director. The Service Regional Director is the final arbiter of when grantee or sub-grantee real property is no longer needed or useful to achieve the approved grant objectives.

The Service Regional Director may approve the disposal of real property and must provide the grantee and subgrantee with disposal instructions in accordance with 43CFR 12.71.

- **If real property still serves the purpose for which it was acquired**

The State may not dispose of real property acquired under the authority of the Wildlife Restoration Act or Sport Fish Restoration Act. Title to the property must remain vested in the State, and the State fish and wildlife agency must maintain full management control over the real property.

For all other programs, the grantee may not dispose of the real property. It however, may transfer the real property to a WSFR approved entity (subgrantee) to ensure property continues to serve the purpose for which it was acquired.

Draft Lands Chapter Part 522 - 6 IV

Notes:

Disposal of Partial Interests in Real Property

A grantee or subgrantee may dispose of partial interests in real property acquired with WSFR funds or contributed as match for a WSFR grant with prior approval of WSFR.

The grantee or subgrantee must demonstrate the following

- The partial interest is no longer needed to serve the purpose/grant objectives
- Disposition of the partial interest will not interfere with the purpose/grant objectives
- Adequate control of the property will be maintained (522 FW 20, 43 CFR 12 and 50 CFR 80.132)

Dispositions of partial interests that require WSFR approval include the following:

- Permanent easements and rights-of-way
- Term easements
- Leaseholds
- Severance of subsurface rights (mineral rights)
- Water rights
- Air rights

WSFR must comply with compliance requirements when approving the disposal of a partial interest in real property that was acquired or contributed as match to a WSFR grant

Many types of licenses and use permits are not interests in real property. Grantees do not have to get WSFR approval to either rescind or grant a license or a use permit if they do not interfere with the grant's purpose or objectives, or represent a loss of control.

WSFR must be compensated when disposing of partial interests acquired with, or contributed as match for, a WSFR grant. Although a State may convey a partial interest and under certain circumstances waive fees and compensation for the value of the property interest conveyed, there remains the requirement to compensate the funding program for this value from revenues other than license revenue or WSFR funds.

Disposal of an interest in real property (coal, oil, gas, mineral) is not program income. Disposal actions require accounting of funds back to the WSFR program in proportion to the cost share of the original acquisition grant. Revenues from real property disposal must be restricted for use as license revenue.

Exchange of Real Property

- WSFR considers a land exchange as two transactions: a disposal and acquisition of real property
- WSFR must ensure that the disposal of real property as part of a land exchange is disposed of in accordance with the regulations and procedures described for disposal of real property.
- WSFR must ensure that the acquisition of real property as part of a land exchange is acquired in accordance with the regulations and procedures described for acquisition of real property.

WSFR must follow compliance requirements when approving the exchange of real property that was acquired or contributed as match to a WSFR grant

Transfer of Real Property

If real property acquired with Wildlife Restoration or Sport Fish Restoration funds or contributed as match and is still serving the purpose for which it was acquired:

- A grantee or subgrantee may not transfer any interest in the real property. Title to the property must remain vested in the State, and the State fish and wildlife agency must maintain full management control over the real property
- For all other programs, with Regional Director's approval, the grantee may transfer the real property to a subgrantee, or authorize the transfer from one subgrantee to another subgrantee, to ensure the property continues to serve the purpose for which it was acquired

The approval of the Regional Director to transfer real property constitutes a Federal action under NEPA and for other Federal compliance purposes

Documentation Requirements

Depending on the interest type, WSFR may require the grantee submit information to support their request for Regional Director approval of disposition of a full or partial real property interest acquired or matched in a grant

- AFA with letter requesting disposition approval
- Grant number and vendor for original acquisition (or match)
- Description of the interest to be disposed (deed, legal description)
- Justification for the disposal
 - For the disposition of all grantee interest: the justification for disposal, and why the original purpose can no longer be served
 - For disposition of a partial interest: the justification for the disposal, with analysis of effects to the remaining interest and the original purpose
- Description of the proposed disposition and replacement procedure, or WSFR compensation
- Documentation of replacement property, if applicable, including justification for equal value / equal benefit via biological assessment (Chapter II)
- Documentation of the valuation of
 - the interest to be conveyed (an appraisal, unless disposition it a low value, per 520 Chapter 7)
 - any replacement lands being acquired
 - any services being provided in lieu of payment
- Maps, plats, etc. showing location of interests being proposed for disposition and replacement
- Draft conveyance documents

The grantee may propose disposition but WSFR may require the grantee to regain control of the property

Surplus items of value incidental to land acquisition determined to be unnecessary or incompatible with project purposes may be disposed of after title acquisition. A description of these surplus items should be included in the project statement. Disposition of property is pursuant to the regulations found in 43 CFR 12 and 50 CFR 80.



Exercise: Disposal, Exchange and Transfer of Real Property

Use the iPad to review **Lands Chapter Draft Part 522 6 IV**, the Toolkit for **Service Manual Chapters> Part 522 chapter 6 and 20, 50 CFR 80.132 and 80.137** and **43 CFR 12.71** to answer the following questions.

1. In 1973, the state fish and game agency purchased 100 acres with WR Basic HE funds for the purpose of constructing a shooting range for improvement of hunter's shooting skills. Today, the property is surrounded by urban sprawl. New municipal codes have been passed to reduce noise and prohibit the discharge of firearms in the area. The property is prevented from being useful for the original grant purpose. What options does the state agency have?

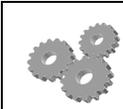
Grantee and subgrantee must provide written justification demonstrating why the property no longer serves the purpose for which it was acquired and request instructions from the Service Regional Director. Options are to retain the title and amend grant for WR purposes, sell the property, or transfer the title. If selling or transferring, must compensate WSFR proportionally. **43 CFR 12.71, 50 CFR 80.137**

2. May a grantee or subgrantee sell the water and mineral rights from real property they acquired with WSFR funds or contributed as match for a WSFR grant?

Yes..with prior approval of WSFR. The grantee or subgrantee must demonstrate: the **partial interest** is no longer needed to serve the purpose/grant objectives; Environmental compliance must be met; Disposition of the partial interest will not interfere with the grant objectives; Adequate control of the property will be maintained (**522 FW 6.7 D, 43 CFR 12.71c** and **50 CFR 80.132**. **Selling mineral Interests will likely interfere with grant objectives and will not be approved.**

3. Explain how an exchange of real property must be conducted according to WSFR.

WSFR considers a land exchange as two transactions: a disposal and acquisition of real property. Therefore, all requirements must be met for both types of transactions.(**Draft Part 522 6-IV** last pg)



Exercise: Disposal, Trade and Transfer of WSFR Real Property Interests

Use the State of Grace exercise handout for module #11 provided in your workbook to complete an exercise on disposal, trade and transfer of WSFR real property interests.



Learning Points

- ✓ When real property is no longer needed for the originally authorized purpose, the grantee or subgrantee will request disposition instructions from the awarding agency
- ✓ The Service Regional Director may **(if justified)** approve the disposal of real property and must provide the grantee and subgrantee with disposal instructions in accordance with 43CFR 12.71
- ✓ If real property still serves the purpose for which it was acquired the State may not dispose of real property acquired under the authority of the Wildlife Restoration Act or Sport Fish Restoration Act
- ✓ A grantee or subgrantee may dispose of partial interests in real property acquired with WSFR funds or contributed as match for a WSFR grant with prior approval of WSFR. Grantee must demonstrate the partial interest is no longer needed for the originally authorized purpose
- ✓ WSFR considers a land exchange as two transactions: a disposal and acquisition of real property
- ✓ When real property assets that were purchased with WSFR funds are disposed of the proportional federal share of disposition must be attributed to the WSFR program

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Work with your tablemates and review the sources listed below to answer the following questions.

- Handout # 10-7 “**Conservation Easement**” in the sample **Final Performance Report** in Tab #13.

1. The Friends of Harmony Road Wetlands have filed for bankruptcy and can no longer feasibly carry out the terms of the conservation easement. They wish to transfer their interests in the easement to another conservation minded entity. Can they do this? If so, describe the proper procedure to complete the transfer.

12.C. Assignment Limitation. Subject to the Third Party Holder's written consent and prior written consent of the Regional Director of the U.S. Fish and Wildlife Services, this Easement is assignable, but only to an entity that satisfies the requirements of Section 170(h)(3) of the Internal Revenue Code, (or successor provisions thereof) and the requirements of Title 33, M.R.S.A., Section 476(2). Also conveyance conditions mentioned in the Mgt. Plan section IV allowing conveyance of the Ecological Protected Area to qualified organization. No other subdivision of parcel permitted

2. The U.S. Department of Homeland Security has chosen to exercise their power of eminent domain (condemnation) and claim all rights and interests to the Harmony Road Wetlands property in order to address a national security concern. What % of compensation is due the landowner, easement holder, third party easement holder, WSFR program?

12.F. Condemnation. If all or any part of the Protected Property is taken by power of eminent domain, Grantor, Holder and Third Party Holder shall act jointly to recover the full value of the amount recovered shall be determined pursuant to subparagraph **12.G 33.3 % to the State of Grace, Department of Inland Fisheries and Wildlife** on behalf of the United States Fish and Wildlife Service, for use in acquiring a substitute site as set forth in the Notice of Grant Agreement (**Exhibit D**); **(2) Zero percent (0 %) to the Holder**; and **(3) Sixty-six and seven tenths percent (66.7 %) to the State of Grace, Land for Grace's Future Fund or its successor program.**

3. Upon the passing of Billy and Betty Cattail, their only child Bobby inherits the Harmony Road Wetlands. Bobby recognizes the incredible financial benefits of developing the property for commercial uses. According to the terms of the easement are there any conditions that would allow Bobby to modify or terminate the conservation easement?

Section 13.F. Amendment and Discretionary Consents.

Holder has no right or power to consent to any use that would result in building development on the Protected Property other than that which is expressly allowed herein, Any amendment of this Easement shall be in writing, reviewed, approved and executed by Grantor, Holder and Third Party, and recorded in the County Registry of Deeds for the county in which the Protected Property is located. This issue can be litigated... can take Bobby to court. This actually happened in Minnesota.

TAB 12

PROJECT NARRATIVE
SWG Conservation Easement: Harmony Road Wetlands - Cattail
Property
Grace State Wildlife Grant Program

State: Grace

Grant Title: State Wildlife Grant Program - **Grant #:** 1-74-L

Project Title: Harmony Road Wetlands - Cattail Conservation Easement

Need:

Grace is a transition area, its wildlife resources representing a blending of species that are approaching the northern or southern limit of their ranges. Southern and Coastal Grace has the highest level of woody plant and wildlife species diversity in the state. This area is also one of the most desirable for development. In a 2007 report, The Brookings Institute found that sprawl - the conversion of rural lands for urban or suburban purposes - in the greater Mercy area in Southern Grace is occurring at one of the fastest rates in the country. Increasing development pressures are creating a checkerboard of non-contiguous habitat for wildlife and further threatening at-risk species. In its final report dated January 2006, the Grace Environmental Priorities Project concluded that patterns of development throughout southern and coastal Grace and in riparian zones statewide seriously threaten rare and critical habitats as well as the overall productivity of Grace's terrestrial ecosystems. In Grace 95% of the landscape is in private ownership and protection of nearly all of our rare plants and animals is dependent on partnerships with private landowners. According to the best available data, less than 15% of the State or 3,087,100 acres of land are permanently conserved in Grace.

There is a need to protect the critical habitats of Grace in order to maintain the full suite of native plant and animal species that currently exist in Grace.

Purchasing permanent conservation easements on private lands within Habitat Focus Areas is one of the core priorities of Grace's State Wildlife Grant Program (SWG). The State Wildlife Grant Program is available to Grace landowners interested in permanent conservation and management of rare, threatened, and endangered species habitat, and it is the only program in the State that allows us to establish and increase conservation lands in Focus Areas, which is critical as the pace and pervasiveness of development in southern and coastal Grace is a constant threat. The purchase of conservation easements for permanent habitat protection within Critical Habitat Focus Areas is a now or never opportunity. The window of opportunity to protect affordable and unique lands in the Harmony Wetlands Focus Area is beginning to close. As farmlands are subdivided into large house lots, a matrix of wildlife habitat - grassland, wetland, and woodland - is also being fragmented and becoming more vulnerable. At present there is no building or structure on the Harmony Road Wetlands; however, the property's road frontage, open fields, and developable uplands, in close proximity to Mercy, place this parcel at relatively high risk of future development. Without the easement, there is no assurance of proper management of the critical resources found on the Harmony Road Wetlands property.

Objective:

- Protect 175 acres of floodplain habitat along the banks of Hundred Mile Stream by January 2012.
- Purchase a conservation easement on 175 acres of land owned by Billy Cattail by January 2012.

Expected Results and Benefits:

The Harmony Roads Wetland Project will:

- Protect necessary natural resource values of a large, biologically diverse, unfragmented parcel of land.
- Ensure its appropriate management for long-term public benefit by a conservation organization.
- Contribute significantly to a growing block of conservation lands in an area of high ecological importance within the Harmony Wetlands Focus Area.
- Provide valuable habitat along Hundred Mile Stream for Creepers (Grace Special Concern) and Yellow Lampmussels (Grace Threatened), two rare freshwater mussel species, and the wood turtle (Grace Special Concern).
- Contribute to a regional effort as part of the Fields & Forests Forever Campaign to conserve a critical mass of farmland with key ecological values within the Harmony Wetlands Focus Area.
- Support the goals of the Harmony Wetlands Conservation Plan drafted by the Friends of Harmony Wetlands with the assistance of The Nature Conservancy and the USDA-Natural Resources Conservation Service.
- Protect high-quality examples of two of the plan's identified conservation targets: hardwood floodplain forest and grassland nesting bird habitat.

Approach:

The overall approach to conserving the land and associated natural resources of the Harmony Road Wetlands Project is as follows:

Conservation Easement: A conservation easement on 175 +/- acres of land will be conveyed from the landowner to Friends of Harmony Wetlands (FHW), holder of the easement. The State Wildlife Grant Program will provide federal funding toward the purchase of the easement, and the Land for Grace's Future, a state fund established to acquire and protect Grace critical habitats, will provide the required non-federal match funds and donated land. All easements funded by the State Wildlife Grant Program will have baseline documentation completed, be monitored annually for landowner compliance, and a conservation management plan (now in draft form) will be finalized.

The Grace Department of Inland Fisheries and Wildlife will have third party enforcement rights. Third Party has the right, but not the obligation, to (1) enter upon the Protected Property to inspect and monitor for compliance with this Easement; and (2) enforce the terms and conditions of the Easement if, in the judgment of Third Party, the Holder has not enforced the same.

Easement Monitoring: As holder of the easement, Friends of Harmony Wetlands will monitor the property annually. Monitoring reports will be provided to the Department of Agriculture and the State Wildlife Grant Program (WSFR). In addition to monitoring, FHW will mark the parcel boundaries and ensure the monitoring plan is followed and updated in compliance with SWG guidelines. For this project, FUW has secured and deposited a \$2,000 grant from the John Sage Foundation to its Stewardship Fund for the long-term stewardship and management of the property. Stewardship funds will be handled in accordance with Friends of Harmony Wetlands guidelines (provided on request). Any hay or timber harvest operations will be done at landowner's expense and in accordance with the easement and stewardship plan. Traditional, by-permission public access will continue under the easement. There is no plan for public trails or facilities.

Conservation Management Plan: A Conservation Management Plan (CMP) has been drafted by Friends of Harmony Wetlands in partnership with the landowner. An GDIFW biologist and/or ecologist from GNAP will work with the land trust and landowners to ensure that species and habitats are properly identified, mapped, and that threats and management considerations are adequately addressed. The Conservation Management Plan is structured to be performance based rather than by pure prescription. The Plan will be evaluated periodically to encourage incorporation of new and enlightened wildlife and habitat management practices. It is the intent of the Plan to provide updated management information and build a relationship of trust between the property owner, the easement holder, and the State. The Conservation Management Plan is not meant to supplant the land management responsibilities of the property owner. The CMP specifies activities and practices proposed to achieve compliance with the purposes set forth in the Easement, and shall also include and comply with (at a minimum) the following:

- a. identification of the natural and physical features of the Protected Property. Includes location of special plants or wildlife habitats for species at risk; wetlands and water bodies; location of roads, trails, and other areas to be used by the public;
- b. description of proposed actions to protect habitat for species at risk;
- c. description of how management activities will be conducted;
 1. management for fish and wildlife resources;
 2. management of known site specific occurrences of animal and plant species that are listed by state or federal agencies as endangered, threatened or of "special concern" for such time period as such species are so listed; and
 3. meet the requirements of state and federal law regarding threatened and endangered species.
- d. map information sufficient to support the above requirements.

All successful applicants are encouraged to participate in the State's Forestwise Program. Forestwise provides cost-sharing for development of Conservation Management Plans. Forestwise implements Grace's Forest Land Enhancement Program (FLEP), and portions of the Forest Stewardship Program with funding and other support provided by the USDA Forest Service. Conservation management plans will be reviewed by species biologists and the landowner every 5 years to determine that management activities are benefiting species known

to use the property. A USDA-Natural Resources Conservation Service Conservation Plan is already in place, and the landowner has agreed to obtain a Certified Forest Management Plan, taking advantage of Grace Forestwise resources where possible. Broad goals of the management plan have been agreed to, including a no-cut provision for the Silver Maple Floodplain Forest and management of hay operations to allow for grassland nesting birds.

Location:

The Harmony Road Wetlands project is located in the north-central region of Harmony, Grace west of Harmony Pond (Harmony tax map 10, lots 24 & 27). It is a mix of hardwood floodplain forest and wet meadow-hay fields bordered on the south by Hundred Mile Stream and on the east by

Harmony Road (see attached map).

Total Estimated Project Cost and Funding:

Tract Summary: Harmony Road Wetlands Easement

Name of Seller: Billy Cattail

Map & Lot #: Harmony Map 10 Lots 24&27

Number of Acres: +/-175 (to be confirmed before closing)

Appraised Value of Conservation Easement: \$105,000

Easement Purchase Price \$105,000.00

<u>Acquisition Costs</u>	<u>Total</u>	<u>Federal</u>	<u>Non-Fed Match</u>
Easement Purchase Price	\$105,000	\$78,750	\$26,250
Appraisal Costs:	\$12,000	\$9,000	\$3,000
Survey Costs:	\$3,800	\$2,850	\$950
Closing Costs: Title	\$2,400	\$1,800	\$600
Other Costs: Staff time, indirect costs, mileage	\$9,800	\$7,350	\$2450
Monitoring costs (4yrs) Baseline Report Phase 1 EA			
Total Project Cost	\$133,000	\$99,750	\$33,250

Useful Life: NA

Principal Investigator: NA

Program Income: None anticipated

Multipurpose Projects: NA

Relationship with Other Grants: None

Timeline: Complete Draft Conservation Easement, Management Plan and Mortgage

Subordination - September 15, 2010

Complete Environmental Compliance - September 20, 2010

Complete Survey and Appraisal - October 15, 2010

Complete Acquisition - October 30, 2010

STATE OF GRACE
DEPARTMENT OF
INLAND FISHERIES & WILDLIFE
MERCY, GRACE 00000

September 5, 2010
Division of Federal Assistance - Region 5
U S Fish and Wildlife Service
300 Westgate Center Drive
Hadley, MA 01035-9589
RE: Grace Department of Inland Fisheries and Wildlife
1-74-L-1, State Wildlife Grant Program
Project 2: Harmony Road Wetlands - Cattail Conservation Easement
Compliance with National Environmental Protection Act

Dear Ms Gatekeeper:

I am writing in reference to the Application for Federal Assistance for the State of Grace, Department of Inland Fisheries and Wildlife, 1-74-L-1 State Wildlife Grant Program Project 2: Harmony Road Wetlands - Cattail Conservation Easement regarding **compliance with the National Environmental Protection Act.**

The actions proposed in this grant will take place on a 175 acre parcel of land in the town of Harmony, Hope County, Grace. We have reviewed the proposal for meeting NEPA compliance and found that it is **completely covered by 516 DM 8 categorical exclusion 8.5 A(4)** Further, we find (516 DM 2, Appendix 2) that this proposal will NOT:

1. Have significant impacts on public health or safety.
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).
11. Limit access to and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).
12. Contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

Thank you for your time reviewing this grant proposal.



Paul Politician Deputy Commissioner, State of Grace

DEPARTMENT OF
INLAND FISHERIES & WILDLIFE
MERCY, GRACE
00000

September 5, 2010
Division of Federal Assistance, Region 5
U.S. Fish & Wildlife Service
300 Westgate Center Drive
Hadley, MA 01035-9589
RE: Grace Department of Inland Fisheries and Wildlife
1-74-L-1, State Wildlife Grant Program
Project 2: Harmony Road Wetlands - Cattail Conservation Easement
Compliance with Endangered Species Act Section 7

Dear Ms. Gatekeeper:

I am writing in reference to the Application for Federal Assistance for the State of Grace, Department of Inland Fisheries and Wildlife, 1-74-L-1 State Wildlife Grant Program: Harmony Road Wetlands - Cattail Conservation Easement and its **compliance with Endangered Species Act Section 7**.

The actions proposed in this grant will take place on a 175 acre parcel of land in the town of Harmony, Hope County, Grace. We have reviewed the proposal for meeting Endangered Species Act Section 7 compliance and found that there are no federally listed or candidate species known to be present on this area.

Thank you for your time in review of this grant proposal.

Sincerely,



Paul Politician
Deputy Commissioner

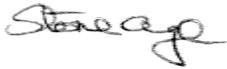
September 21, 2010
Department of Inland Fisheries & Wildlife
Mercy, Grace 00000
Project: GHPC #1600-07 Easement acquisition; Cattail Property, map 10 lots 24 and 27
Town: Mercy, Grace

Dear Ms. Projectwriter:

In response to your request, I have reviewed the information received September 13, 2010 to initiate consultation on the above referenced project in accordance with **Section 106 of the National Historic Preservation Act of 1966**, as amended.

Based on the information provided, I have concluded that there will be no historic properties [architectural or archaeological] affected by the proposed undertaking. Please contact Kirk Gravedigger of this office if we can be of further assistance in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stone Age", written in black ink.

Stone Age
State Historic Preservation Officer

Preliminary Summary of Land Costs

Grace Department of Inland Fisheries and Wildlife

Project Name: Cattail - Harmony Road Wetlands Easement

Tract Summary

Name of Seller: Billy Cattail

Map & Lot #: Harmony Map 10 Lots 24&27

Number of Acres: ~175 (to be confirmed before closing)

Appraised Value: \$105,000

Total Project Cost Summary: \$133,000.00

<u>Acquisition Costs</u>	<u>Total</u>	<u>Federal</u>	<u>Non-Fed Match</u>
Easement Purchase Price	\$105,000	\$78,750	\$26,250
Appraisal Costs:	\$12,000	\$9,000	\$3,000
Survey Costs:	\$3,800	\$2,850	\$950
Closing Costs: Title	\$2,400	\$1,800	\$600
Other Costs: Staff time, indirect costs, mileage Monitoring costs (4yrs) Baseline Report Phase 1 EA	\$9,800	\$7,350	\$2450
Total Project Cost	\$133,000	\$99,750	\$33,250

Survey Report

Legal Description of the Protected Property

A certain lot or parcel of land situated in the Town of Mercy, County of Hope, and State of Grace, and lying on the westerly side of the public highway or road at the foot of the Hundred Mile Pond so called leading from Mercy Village to Burnham and bounded and described as follows to wit:

Beginning at a capped 5/8 inch iron rebar set in the ground on the westerly side line of the above mentioned road now called the Harmony Road, which is now the Northeast corner of land now or formerly owned by Mercy College which deed is recorded in the Hope County Registry of Deeds in Book 888, Page 196.

Thence following the Northerly line of land now or formerly owned by Mercy College N6Y14'00"W a distance of 858.46 feet to a capped 5/8 inch iron rebar.

Thence following the Westerly side line of land now or formerly owned by Mercy College SOO'09'35"W a distance of 926.64 feet to a found 3/4" iron rod.

Thence following a tie line SOO'09'35"W a distance of 79.06 feet to the center of the Hundred Mile Stream.

Thence following the thread of Hundred Mile Stream with a tie line of N52'16'S7"W a distance of 503.13 feet to a point.

Thence following the thread of the stream with a tie line of S6S'32' 14"W a distance of 915.62 feet to a point.

Thence following the thread of the stream with a tie line of S3T03'32"W a distance of 562.80 feet to a point.

Thence following the thread of the stream with a tie line of N04'08'26"W a distance of 614.15 feet to a point.

Thence following the thread of the stream with a tie line of N33'36'S4"W a distance of 303.39 feet to a point.

Thence following the thread of the stream with a tie line of N72'OI 'S2"W a distance of 294.47 feet to a point.

Thence following a tie line N15'29' 10"E a distance of 124.23 feet to a found 5/8 inch capped iron rebar.

Thence following the easterly side line of land owned by Clean Creek which deed is recorded in said Registry in Book IS41, Page 216, N15'29' 10"E a distance of 2547.99 feet to a found 5/8 inch iron rod.

Thence continuing N15'02' 13"E a distance of 971.84 feet to a capped 5/8 inch iron rebar.

Thence following the southerly line of land owned by which deed is recorded in said Registry in Book 1660, Page 48, and land of which deed is recorded in said Registry in Book 2586, Page 47, S60'22'28"E a distance of 1733.56 feet to a 5/8 inch iron rebar.

Thence following the Westerly side line of land owned by which deeds are recorded in said Registry in Book 2386, Page 44, and Book 2918, Page 287, S25'55' 15"W a distance of 1200.78 feet to a capped 5/8 inch iron rebar.

Thence following the Southerly boundary of land owned by S61'52'05"E a distance of 1520.73 feet to a capped 5/8 inch iron rebar set on the Westerly side line of the so called Harmony Road.

Thence following the Westerly side line of the Harmony Road S4T55'33"W a distance of 467.35 feet to a point.

Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 544.54 feet and a distance of 117.45 feet to a point.

Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 226.22 feet and a distance of 117.5 feet to a point.

Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 550.37 feet and a distance of 15.98 feet to the point of beginning containing 163.8 acres. All capped 5/8 inch iron rebar are scribed ' PLS 351.' All bearings are observed magnetic north as of September 2012. Vol. 21 page 12

Being those premises deeded to Billy and Betty Cattail in deed recorded in said Registry of Deeds in Book 1696, Page 169.

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**APPLICATION FOR
FEDERAL ASSISTANCE**

1. TYPE OF SUBMISSION: Application <input checked="" type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		Pre-application <input checked="" type="checkbox"/> Construction <input type="checkbox"/> Non-Construction	2. DATE SUBMITTED 10/01/2010	Applicant Identifier	
			3. DATE RECEIVED BY STATE	State Application Identifier	
			4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier	
5. APPLICANT INFORMATION					
Legal Name: State of Grace			Organizational Unit: Department: Inland Fisheries and Wildlife		
Organizational DUNS: 5555555555			Division: Fish and Wildlife		
Address: Street: 10 State House Rd			Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: Ms. First Name: Paula		
City: Mercy			Middle Name		
County: Hope			Last Name Projectwriter		
State: Grace		Zip Code 00000	Suffix:		
Country: United States			Email: paulaprojectwriter@grace.state.us		
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 55-55555555			Phone Number (give area code) (000) 000-0000		Fax Number (give area code) (000) 000-0000
8. TYPE OF APPLICATION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify) <input type="checkbox"/> <input type="checkbox"/>			7. TYPE OF APPLICANT: (See back of form for Application Types) A. State Other (specify)		
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): State Wildlife Grant 15-634			9. NAME OF FEDERAL AGENCY: U.S. Department of Interior, Fish and Wildlife Service		
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): Mercy, Hope, Grace			11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Grace State Wildlife Grant Program Harmony Roads Wetlands Conservation Easement		
13. PROPOSED PROJECT Start Date: 10/15/2010 Ending Date: 10/15/2012			14. CONGRESSIONAL DISTRICTS OF: a. Applicant 1st b. Project 1st and 2nd		
15. ESTIMATED FUNDING:			16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?		
a. Federal	\$	99,750.00	a. Yes. <input type="checkbox"/> THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE:		
b. Applicant	\$	33,250.00	b. No. <input checked="" type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372		
c. State	\$		<input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW		
d. Local	\$		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?		
e. Other	\$		<input type="checkbox"/> Yes If "Yes" attach an explanation. <input checked="" type="checkbox"/> No		
f. Program Income	\$				
g. TOTAL	\$	133,000.00			
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.					
a. Authorized Representative					
Prefix Mr.		First Name Roland		Middle Name M	
Last Name Great			Suffix		
b. Title Commissioner			c. Telephone Number (give area code) (000) 000-0011		
d. Signature of Authorized Representative <i>Roland M. Great</i>			e. Date Signed 9/01/2010		

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ASSURANCES - CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

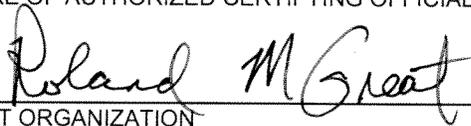
PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE Commissioner
APPLICANT ORGANIZATION State of Grace, Department of Inland Fisheries	DATE SUBMITTED 9/01/2010

United States Department of the Interior

NATIONAL BUSINESS CENTER

DIRECTORATE, APPRAISAL SERVICES

APPRAISAL REVIEW REPORT

U.S. Fish and Wildlife Service

Grace Easement - Cattail Property

APPRAISAL REPORT PREPARED BY:

Robert Reportwriter

EFFECTIVE DATE OF VALUE: September 28, 2010

TYPE OF VALUE: Before and After Appraisal for a Proposed Conservation Easement

PROPERTY APPRAISED: Billy and Betty Cattail,

Assessor's Map 10, Lot 24 and 27,

Mercy, Hope County, Grace

APPRAISAL REVIEW REPORT PREPARED BY: James Reviewer

DATE OF APPRAISAL REVIEW REPORT: October 10, 2010

September 10, 2007

United States Department of the Interior

NATIONAL BUSINESS CENTER

DIRECTORATE, APPRAISAL SERVICES

300 Westgate Center Drive

Hadley, MA 01035

Katie Gatekeeper, Grants Manager

U.S. Fish and Wildlife Service, Division of Federal Assistance

Re: Review of Grace Easement - Cattail Property, Mercy, Hope County, Grace,

U.S. Fish and Wildlife Service, Division of Federal Assistance, with an Effective Date of September 28, 2010, and Report Date of October 24, 2010, prepared by Robert Reportwriter

Dear Ms. Gatekeeper:

I have reviewed the above captioned appraisal report for the purpose of determining if it is acceptable for use by your agency. The effective date of the appraisal under review is September 28, 2010; the date this review report was prepared and signed is October 10, 2010.

This appraisal review report has been prepared in conformance with Uniform Standards of Professional Appraisal Practice (USPAP) and Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA).

Based on my review of the appraisal report, I have formed the conclusion that the appraisal Report which is the subject of this review is approved for use by the U.S. Fish and Wildlife Service.

Respectfully Submitted,

James Reviewer: 

Grace Certified General Appraiser 20000

United States Department of the Interior

NATIONAL BUSINESS CENTER

DIRECTORATE, APPRAISAL SERVICES

Appraisal Review Report

INTRODUCTION

Appraisal Authorization: U.S. Fish and Wildlife Service, National Business Center

Appraisal Review of: Billy and Betty Cattail Property, Mercy, Hope County, Grace

Prepared by: James Reviewer

Date of Review: October 10, 2010

Type of Review: Technical Desk

Extent of Data Verification: Data verification was primarily through the report, and discussions with market participants when required to confirm anomalies.

Type of Value: Other Before and After Appraisal to Determine the Compensation for Granting a Conservation Easement.

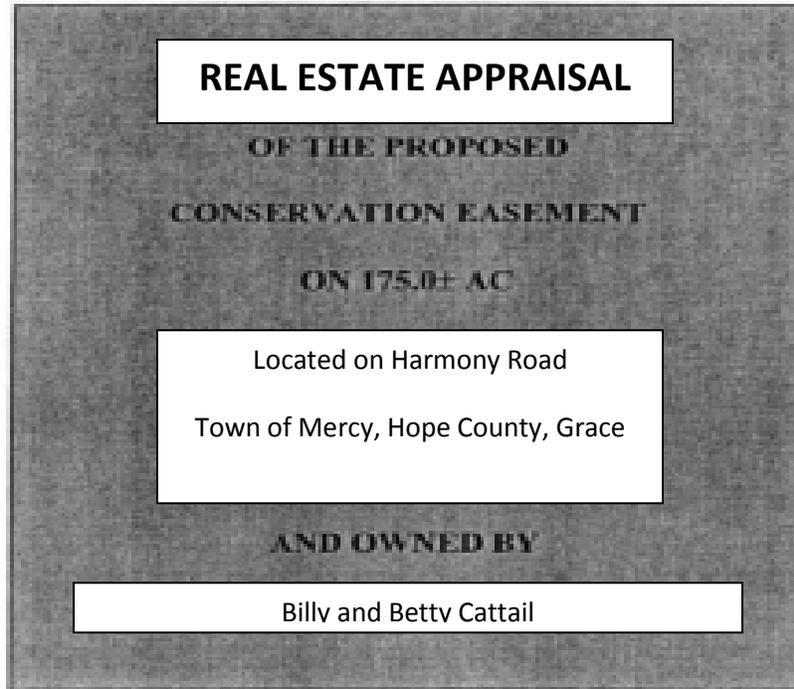
Appraiser's Opinion of Value:

Subject Property Value:	Before \$175,000	After (if applicable) \$70,000
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Comments: The scope of the review is to determine compliance with USPAP, and UASFLA, and the reliability of the factual data and analysis from the report to determine the soundness of the opinions of value and the final compensation. Extraordinary assumptions are:

- 1) that the proposed easement eliminates all development rights on the parcels to be encumbered;
- 2) that the area of the subject is 175+1- acres.

As a result of my review, I approve the appraisal report that is the subject of this review.



FILE # 00-000 B. Cattail
FOR
Cindy C. Harvester
EXECUTIVE DIRECTOR
GRACE FARMLAND TRUST
FIELDS AND FOREST FOREVER PROGRAM
BOX 0000
Turkey Trot, Grace 00010
AS OF
Sept 28, 2010

Prepared by:
LLC APPRAISAL COMPANY
WEBSITE: www.llcappraisal.com

LLC APPRAISAL COMPANY**4, Representative Street Suite 100****Mercy, Grace 00000****WEBSITE: www.llcappraisal.com**

Cindy C. Harvester, Executive Director

Grace Farmland Trust Fields and Forest Forever Program

Box 0000

Turkey Trot, Grace 00010

October 12, 2010

Dear Ms. Harvester:

In accordance with your request, an inspection has been made of 175.0± AC of agricultural land located on the west side of Harmony Road in Mercy, Hope County, Grace owned in fee by Billy Cattail and Betty Cattail to determine the value of a proposed agricultural conservation easement on the property. This parcel is valued as a State Wildlife Grant Program or "SWG" parcel and does not include a farmstead area. The parcel is identified by the Town of Mercy Assessor as Map 10, Lot 24 and Lot 27. Based on the documents reviewed and a personal inspection, the property is utilized as agricultural fields and woodland.

This appraisal is presented in a self-contained appraisal report format conforming to both the Uniform Standards of Professional Appraisal Practice (USP AP) and Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA). The intended use of the appraisal is to assist Billy and Betty Cattail in reaching an agreed upon value for the conservation easement with the potential purchase of the easement by the Trust. The intended users of the report are the owners, the owners' financial and legal advisors, the Grace Farmland

Trust Fields and Forest Forever Program, its financial and legal advisors and the Grace Department of Inland Fisheries and Wildlife. Due to the effect of the proposed conservation easement the property is appraised "Before" and "After" the proposed conservation easement is in place. Based upon my analysis, it is my opinion that the market value as of September 28, 2010, the date of inspection, for the 175.0± AC Cattail property on Harmony Road in Mercy, Grace is as follows:

Market Value of the Property Before Encumbrance with the Proposed Conservation Easement:

ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$175,000)

Market Value of the Property After Encumbrance with the Proposed Conservation Easement:

SEVENTY THOUSAND DOLLARS (\$70,000)

Benefits of the Conservation Easement: ZERO DOLLARS (\$0)

Market Value of the Proposed Conservation Easement:

ONE HUNDRED FIVE THOUSAND DOLLARS (\$105,000)

The reported valuations are based on two Extraordinary Assumptions that 1) the proposed agricultural conservation easements will eliminate all development rights on the parcels to be encumbered with the easements; and 2) the area of the subject is 175± AC. An Extraordinary Assumption is defined in The Dictionary of Real Estate Appraisal, Fourth Edition, 2002, published by The Appraisal Institute, as an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions. Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property such as market conditions or trends; or about the integrity of the data used in an analysis. The valuations concluded above are dependent on the Extraordinary Assumptions and are not to

be considered as valid or appropriate unless the proposed agricultural conservation easement encumbers the subject property.

The reported analyses, opinions, and conclusions contained in this report are also limited by the assumptions and limiting conditions, attached in the Addenda, and are my personal, unbiased professional analyses, opinions, and conclusions. I hereby certify I have personally inspected the subject and that to the best of my knowledge and belief all statements and information contained in this appraisal are true and correct and that all pertinent information is included. I hereby certify that I have no financial interest in the appraised property and my compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of, this report.

Please review the contents of this report. If you have any questions or comments, please do not hesitate to contact me.

Respectfully submitted,

Robert Reportwriter

Robert Reportwriter

Grace Certified General Appraiser # 0000

Enclosure and Attachment

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CONSERVATION EASEMENT

Harmony Road Wetlands

DRAFT

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT, made this: day of October, 15, by and between Billy and Betty Cattail, husband and wife of Mercy, having a mailing address of 20 Harmony Road, Mercy, Grace 00000 and (hereinafter referred to as the "Grantor," which word is intended to include, unless the context clearly indicates otherwise, the above-named parties, his /her/their personal representatives, heirs, successors and assigns), and FRIENDS OF HARMONY WETLANDS, a non-profit corporation organized under the laws of the State of Grace with its principal place of business in Mercy, Grace and having a mailing address of P.O. Box 000, Mercy, Grace 00000 (hereinafter referred to as "Holder", which word is intended to include, unless the context clearly indicates otherwise the above-named Holder, its successors and assigns; and the STATE OF GRACE, acting by and through its DEPARTMENT OF INLAND FISHERIES AND WILDLIFE, an agency of the State of Grace having its principal seat in Mercy, Grace and whose mailing address is 10 State House Road, Mercy, Grace 00000 (hereinafter referred to as "Third Party Holder" or "DIFW").

1. PROJECT NAME. *Harmony Road Wetlands*

2. WORDS OF CONVEYANCE.

Grantor, for full consideration and not as a gift, GRANTS to Holder with WARRANTY COVENANTS in perpetuity, the following described Conservation Easement on, over, through, under and across that land and improvements adjacent to Harmony Road in the Town of Mercy, County of Hope, and State of Grace, and being more particularly described in Exhibit A, and depicted on Exhibit B, both attached hereto and made a part hereof by reference and hereinafter referred to as the "Protected Property" or sometimes the "Property". TOGETHER WITH a right of way for pedestrian and vehicular access to the Property as necessary or appropriate to exercise the Holder's rights hereunder, over any and all rights-of-way and roads owned by Grantor or over which Grantor has or shall have rights of access to the Property, as more particularly described in Exhibit A.

3. PURPOSE.

Holder has purchased this Conservation Easement to forever conserve the Protected Property for the following conservation purposes:

To protect the flora and fauna that inhabit the Protected Property and to conserve the water quality of **Hundred Mile Stream**, which provides habitat for Yellow Lampmussels (*Lampsilis cariosa*), Tidewater Mucket (*Leptodea ochracea*) Creeper (*Strophitus undulates*) and Wood Turtle (*Glyptemys insculpta*) along the property boundary and wetland values including a Silver Maple Floodplain Forest, which is of significance to the People of the State of Grace. To promote the conservation of threatened and endangered species habitat, rare and exemplary natural communities and other significant wildlife values of the Harmony Wetlands Focus Area, an area of statewide ecological significance in Grace. To provide public benefit by protecting the Protected Property's agricultural soils, and allowing the Protected Property to remain available for commercial agricultural and forest management, provided that such activities are consistent with conserving the flora and fauna and other natural resource values of the Protected Property.

To preserve in perpetuity the highly scenic and open views of open fields on the Property as enjoyed by the general public who travel along Harmony Road in Mercy, Grace.

To preserve the traditional farming and forestry heritage and rural character of the Town of Mercy. Grantor and Holder intend that this Conservation Easement will confine the use of the Protected Property to activities that are consistent with the purposes of this Conservation Easement and will prohibit and prevent any use of the Protected Property that will impair or interfere with the protected Conservation Values as defined above.

4. RECITALS.

The protected Conservation Values of the Protected Property are documented in the Baseline Documentation and more particularly described in the recitals set forth below.

WHEREAS, the Grantor is the sole owner in fee simple of the Property that consists of approximately seventy-two (72) acres of active agricultural lands, seventy (70) acres of forestlands and thirty-three (33) acres of riparian buffer which includes five (5) acres of substantially undeveloped Silver Maple Floodplain Forest, and approximately thirty-five hundred feet (3,500') of shoreline on Hundred Mile Stream; and

WHEREAS, Hundred Mile Stream has ecological importance as important wildlife and fisheries habitat, including for Yellow Lampmussel (*Lampsilis cariosa*) and Tidewater Mucket (*Leplodea ochracea*) both listed as State Threatened; and Creeper (*Strophitus undulates*) and Wood Turtle (*Glyptemys insculpta*) both listed as Species of Concern in the State of Grace, and for other fish and wildlife species; and development of the Property in excess of that allowed in this Conservation Easement would have an adverse effect on the ecology of the area for said species and uses; and

WHEREAS, the Property will be used for commercial forestry and agricultural management under the terms of this Conservation Easement, consistent with the protection and preservation of rare and endangered species and rare and exemplary natural communities, significant wildlife values, special natural, historical or archaeological features, areas of high public value, and other conservation values identified herein; and

WHEREAS, a portion of the Protected Property consists of locally important farmland soils ("Agricultural Soils") that have been in continuous agricultural production of some kind for approximately (75) years and thus are an agricultural resource of regional or statewide significance as those terms are hereinafter defined in Section 8.; and

WHEREAS, the protection of Agricultural Soils, preservation of agricultural and natural resource based businesses, and maintenance of open space are important to the People of the State of Grace, as evidenced by Article IX Section 8 of the Grace Constitution, and the "Farm and Open Space Tax Law", Title 36 Grace Revised Statutes Annotated ("M.R.S.A."), Section 1101 et seq which confers preferential property tax treatment for active farms and property that owners keep undeveloped and available for open space uses; and

WHEREAS, the Property has significant conservation value as open space within the meaning of Section 170(h) (4)(a)(iii) of the Internal Revenue Code, as it includes approximately seventy four (74) acres of open farmland and hay fields and one hundred and one (101) acres of forestland including approximately ten (10) acres of riparian buffer; and

WHEREAS, the State of Grace has recognized the importance of preserving scenic open space, wildlife habitat and farmland in its Constitution at Article IX, Section 8; and

WHEREAS, this Conservation Easement, including the right for traditional non-intensive outdoor recreational use by the general public, the development and land use rights conveyed, and the land use rights hereby extinguished, has been purchased with funds from the Land for Grace's Future Fund ("LMF"), established under Title 5 M.R.S.A., Chapter 353, Section 6200,

and pursuant to the terms of P.L. 1999 c. 514, Sec A-6, to acquire lands or conservation easements and other interests in land of statewide significance that: a) contain recreation lands, prime physical features of the Grace landscape, areas of special scenic beauty, farmland or open space, undeveloped shorelines, wetlands, fragile mountain areas, or lands with other conservation or recreation values; b) provide habitat for plant or animal species or natural communities considered rare, threatened, or endangered in the State; or c) provide access to recreation opportunities or to the natural resources; and

WHEREAS, this Conservation Easement has been acquired, in part, with federal funds from the State Wildlife Grant Program in accordance with the provisions of the National State Wildlife Grant Program administered by the U.S. Fish and Wildlife Service (the "Service") and authorized by Public Law 108-1-8: Department of the Interior and Related Agencies Appropriations Act, 2004 (the "SWG Program"), which was enacted to protect and restore habitats on private lands, to benefit federally listed, proposed, or candidate species or other species determined to be at risk, and to provide technical and financial assistance to private landowners for habitat protection and restoration; and

WHEREAS, this Conservation Easement is being acquired, in part, with funding received from the Service pursuant to Grant Agreement **Number 1-74-L-1**, dated September 10 2010, between the Service and the State of Grace, Department of Inland Fisheries and Wildlife (the Third Party Holder herein). All present and future terms, conditions and administration of this Conservation Easement shall remain subject to the terms and conditions of the Grant Agreement, a notice of which is attached hereto as **Exhibit D** "Notice of Grant Agreement"; and

WHEREAS, the State of Grace, through its Department of Inland Fisheries and Wildlife may acquire, pursuant to Title 12, M.R.S.A., Chapter 903, lands or any interest therein for the purpose of public use, fish and wildlife management, recreation, and the management of forest resources; and

WHEREAS, a conservation management plan for the Property has been prepared in accordance with guidelines developed by the State of Grace, Department of Inland Fisheries and Wildlife that addresses habitat protection, soil conservation, water quality, nutrient management, and as applicable, rare, threatened and endangered species, species of concern, natural communities and ecosystems, invasive species, public access/ recreational resources, wetlands and water bodies and managed forest and agricultural resources (the "Conservation Management Plan" or the "Plan") as defined herein; and

WHEREAS, the Local Comprehensive Plan for Mercy (adopted in 1993) recognizes the importance of conserving productive farmland and active farms to maintain the municipalities agricultural business sector, cultural heritage and rural character; and

WHEREAS, Holder and Third Party Holder are qualified holders under Title 33 M.R.S.A, Section 476(2)(A) as a "qualified organization" and an "eligible donee" under Internal Revenue Code Section 170(h) 3 and the regulations promulgated thereunder to wit: a governmental entity or a non-profit corporation with the commitment to preserve the conservation values of the Protected Property, authorized by the laws of the State of Grace to accept, hold and administer conservation easements; and it possesses the authority to accept and is willing to accept this Conservation Easement under the terms and conditions hereinafter described; and

WHEREAS, Grantor and Holder agree that as long as the Grantor continues to manage the Property as an "Agricultural Enterprise" as defined in Section 8 herein, such action will confer the following public benefits: (a) provide a renewable and long-term source of farm and forest products and services; (b) provide for long-term management of farmland and forest in accordance with best management practices to prevent erosion, sedimentation and other degradation of soil and water resources; (c) provide employment opportunities in Grace; and (d)

support investment in local businesses and community services that depend directly upon, or provide ancillary services to, the agricultural and silvicultural industries; and WHEREAS, Grantor and Holder agree that permanent protection of the Protected Property to conserve Agricultural Soils and agricultural and forestry productivity and to prevent conversion of the Protected Property to nonagricultural uses will make a lasting contribution to the State of Grace; and

WHEREAS, the State of Grace Department of Inland Fisheries and Wildlife ("DIFW" or "Third Party Holder") shall hold rights of enforcement of this Conservation Easement, the interests of DIFW and the LMF being further outlined and defined under the terms of a certain project agreement between Holder and DIFW dated October 2, 2010 ("Project Agreement") to be recorded with this Conservation Easement; and

WHEREAS, the Property in its present state has additional conservation value for surface and ground water quality protection and as a significant natural heritage area that has not been subject to significant development and is a "relatively natural habitat for fish, wildlife, or plants or similar ecosystem" as that phrase is used in Section 170(h)(4)(A)(ii) of the Internal Revenue Code; and

WHEREAS, the Property is prominently visible from Harmony Road and Hundred Mile Stream and provides scenic enjoyment to the general public.

5. INCORPORATION OF PURPOSES AND RECITALS.

NOW, THEREFORE, in consideration of the foregoing recitals and purposes and for the benefit of the general public, Grantor and Holder have established this Conservation Easement on, over, under and across the Protected Property, consisting of the following terms, covenants, restrictions and affirmative rights granted to Holder, which shall run with and bind the Property in perpetuity.

6. RESTRICTIONS AND RESERVED RIGHTS.

Except for the rights conveyed to Holder by this Conservation Easement, and except for the restrictions stated in this Conservation Easement, Grantor retains all ownership rights in the Protected Property and may use the Protected Property for any lawful purpose provided that any such use is consistent with the purposes of this Conservation Easement. The following land use areas are included in the Property, all as generally depicted in Exhibit B and more particularly depicted in Exhibit C, attached hereto and made a part hereof by reference: the Ecological Protection Area and Agricultural Management Area. Without limiting the generality of the foregoing, the activities described in the following Sections 6.1 through 6.6 are prohibited except as allowed in the Conservation Management Plan as defined in Section 6.7.

6.1. ECOLOGICAL PROTECTION AREA

The Ecological Protection Area along approximately thirty five hundred feet (3500') of Hundred Mile Stream encompasses a Silver Maple Floodplain Forest, recognized as a significant natural community by the State of Grace, and includes a two hundred fifty foot (250') upland buffer from the high water mark of Hundred Mile Stream as depicted on **Exhibit B** and further described in **Exhibit C**. The primary management objective for this area is the preservation of its ecological resources. No agricultural or commercial forest management shall be permitted in the Ecological Protection Area and the cutting, manipulation, alteration or removal of vegetation shall be prohibited except as provided for in the Conservation Management Plan described in Section 6.7.A. No structures may be installed, nor any improvements made within the Ecological Protection

Area, except for Recreational Improvements defined in Section 8.7, the installation of which must have written approval of Holder prior to such installation or improvement. The use of motorized vehicles shall be prohibited within the Ecological Protection Area except for emergency purposes, provided that unauthorized use of motor vehicles by third parties shall not be deemed a violation of this easement. In the event of repeated unauthorized use of motorized vehicles in the Ecological Protection Area, Grantor and Holder shall cooperatively develop a plan to prevent such use.

6.2. AGRICULTURAL MANAGEMENT AREA

The Agricultural Management Area shall include all lands on the Protected Property not included in the Ecological Protection Area. Lands within this area shall be generally available for agricultural, commercial forest management activities and traditional non intensive outdoor recreation activities as described in Section 6.7 and defined in Sections 8.1 through 8.8 all consistent with the terms of this Easement and provided for in the Conservation Management Plan described in Section 6.7.A.

6.3 LAND USE

6.3.A. No industrial or commercial development, quarrying, mining, mineral extraction, earth removal, energy generation installations, alteration of watercourses and water bodies, or building development activities, except for Agricultural Management, Agricultural Enterprises and Commercial Forest Management activities as defined in Section 8, are permitted on the Protected Property within the Agricultural Management Area.

6.3.B. Without limiting the generality of Section 6.3.A, non-agricultural, commercial, or industrial uses and structures such as: cellular communication towers, docks, piers, billboards, campgrounds, condominiums, trailer parks and motels or hotels; activities that result in the removal of agricultural soils, such as construction and operation of golf courses and golf ranges, or ball and burlap horticulture and turf farming; power generation facilities (except for power generation primarily for use on the Protected Property); and use of the Protected Property for airstrips, helicopter pads, or aircraft landing sites, are specifically prohibited on the Protected Property.

6.3.C. The discharge of waste water into surface or ground waters on or about the Protected Property is prohibited. It is forbidden to dispose of or store rubbish, garbage, building debris, unserviceable vehicles and equipment or parts thereof, hazardous or other waste, hazardous or toxic substance, or other unsightly or offensive waste material on the Protected Property, except logging debris may be used, stored, or disposed of in a manner not detrimental to the conservation values of the Protected Property all in accordance with applicable state, local and federal laws and regulations.

6.3.D. Holder and Grantor have prepared an inventory of the Protected Property's relevant features and conditions to describe the present condition and uses of the Protected Property and its Conservation Values, including the natural, scenic and historic resources, to properly monitor future uses of the Protected Property and to assure compliance with the terms hereof ("Baseline Documentation"), and have certified the same as an accurate representation of the condition of the Protected Property as known to them as of the date of this grant. The Baseline Documentation may be augmented by amendment with prior written consent of Holder and Grantor. A copy of the Baseline Documentation is maintained at the offices of Holder and Third Party Holder.

6.3.E. Grantor has the right to use the Protected Property for Agricultural Management

and Commercial Forest Management, as defined in Section 8. Notwithstanding the current uses on the Protected Property as evidenced by the Baseline Documentation, Grantor has no affirmative obligation to actively farm or harvest any portion of the Property.

6.3.F. Grantor reserves the right to apply pesticides, herbicides and soil or crop amendments for use on the Property in accordance with all applicable laws and ordinances and in accordance with the NRCS Conservation Plan.

6.3.G. Grantor has the right, but not the obligation, to use the Property for Traditional Non-Intensive Outdoor Recreation as defined in Section 8, and to establish and maintain unpaved recreational trails consistent with the natural resource purposes of this Conservation Easement, to allow public access on the Protected Property for agricultural and recreational activities offered by Grantor and in keeping with the purposes and protections of this Conservation Easement.

6.3.H. Grantor shall have the right to use all or any portion of the Protected Property for archeological and natural resource educational purposes, including, but not limited to, interpretative activities so long as such activities are consistent with the preservation of the Conservation Values and other terms of this Conservation Easement. Existing archaeologically, culturally or historically significant features on the Protected Property as documented in the Baseline Documentation may not be altered or removed without Holder's prior written approval, which approval shall not be unreasonably withheld.

6.3.I. Grantor shall have the right to temporary access over and across the existing unpaved field road on the Property, extending from Harmony Road to the adjacent lands now or formerly of Plum Creek described in Book 1841, Page 216. Such access may be used for forest management purposes only

6.4. SUBDIVISION.

As of the date hereof, the Protected Property is comprised of a single parcel of land.

6.4.A. The Protected Property shall remain in its current configuration as an entirety without further division, partition, subdivision or other legal *de facto* creation of lots or parcels in separate ownership, except that Grantor may convey any portion of the Protected Property to a "qualified organization" under Section 170(h) of the United States Internal Revenue Code or any successor provision or as a "holder" under Title 33, M.R.S.A., Section 476 or any successor provision provided that Holder receives written notice at least 30 days prior to such proposed transfer in accordance with Section 9. Any lands conveyed in this manner shall remain subject to the terms and conditions of this Easement. Grantor may not separate the ownership of any present or future structures or improvements on the Protected Property from the ownership of the Protected Property by any means, direct or indirect. Grantor may however enter into boundary line agreements to resolve bona fide boundary line disputes, with the prior written consent of Holder which consent shall not be unreasonably withheld, provided that the total acreage of land protected under this Conservation Easement shall not be reduced by more than one quarter (1/4) acre in the aggregate.

6.4.B. Leases and rental agreements for agricultural or forestry purposes within the bounds of the Protected Property shall not be deemed divisions of the Protected Property, provided that they are treated in accordance with Section 6.7.B. Any lease or rental agreement shall specifically state that it is subject to this Conservation Easement and that the parties to such agreement shall conduct themselves on the Protected Property in accordance with this Easement.

6.4.C. Except as allowed under this Section 6.4, Grantor specifically waives rights to any current or future exemptions to the subdivision laws of the State of Grace.

6.5. STRUCTURES.

As of the date of this grant, there are no structures and improvements on the Protected Property, except for boundary markers, as documented in the Baseline Documentation ("Existing Structures"). Except as otherwise provided in this Section 6.5., no additional structures of any kind, temporary or permanent, may be located on the Protected Property.

6.5.A. Agricultural Structures and Improvements in the Agricultural Management Area.

6.5.A.1. Minor, Temporary or Portable Agricultural Structures. Grantor reserves the right to maintain and install minor, temporary or portable structures, such as animal watering systems and pump houses, temporary livestock fencing, portable livestock shelters, temporary sawmills, signs and boundary markers, and other improvements necessary or appropriate to accomplish Agricultural and Forestry Management Activities under Section 6.7, provided that such improvements (1) are set back according to the boundary of the Ecological Protection Area as depicted on Exhibit B and further described in Exhibit C, and outside that Area whenever practicable, at least two hundred fifty feet (250'), measured horizontally, from the high water mark of water bodies and wetlands; (2) are consistent with conserving the productivity of areas of the Protected Property containing Agricultural Soils; and (3) are consistent with the Conservation Management Plan (as defined in Section 6.7.A).

6.5.B. Grantor reserves the right to pump water from streams and other water bodies and to drill and maintain wells for water usage as may be reasonably necessary to support the Protected Property and the agricultural and forestry purposes set forth herein, provided, however, that such improvements are consistent with (1) conservation of the productivity of areas of the Protected Property containing Agricultural Soils and (2) the terms and conditions of the Conservation Management Plan. The size and site of wells must be based upon the farm's water needs, must be compatible with the protection of the Agricultural Soils and water resources of the Protected Property. Grantor shall retain the right to use ground water and any other water rights appurtenant to the Protected Property for agricultural, and forestry, use on the Protected Property, subject to the rights, if any, of others as of the date of this grant, and to the right of the State or other governmental entities to regulate water withdrawals (collectively, "Water Improvements"). All other commercial exploitation of said water rights is prohibited. Grantor shall not convey, encumber, lease, bargain, sell or otherwise transfer or create contractual or other interests in said water rights separately from the ownership of the Protected Property.

6.5.C. Existing fences and stone walls on the Property may be moved, removed, maintained, repaired and replaced, provided that any stone walls located along the boundaries of the Property shall not be relocated, moved or removed. Grantor shall maintain and preserve markers, which allow the Holder to determine the boundaries of the Property for monitoring and other purposes, pursuant to Section 11. New fences may be installed anywhere on the Property without written notice to or approval of Holder only if such fences (1) prevent trespassers from entering the Property; (2) manage livestock, domestic animals; or (3) are for other agricultural purposes. Fencing shall allow for the unrestricted passage of turtles along the entirety of such fencing unless otherwise provided for in the Conservation Management Plan.

6.5.D. Grantor reserves the right to install minor, small-scale structures as may be desirable to enhance the support for Traditional Non-intensive Outdoor Recreation, and as may be necessary for the management of such recreation, all as defined under Section 8, provided that such improvements are consistent with (1) the Conservation Values of the Protected Property; (2) the conservation of Agricultural Soils on the Protected Property; and (3) the Conservation Management Plan. All such structures must be designed and located to blend with the natural surroundings and complement the natural and scenic features of the Protected Property, except in cases where deviation from such standards is necessary to ensure public health or safety.

Notwithstanding the foregoing, Grantor shall not be required to give notice to or obtain approval of Holder for routine repairs and maintenance to any structures and improvements allowed under this Section 6.5.

6.6. SURFACE ALTERATIONS.

As of the date of this grant, there are no surface alterations on the Protected Property except for unpaved woods roads, agricultural fields and use areas, drainage culverts and one (1) unpaved field road all of which are described in the Baseline Documentation.

No additional filling, dumping, excavation or other alteration may be made to the surface or subsurface of the Protected Property or to its surface waters, ground waters or wetlands; except that Grantor reserves the following rights:

6.6.A. The right to maintain existing surface alterations described in Section 6.6, and the right to alter the surface to the minimum extent necessary to exercise the rights reserved in Sections 6.3 through 6.7.

6.6.B. The right to establish and maintain additional unpaved woods and field roads provided for in the Conservation Management Plan; to install erosion control devices; and to establish timber landing areas, temporary winter woods road and skid trails, all subject to any applicable design and location requirements and in compliance with then current Best Management Practices for such activities as set forth by the Grace Forest Service or its successor agency, or with other standards for soil and water protection approved in advance and in writing by Holder, and with the other requirements of this Conservation Easement

6.6.C. The right, after prior written notice to Holder, to permit limited excavation of the surface of the Protected Property for ecological, education, scientific research, or archeological investigations, conducted under then current generally accepted professional standards and without adverse effect upon the conservation values of this Conservation Easement.

6.6.D. The right but not the obligation to establish and maintain additional unpaved trails for Traditional Non-Intensive Outdoor Recreation, provided that they are located and designed in a manner to prevent soil erosion and to prevent damage to fragile plant communities, wildlife habitat and Agricultural Soils, and are consistent with the Conservation Management Plan. In every case of pennitted surface alteration, excepting actively cultivated areas, any disturbed area must be restored as soon as reasonably possible to a state consistent with the Conservation Management Plan and the conservation values protected by this Conservation Easement.

6.7. AGRICULTURAL AND COMMERCIAL FOREST MANAGEMENT ACTIVITIES IN THE AGRICULTURAL MANAGEMENT AREA.

Grantor reserves the right to continue Agricultural and Commercial Forest Management, and Traditional Non-Intensive Outdoor Recreation uses in accordance with generally accepted agricultural and silvicultural practices and sound husbandry principles, the

Conservation Management Plan (as defined below), and all applicable laws. To the extent possible, any new access, field or woods roads shall not be located on Agricultural Soils or in areas where rare, threatened or endangered species and their habitat, and rare or exemplary natural communities have been identified. In all events, Grantor remains legally responsible for compliance with all the terms of this Conservation Easement.

6.7.A. Conservation Management Plan. Grantor and Holder shall prepare a conservation management plan for the Protected Property in accordance with guidelines developed by the DIFW and on file with Holder ("Conservation Management Plan"). The purpose of the Conservation Management Plan is to ensure that the easement's conservation values are protected consistent with the terms of the conservation easement. The Conservation Management Plan will include goals, measurable objectives, and strategies for the protection of the conservation values of the property as required in the conservation easement.

Grantor and Holder shall update the Plan every five (5) years as well as at any time the Protected Property conditions change or ownership of the Property changes. Holder and Third Party Holder shall have the right to enter upon the Property in order to monitor compliance with the Plan.

6.7.A.1 Commercial Forest Management activities as defined in 8.4 that include vegetation manipulation must be conducted as prescribed in a "Forest Management Plan", certified by a Grace licensed professional forester, and in accordance with the applicable laws of the State of Grace and ordinances of the local municipality. The forest management plan shall:

- (1) Include defined management goals;
- (2) Prescribe specific practices that ensure sustainable timber production and maximize ecological benefits and
- (3) Reference and employ current Best Management Practices as defined by the Grace Forest Service.

6.7.A.2. Agricultural Management activities as defined in 8.1 must follow best management practices recommended in a conservation plan prepared in consultation with the USDA Natural Resource Conservation Service (NRCS), or its successor agency, and approved by the Hope County Soil and Water Conservation District, or its successor agency. In the event that NRCS or its successor agency no longer administer such programs, Grantor and Holder shall mutually agree on a mechanism for ensuring that Agricultural Management activities are consistent with the conservation values of the Protected Property.

Both the Forest Management Plan and the NRCS Conservation Plan are components of the Conservation Management Plan, which shall be approved in writing by the Holder and Third Party Holder prior to its implementation.

6.7.B. Grantor reserves the right to cut, harvest and process trees and vegetation in the Agricultural Management Area, in accordance with the Conservation Management Plan described in Section 6.7.A for the following purposes only:

- (1) to conduct Agricultural Management activities reserved by Grantor in this Easement;
- (2) to control insects and diseases;
- (3) to prevent personal injury and property damage;
- (4) to supply firewood and forest products for uses on the Property, including construction of permitted structures and fences on the Property;
- (5) to remove invasive species and to restore native species;
- (6) to enhance wildlife habitat;

- (7) to mark boundaries;
- (8) to clear land for use by livestock;
- (9) to establish unpaved recreational trails, in accordance with Section 6.6.0.;
- (10) to sell commercially, but only in accordance with a Forest Management Plan as provided for in Section 6.7.A.1.

6.7.C. Grantor reserves the right to prohibit trespass upon the Protected Property.

6.7.D. Grantor reserves the right to rent or lease the Protected Property for agricultural and forestry purposes, as a whole, or in part. Grantor shall provide Holder with a copy of any written lease agreement or contract. Each such lease or contract shall specifically require that all tenants conduct themselves on the Protected Property in accordance with the Conservation Management Plan and the terms of this Conservation Easement.

7. EXTINGUISHMENT OF DEVELOPMENT RIGHTS.

All rights to develop or use the Protected Property that are prohibited by or inconsistent with this Easement are extinguished and cannot be used to transfer development rights to other land, or to permit increased development of, or natural resource use or removal to, other land, or to achieve other regulatory mitigation credits for fiber, discharge of pollutants, wetlands, or other similar accommodation on land not subject to this Easement.

8. DEFINITIONS.

The terms used in this Conservation Easement shall have the following meanings unless otherwise specifically defined:

8.1. Agricultural Management. Farming activity anywhere in the Agricultural Management Area which includes the establishment, re-establishment, maintenance of wooded pastures; the planting, growing, and harvesting of forest products; the pasturing, grazing and raising of poultry, animals and livestock of every nature and description for breeding, milking, and selling for fiber or slaughter; the application of manure, soil amendments, soil conditioners and chemical fertilizers, herbicides and pesticides; and the construction and maintenance of structures for water source and water quality protection only as necessary to support allowed activities on the Protected Property. For the purposes of this protection effort, farming activity does not include row crops and orchards.

8.2. Agricultural Enterprises. The processing and production of forage crops and firewood harvested primarily on the Protected Property anywhere in the Agricultural Management Area. "Agricultural Enterprise" may also include the growing, harvesting or further processing of forest species of trees for the purpose of producing pulp or other materials used in the paper manufacturing or wood manufacturing process as defined under Section 8.4.

8.3. Agricultural Soils. Prime, unique, statewide or locally important farmland soils identified and classified by the USDA Natural Resource Conservation Service as "Prime, Unique, Statewide or Locally Important Farmland Soils."

8.4 Commercial Forest Management. The planting, growing, cultivation, stocking, and cutting of trees and other forest products anywhere in the Agricultural Management Area, and includes timber cruising; resource evaluation; manual herbicide, pesticide and fertilizer application; timber stand improvement; pruning, mechanical and conventional timber harvesting and other forest harvesting; forest products transportation; natural and artificial regeneration of forest stands; maple sugaring; other substantially similar and associated activities; and the construction, creation, use and maintenance of woods roads,

skid trails and winter haul roads, turnouts, 'timber landings and crossings of flowing waters for such purposes, all as consistent with the terms of this Easement.

8.5. Environmental law or Environmental laws. Any and all federal, state, local or municipal laws (including common law), rules, orders, regulations, statutes, ordinances, codes or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct concerning the following: air, water, solid waste, hazardous materials, worker right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land uses as may now or hereafter be in effect.

8.6. Hazardous Materials. Any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment, as said term ("hazardous materials") may now or hereafter be defined by federal or state law.

8.7. Recreational Improvements. Trail markers and bird houses; small unlighted informational and interpretive signs; trail improvements such as steps, bog bridges, water bars, footbridges, wildlife observation stations; study markers and grids; and gates, barriers or low fences to control unauthorized uses, prevent access by motor vehicles, or protect fragile areas and areas under active management or study.

8.8. Traditional Non-Intensive Outdoor Recreation. Dispersed, non-commercial, nonexclusive, and non-motorized (except as may be noted herein) public recreational activities that generally do not rely on buildings or spectator facilities. Such activities include hunting, fishing, trapping, nature observation, boating, cross country skiing, snow-shoeing, and outdoor education and nature study, including scientific and archeological research and observation, and enjoyment of open space.

9. NOTICES.

Any notices or requests for approval required by this Easement shall be in writing and shall be personally delivered or sent registered or certified mail, return receipt requested, or by other courier providing reliable proof of delivery, to Grantor and each Holder, and, if applicable, to the Third Party Holder, at the following addresses, unless one has been notified by the other of a change of address:

To Grantor:

To Holder:

To Third Party

Holder:

Billy and Betty Cattail

20 Harmony Road

Mercy, Grace 00000

Friends of Harmony Wetlands

PO Box 000

Mercy, ME 00000

State of Grace, Department of Inland Fisheries and Wildlife

10 State House Road

Mercy, 00000

Attention: Commissioner

Notices to Third Party Holder. Except for required notices to and approvals of the Third Party Holder under Sections 11.B.5 through 11.B.7, Sections 12.C through 12.G, and amendments under Section 13.F, Grantor and Holder shall not be required to give notice to State Third Party under this Conservation Easement.

9.A. In the event that notice mailed to Grantor at the last address on file with Holder is returned as undeliverable, Holder and/or Third Party Holder shall send notice by certified mail, return receipt requested, or by such commercial carrier as requires a receipt, and by regular mail to Grantor's last known address on file with the municipality of Albion, Grace, and with the Bureau of Corporations, Secretary of the State of Grace, if applicable and the mailing of such notice shall be deemed in compliance with the notice provisions of this Easement. Grantor's notices must include sufficient information to enable Holder and Third Party Holder to determine whether Grantor's plans are consistent with the terms of this Easement and the conservation purposes hereof.

9.B. When Grantor is required to provide only notice to Holder, such notice shall be given in writing at least sixty (60) days prior to the events giving rise to the need to give notice. Upon receipt of any notice from Grantor, Holder shall provide copies of such notice to Third Party Holder. .

9.C. When Grantor is required to obtain Holder's and Third Party Holder's prior written consent and approval, Grantor's request shall be in the form of a written application and shall include sufficient details and specifications for Holder to adequately review and analyze the same. Unless notified in writing by the Third Party Holder, the Holder shall carry out the review process.

Holder shall give Grantor notice when the application is deemed complete. Within 120 days of receipt of a complete application, Holder shall provide a written decision, which shall grant, grant with conditions, withhold approval, or, with consent of Grantor, extend the time within which to complete analysis of the application. Upon completion of review, Holder shall provide copies of its response to Third Party Holder. The parties agree that the application and review process shall be completed as expeditiously as possible.

9.D. Holder and, where applicable, Third Party Holder, shall not give written consent and approval unless Grantor demonstrates to the satisfaction of Holder that the proposed use or facilities is consistent with the terms, conditions, and purposes of this Easement and will not diminish or impair the ecological integrity, agricultural productivity, other natural resource, and scenic values of the Property.

9.E. In the event that the Protected Property is owned by a trust, business entity, or any common or jointly held ownership, the Grantor entity or the common or joint owners shall designate an agent responsible for the seeking of approvals from Holder, and for the receipt of notices from Holder. In the event that no single owner or agent is so designated, the approval of or notice to any executive officer of the Grantor business entity, or anyone common or joint owner, shall be deemed the approval of or notice to all such owners.

10. COSTS AND LIABILITIES.

10.A. Grantor shall pay and discharge when due all property taxes and assessments imposed upon the Protected Property and any uses thereof, and shall avoid the imposition of any liens that may affect Holder's rights hereunder. Grantor shall keep the Protected Property free of any liens or encumbrances, including without limitation those arising out

of any work performed for, materials furnished to or obligations incurred by Grantor.

10.B. Grantor acknowledges that Holder, and Third Party have no possessory rights in the Protected Property, nor any responsibility or right to control, maintain, or keep up the Protected Property or any improvements located thereon. Grantor shall retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property and any improvements located thereon. Grantor shall indemnify, defend and hold Holder and Third Party Holder harmless from and against any and all liabilities, costs, damages, or expenses of any kind that Holder or Third Party Holder, respectively, may suffer or incur as a result of or arising out of the activities of Grantor or any other parties other than Holder or Third Party Holder, respectively, on the Protected Property.

10.C. Grantor warrants that Grantor is in compliance with all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or properties of the Protected Property. Grantor warrants that there are no underground or aboveground storage tanks on the Protected Property. Grantor warrants that the removal of any underground or above ground storage tanks was done in compliance with all applicable Environmental Laws; further, Grantor warrants that any new underground or aboveground storage tank will comply with all applicable Environmental Laws. Grantor warrants that it has no actual knowledge of a release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property. Grantor shall have responsibility, and Holder and Third Party Holder shall have no responsibility whatsoever, for the operation of the Protected Property or the monitoring of hazardous and other conditions thereon. Notwithstanding any other provision of this Conservation Easement to the contrary, the parties do not intend, and this Conservation Easement shall not be construed, such that: (1) it creates in Holder or Third Party Holder the obligations or liabilities of an "owner" or "operator" as those words are defined and used in the environmental laws, as defined above, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 United States Code, Sections 9601 et seq.) or any successor or related law; (2) it creates in Holder, or Third Party any obligations or liabilities of a person described in 42 United States Code Section 9607(a)(3) or any successor or related law; or (3) Holder or Third Party Holder have any control over Grantor's ability to investigate and remediate any hazardous materials associated with the Protected Property.

11. HOLDER AND THIRD PARTY AFFIRMATIVE RIGHTS.

11.A. Access.

Holder and Third Party Holder have the right to enter the Protected Property by foot, and by snowmobile on frozen ground, including over roads owned by Grantor or rights of way or other access ways available to Grantor, in a reasonable manner, for access to the Protected Property for inspection and monitoring purposes and for enforcement of the terms of this Easement

11.B. Enforcement of Easement and Prevention and Correction of Violations.

11.B.1. Holder has the right to prevent and correct violations of the terms of this Easement notwithstanding the provisions of Section 6. If Holder finds what it believes is a violation or threatened violation, Holder may at its discretion notify

Grantor and Third Party and take appropriate legal action. Except when an ongoing or imminent violation could, in Holder's judgment, irreversibly diminish or impair the agricultural productivity of the Protected Property, Holder shall give Grantor and Third Party Holder written notice of the violation and thirty (30) days to correct it before filing any legal action.

11.B.2. In the event that Grantor retains a third party to correct the violation, Grantor shall provide Holder with a copy of a fully executed contract for such services within thirty (30) days of the notice of violation, and said contract shall provide that the corrective action be completed within ninety (90) days of said notice of violation.

11.B.3. Holder has the right to enforce this Easement by proceedings at law and in equity, including without limitation the right to require the restoration of the Protected Property to a condition in compliance herewith and receive damages for irremediable harm due to violation hereof. If a court of competent jurisdiction determines that a violation may exist, has occurred, or is threatened, Holder may obtain an injunction to stop it, temporarily or permanently. A court may also issue an injunction requiring Grantor to restore the Protected Property to its condition prior to the violation. Wherever in this Easement Grantor is afforded or retains a right to provide a plan or otherwise express an intention to take an action (regardless of whether Holder has any right to approve Grantor's action, plan or statement of intention), nothing in this Easement shall be construed to impair Holder's right to seek injunctive or other relief as necessary to enforce the terms of this Easement against a violation or threatened violation thereof. If a Court (or other decision maker chosen by mutual consent of the parties) determines that this Easement has been breached, Grantor will reimburse Holder for any reasonable costs of enforcement, including all expenses incurred in stopping and correcting the violation, court costs, reasonable attorney's fees, and any other payments ordered by such Court or decision maker. The failure of Holder or Third Party Holder to discover a violation or to take immediate legal action shall not bar it from doing so at a later time.

11.B.4. Holder may not bring an enforcement action against Grantor for injury to or change in the Protected Property resulting from natural causes or environmental catastrophe beyond Grantor's control, such as fire, flood, storm, and earth movement, any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes, or the unauthorized wrongful acts of third persons, except that Grantor is responsible for the actions of employees, contractors, licensees, invitees or any other person acting for the benefit of, or with the permission of, Grantor. In the event of violations of this Easement caused by unauthorized wrongful acts of third persons, at Holder's option, Grantor agrees to assign its right of action to Holder, to join in any suit, and/or to appoint Holder its attorney-in-fact for the purposes of pursuing enforcement action. Grantor shall take all reasonable actions, but consistent in any event with customary standards for the management of comparable areas utilized for the same purposes as the Protected Property, to prevent or abate third persons from taking such unlawful or unauthorized actions on the Protected Property.

11.B.5. In the event that Holder fails to enforce any of the terms of this Easement, as determined in the sole discretion of the Third Party Holder, the said Third Party Holder and its respective successors and assigns shall have the right to enforce the

terms of the Easement through any and all authorities available under Federal or State law.

11.B.6. In the event that Holder attempts to terminate, transfer or otherwise divest themselves of any rights, title, or interests in this Easement without the prior consent of Third Party Holder and payment of consideration to Third Party Holder, then, any such action, together with the recording of any document purporting to divest any of Holder's interests shall be void, and all right, title, and interest in this Easement shall become vested in the Third Party Holder.

11.B.7. Third Party Holder is granted the same notification, entry, inspection, enforcement, assignment rights and rights to reimbursement for legal expenses as those granted to Holder hereinabove, except that Holder is primarily responsible for stewardship and enforcement of this Easement. Holder shall forward copies of all communication between the parties in furtherance of this grant to Third Party Holder. Third Party Holder may initiate legal proceedings in furtherance of its rights and obligations hereunder only after reasonable prior notice to Grantor and Holder, asserting and documenting Holder's failure to properly enforce this grant.

11.C. Boundaries. It is Grantor's obligation to locate and keep the boundaries of the Protected Property clearly marked on the ground so as to permit Holder and Third Party Holder to accurately identify their location. In the absence of such accurately marked boundaries, Holder and Third Party Holder have the right to require Grantor to reestablish the location of such boundaries at Grantor's expense. Holder shall be responsible for maintaining a clearly marked boundary of the Ecological Protection Area.

11.D. Signage. Holder and Third Party Holder have the right, after consultation with Grantor, to install and maintain small unlighted signs visible from public vantage points, to identify Holder and Third Party Holder and inform the public and abutting property owners that the Protected Property is under the protection of this grant. Holder and Third Party Holder also has the right to erect and maintain unlighted signs of one (1) square foot or less that indicates that the Protected Property is under an agricultural Easement, and that provide an address from which further details may be obtained about the Easement. Such signs shall be located by mutual agreement of Grantor and Holder and, if applicable, Third Party Holder.

11.E. Additional Rights of Holder. With written approval from Grantor, Holder shall have the right to improve wildlife habitat and conduct ecological research in accordance with the Conservation Management Plan.

11.E.1 Educational. Holder shall have the right to use any portion of the Ecological Protection Area for natural resource educational purposes, including, but not limited to, interpretative activities so long as such activities are consistent with the preservation of the Conservation Values and other terms of this Conservation Easement.

11.E.2 Fields. In the event that Grantor fails to maintain the fields on the Protected Property, as set forth herein and described in the Baseline Documentation, Holder has the right, to maintain the fields, either by periodic mowing, haying, bushhogging, or by other means mutually agreed to by Grantor and Holder. Holder may dispose of the byproducts of such operations to defray the expense of undertaking such actions.

11.E.3 Trails. With prior written approval of Grantor, Holder may construct and maintain pedestrian trails in locations mutually agreed upon by Grantor and Holder and consistent with the Conservation Management Plan. Once created, trails may be relocated only by mutual agreement when reasonably necessitated by regulations, agricultural and forestry

operations or environmental conditions. Trails shall be constructed and maintained in an environmentally sound manner, including the following: selective clearing of trees and other vegetation to provide and maintain a footpath the width of which shall be kept as narrow as practicable, while allowing for single-file pedestrian use; constructing water bars, bridges and bog bridges out of materials that have not been treated with chemicals, stone steps, erosion control measures, and cairns; and erecting small directional and informational signs to identify the location of the trail and the rules for public use.

12. CONSERVATION EASEMENT REQUIREMENTS UNDER FEDERAL LAWS AND REGULATIONS.

12.A. Conservation Purposes. This Easement is established exclusively for conservation purposes consistent with the provisions of the Internal Revenue Code, as amended (hereinafter referred to as the "Code") at Title 26, U.S.C.A., Section 170(h)(1)-(6) and Sections 2031 (c), 2055, and 2522, and under Treasury Regulations at Title 26 C.F.R. §1.170A-14 *et seq.*, as amended.

12.B. Qualified Donee. The Holder is qualified to hold Easements pursuant to Title 33, M.R.S.A., Section 476(2)(B), as amended, and is a Qualified Organization under Code Section 170(h) 3, to wit: a publicly funded, non-profit 501(c)(3) organization with the authority to accept, hold and administer lands, easements, and buildings for the purpose of preserving and protecting natural, scenic, educational, recreational and open space values of real property.

12.C. Assignment Limitation. Subject to the Third Party Holder's written consent, and prior written consent of the Regional Director of the U.S. Fish and Wildlife Services, this Easement is assignable, but only to an entity that satisfies the requirements of Section 170(h)(3) of the Internal Revenue Code, (or successor provisions thereof) and the requirements of Title 33, M.R.S.A., Section 476(2), as amended (or successor provisions thereof), and that as a condition of transfer, agrees to uphold the conservation purposes of this grant and expressly agrees to assume the rights and obligations of Holder provided for by this Easement, and provided that the Third Party Holder or its successor grants written approval of such transfer by Holder. Holder agrees to provide Grantor and Third Party Holder with written notice of intent to assign any interest in this Easement. If Holder ceases to exist or ceases to qualify as a "qualified organization" under Section 170(h) of the United States Internal Revenue Code or any successor provision or as a "holder" under Title 33, M.R.S.A., Section 476 or any successor provision, the Third Party Holder, shall have the right, in the name and behalf of Holder, to transfer all rights and obligations of the Holder under this Easement to an entity which qualifies as a Holder under the foregoing federal and state laws, provided that the successor Holder agrees to assume the responsibilities imposed by this Easement and Third Party Holder provides written consent to such transfer.

12.D. Proceeds Clause. The parties agree that the grant of this Conservation Easement creates a property right vesting immediately in Holder and Third Party Holder. At the time of this grant, Holder's and Third Party Holder's property right has a fair market value equal to the amount by which the fair market appraisal value of the Protected Property unrestricted by this Conservation Easement is reduced by the terms and conditions imposed by this Conservation Easement. The parties further agree that the future value of Holder's and Third Party Holder's property right in the Protected Property may increase to a greater extent than the future value of Grantor's property right. In the event that this Conservation Easement is extinguished or reduced by judicial

decree, eminent domain or other legal authority for which action the parties are entitled to receive compensation, the parties agree that notwithstanding any other valuation process proposed to calculate compensation due to the parties by the entity accomplishing the extinguishment or reduction, Holder and Third Party Holder shall be entitled to that portion of the proceeds of such sale, exchange or conversion equal to the amount by which the fair market appraisal value of the Protected Property unrestricted by this Conservation Easement is reduced by the terms and conditions imposed by this Conservation Easement as of the date of such extinguishment or reduction.

Whenever all or part of the Protected Property is taken in the exercise of eminent domain so as to abrogate the restrictions imposed by this Conservation Easement, the parties shall join in appropriate actions at the time of such taking to recover the full value of the taking and all incidental or direct damages resulting from the taking. All proceeds shall be divided in accordance with the proportionate value of Grantor's, Holder's, and Third Party Holder's interests as specified in this Subsection. Holder and Third Party Holder share of proceeds will not include value attributable to authorized improvements made and paid for by Grantor after the date of this grant except as to improvements made by or at the expense of Holder or Third Party Holder

Holder and Third Party Holder shall use their respective shares of the proceeds or other moneys received under this subsection in a manner consistent with the purposes of this Conservation Easement, and subject to the terms and conditions of the National State Wildlife Grant Program administered by the U.S. Fish and Wildlife Service under Grant Number I-4-L-I, and the Notice of Grant Agreement attached hereto as Exhibit D.

12.E. Termination. If, in accordance with Title 33, M.R.S.A., Section 478, or any successor thereto, a court of competent jurisdiction determines that change of circumstances has rendered all of the purposes of this Easement no longer in the public interest, the court may, with prior written consent of Grantor, Holder and Third Party Holder, terminate or modify this Easement in accordance with applicable state and/or federal law. If the court finds good cause to terminate the Easement as to any portion of the Property, Holder and Third Party Holder, collectively, shall be entitled to an amount of proceeds from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such finding, equal to the fair market value of the Easement, or proportionate part thereof, as determined in accordance with subparagraph 12.D, Holder and Third Party Holder's proportional interest will not include value attributable to authorized improvements to the Protected Property made after the date of this grant, except as to improvements that are made by or at the expense of Holder or Third Party Holder. That portion of the award that is allocated to the contribution of the Land for Grace's Future Fund shall be credited to the Land for Grace's Future Fund or its successor entity, to be used for farmland preservation programs.

12.F. Condemnation. If all or any part of the Protected Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Easement, in whole or in part, Grantor, Holder and Third Party Holder shall act jointly to recover the full value of the interests in the Protected Property subject to the taking or in lieu purchase and all direct and incidental damages resulting there from. The collective share of Holder and Third Party of the balance of the amount recovered shall be determined pursuant to subparagraph 12.D. and shall be allocated to each respective party in accordance with each party's respective percentage interest as set forth in subparagraph 12.G.

12.G. Application of Proceeds. The collective share of Holder and Third Party

Holder of the amount recovered shall be allocated as follows: (1) Thirty-three and three tenths percent (33.3 %) to be delivered to the State of Grace, Department of Inland Fisheries and Wildlife on behalf of the United States Fish and Wildlife Service, for use in acquiring a substitute site as set forth in the Notice of Grant Agreement (Exhibit D); (2) Zero percent (0 %) to the Holder; and (3) Sixty-six and seven tenths percent (66.7 %) to the State of Grace, Land for Grace's Future Fund or its successor program, or in the absence of both, the Grace Department of Inland Fisheries and Wildlife or its successor state agency (each such program or agency, as its interests may appear. Holder shall deliver to Third Party Holder the Third Party Holder's share of any proceeds received under the circumstances described in subsections 12.A. through 12.F. attributable to the Third Party Holder. Any proceeds received by the State of Grace, Land for Grace's Future Fund shall be used for farmland conservation purposes consistent with those of this Easement.

13. GENERAL PROVISIONS.

13.A. Applicable Law. This Easement is created pursuant to the Uniform Easement Act at Title 33, M.R.S.A., Sections 476 through 479-B, inclusive, as amended, and shall be construed in accordance with the laws of the State of Grace, regardless of any conflict of law provisions.

13.B. Interpretation. If uncertainty should arise in the interpretation of this Easement, judgment should be made in favor of conserving the Protected Property in its undeveloped, agriculturally productive and open scenic state. Nothing in this Easement should be construed to permit any activity otherwise prohibited by existing or future laws and regulations imposed by any federal, state, or local government or governmental agency having jurisdiction over the Protected Property, nor to prohibit the imposition of further land use restrictions by the agreement of the parties, or by operation of law.

13.C. Non Waiver. The failure or delay of Holder or Third Party Holder, for any reason whatsoever, to discover a violation or initiate an action to enforce this Easement shall not constitute laches or a waiver or estoppel of its rights to do so at a later time. Grantor waives all defenses of laches, estoppel, and prescription.

13.D. Compliance. A person's obligation hereunder as Grantor, or successor owner of the Protected Property, will cease, if and when such person or entity ceases to have any present, partial, contingent, collateral or future interest in the Protected Property, but only to the extent that the Protected Property is then in compliance herewith. Responsibility of owners for breaches of this Easement that occur prior to transfer of title will survive such transfer; provided that the new owner shall also be responsible for bringing the Protected Property into compliance unless Holder releases the new owner.

13.D.1. Estoppel Certificates. Upon written request of Grantor or other party and at Grantor's expense, Holder shall, within a reasonable time after such request, inspect the Protected Property and shall provide a Compliance Estoppel Certificate that indicates the extent to which, to the best of Holder's knowledge, the Protected Property is in compliance with the terms of this Easement.

13.E. Severability. If any provision of this Easement or the application of any provision to a particular person or circumstance is found to be invalid, the remainder of this Easement and the application of such provision to any other person or in any other circumstance, shall remain valid.

13.F. Amendment and Discretionary Consents. Grantor and Holder acknowledge that, in view of the perpetual nature of this Easement, they are unable to foresee all potential

future land uses, future technologies and future evolution of the land and other natural resources, and other future occurrences affecting the Purposes of this Easement. Holder therefore may determine whether (a) proposed uses or proposed improvements not contemplated by or addressed in this Easement or (b) alterations in existing uses or structures, are consistent with the Purposes of this Easement. Any legally permissible amendment hereto, and any discretionary consent by Holder contemplated by this Easement, may be granted only if the Holder has determined in its discretion, that the proposed use furthers or is not inconsistent with the purposes of this Easement, substantially conforms to the intent of this grant, meets any applicable conditions expressly stated herein, and does not materially increase the adverse effect of expressly permitted actions under this Easement on the conservation values of the Protected Property. Holder has no right or power to consent to any use that would result in building development on the Protected Property other than that which is expressly allowed herein, or that would be inconsistent with the Purposes of this Easement or limit the term or terminate this Easement, or that would impair the qualification of this Easement or the status of the Holder under any applicable laws, including Title 33 M.R.S.A. Section 476 et seq., and/or Section 170(h) or 501(c)(3) of the Internal Revenue Code, or successor provisions thereof. Any amendment of this Easement shall be in writing, reviewed, approved and executed by Grantor, Holder and Third Party, and recorded in the County Registry of Deeds for the county in which the Protected Property is located.

13.G. Potential Increase in Value Acknowledged. In making this grant, Grantor has considered the fact that uses prohibited hereby may become more economically valuable than permitted uses, and that neighboring properties may in the future be put entirely to such prohibited uses. It is the intent of both Grantor and Holder that any such changes not be deemed to be changed conditions permitting alteration or termination of this Easement.

13.H. Liens Subordinated. Grantor represents that as of the date of this grant there are no liens or mortgages outstanding against the Protected Property, except any listed in **Exhibit A**, which have been subordinated to all of Holder's rights under this Easement. Grantor has the right to use the Protected Property as collateral to secure the repayment of debt, provided that any lien or other rights granted for such purpose are subordinate to all of Holder's rights under this Easement. Grantor shall notify Holder and Third Party in writing at least sixty (60) days prior to the grant of any interest in the Protected Property. The granting of a mortgage or a security interest in any structure or improvement shall be subject to this Easement but shall not require prior notice to Holder. Grantor shall provide a complete copy of this Easement to any grantee of any rights in the Protected Property prior to any such grant. The failure of Grantor to perform any act required by this Section 13.H shall not impair the validity of this Easement or limit its enforceability in any way. Under no circumstances may Holder's or Third Party Holder's rights be extinguished or otherwise affected by the recording, foreclosure or any other action taken concerning any lien or other interest in the Protected Property.

13.I. Rights and Immunities. Grantor, Holder, and Third Party Holder claim all of the rights and immunities against liability to the fullest extent of the law under Title 14 M.R.S.A., Section 159-A, et seq. as amended and any successor provisions thereof (Grace Recreational Use Statute), and Title 14 M.R.S.A. Section 8101, et seq. as amended and any successor provisions thereof, (Grace Tort Claims Act), and under any other applicable provision of law.

13.J. Standing to Enforce. Only the Holder, the Third Party Holder and Grantor may

bring an action to enforce this grant, and nothing herein should be construed to grant the public standing to bring an action hereunder, nor any rights in the Protected Property by adverse possession or otherwise, provided that nothing in this Easement shall affect any public rights in or to the Protected Property acquired by common law, adverse possession, prescription or other law, prior to this grant.

13.K. Reasonable Control of Access. Grantor reserves the right to reasonably control, by posting and other means, any use not specifically granted to the Holder herein that may unreasonably interfere with the proper exercise of Grantor's reserved rights. Grantor may exercise this right following reasonable, prior notice to Holder and an Opportunity to comment, except in an emergency, in which case notice to Holder shall be notified as soon thereafter as possible.

13.L. Transfer of Property Rights and Additional Grant of Access Rights Limited. At any time Grantor contemplates deeding the Protected Property itself, or any real property interest in it, to any grantee, mortgagee or lessee holding a lease term of two or more years, Grantor shall notify Holder and Third Party Holder in writing at least thirty (30) days prior to the execution of such conveyance instrument. In no event shall Grantor convey easements or rights of way to third parties over roads or ways not now in existence on the Protected Property. In the event that the transfer contemplates the grant of an easement or right of way running over an existing road or way on or adjacent to the Protected Property, Holder and Third Party Holder shall have the right to review and approve said transfer document prior to execution, to ensure that the agricultural and conservation purposes of this Easement are protected and that such a conveyance is consistent with the terms of this Easement. Grantor agrees to incorporate the terms of this Easement by reference in any deed or other legal instrument by which the Grantor divest themselves of any interest in all or a portion of the Protected Property, including, but not limited to, a security or leasehold interest.

13.M. Entire Agreement. This instrument sets forth the entire agreement of the parties and supersedes all prior discussions, negotiations, understandings or agreements relating to the Easement.

13.N. State's Ability to Exercise Rights. The parties acknowledge that the ability of State of Grace to exercise the rights or carry out the duties as Third Party Holder hereunder, if any, are subject to the availability of moneys appropriated or otherwise available to the State of Grace and designated for such purposes and shall not create any obligation on behalf of the State of Grace in excess of such appropriations.

14. HABENDUM AND SIGNATURES.

TO HAVE AND TO HOLD the said Conservation Easement unto the said Holder and its successors and assigns forever.

IN WITNESS WHEREOF, We, the said Billy and Betty Cattail, husband and wife, have hereunto set our hands and seals this 15th day of October, 2010.

Billy Cattail

Billy Cattail

Betty Cattail

Betty Cattail

15. ACKNOWLEDGEMENT.

STATE OF GRACE
COUNTY OF HOPE

Thence personally appeared the above-named Billy and Betty Cattail and acknowledged the foregoing instrument to be their free act and deed.

Alina Attorney

Licensed Grace Attorney
My commission expires: NA

16. HOLDER ACCEPTANCE.

The above and foregoing Conservation Easement is hereby accepted for and on behalf of the Friends of Harmony Wetlands by Richard The Lionhearted, its duly authorized Chair this 15th day of October

Friends of Mercy Wetlands

By: Name: Richard The Lionhearted Richard Lionhearted

Title: Chair

17. HOLDER ACKNOWLEDGEMENT.

STATE OF GRACE
COUNTY OF HOPE Date: October 15th, 2010

Thence personally appeared the above-named Richard The Lionhearted, Chair, and acknowledged acceptance of the foregoing Conservation Easement as his free act and deed in his said capacity, and the free act and deed of the Friends of Harmony Wetlands.

Before me,

Alina Attorney

Licensed Grace Attorney

18. STATE THIRD PARTY ACCEPTANCE.

Pursuant to 12 M.R.S.A. Chapter 100, Roland M. The Great, Commissioner, of the Department of Inland Fisheries and Wildlife, hereby gives consent to acquisition by the STATE OF GRACE, of the above and foregoing Conservation Easement. Executed this 15th day of October, 2010.

Signed Sealed & Delivered *under witness*
in the Presence of: _____
Witness

STATE OF GRACE

Department of
Inland Fisheries and Wildlife
Roland Great

Roland M. The Great, Commissioner

19. STATE THIRD PARTY ACKNOWLEDGEMENT.

STATE OF GRACE

COUNTY OF HOPE

Date: October 15th, 2010

Personally appeared the above-named Roland M. The Great, Commissioner as aforesaid, and acknowledged acceptance of the above and foregoing Conservation Easement as his free act and deed in said capacity, and the free act and deed of the State of Grace.

Before me,
Betty Beaucroft

Notary Public
Printed Name: Betty Beaucroft

EXHIBITA

Survey and Legal Description of the Protected Property

A certain lot or parcel of land situated in the Town of Mercy, County of Hope, and State of Grace, and lying on the westerly side of the public highway or road at the foot of the Hundred Mile Pond so called leading from Mercy Village to Burnham and bounded and described as follows to wit:

Beginning at a capped $S/8$ inch iron rebar set in the ground on the westerly side line of the above mentioned road now called the Harmony Road, which is now the Northeast corner of land now or formerly owned by Mercy College which deed is recorded in the Hope County Registry of Deeds in Book 888, Page 196.

Thence following the Northerly line of land now or formerly owned by Mercy College $N6YI4'00''W$ a distance of $8S8.46$ feet to a capped $5/8$ inch iron rebar.

Thence following the Westerly side line of land now or formerly owned by Mercy College $SOO'09'35''W$ a distance of 926.64 feet to a found $3/4''$ iron rod.

Thence following a tie line $SOO'09'35''W$ a distance of 79.06 feet to the center of the Hundred Mile Stream.

Thence following the thread of Hundred Mile Stream with a tie line of $N52'16'S7''W$ a distance of $S03.13$ feet to a point.

Thence following the thread of the stream with a tie line of $S6S'32'14''W$ a distance of 915.62 feet to a point.

Thence following the thread of the stream with a tie line of $S3T03'32''W$ a distance of 562.80 feet to a point.

Thence following the thread of the stream with a tie line of $N04'08'26''W$ a distance of 614.15 feet to a point.

Thence following the thread of the stream with a tie line of $N33'36'S4''W$ a distance of 303.39 feet to a point.

Thence following the thread of the stream with a tie line of $N72'OI'S2''W$ a distance of 294.47 feet to a point.

Thence following a tie line $N15'29'10''E$ a distance of 124.23 feet to a found $5/8$ inch capped iron rebar.

Thence following the easterly side line of land owned by Clean Creek which deed is recorded in said Registry in Book IS41, Page 216, $N15'29'10''E$ a distance of 2547.99 feet to a found $5/8$ inch iron rod.

Thence continuing $N15'02'13''E$ a distance of 971.84 feet to a capped $5/8$ inch iron rebar.

Thence following the southerly line of land owned by which deed is recorded in said Registry in Book 1660, Page 48, and land of which deed is recorded in said Registry in Book 2586, Page 47, $S60'22'28''E$ a distance of 1733.56 feet to a $5/8$ inch iron rebar.

Thence following the Westerly side line of land owned by which deeds are recorded in said Registry in Book 2386, Page 44, and Book 2918, Page 287, $S25'55'15''W$ a distance of 1200.78 feet to a capped $5/8$ inch iron rebar.

Thence following the Southerly boundary of land owned by $S61'52'05''E$ a distance of 1520.73 feet to a capped $5/8$ inch iron rebar set on the Westerly side line of the so called Harmony Road.

Thence following the Westerly side line of the Harmony Road $S4T55'33''W$ a distance of 467.35 feet to a point.

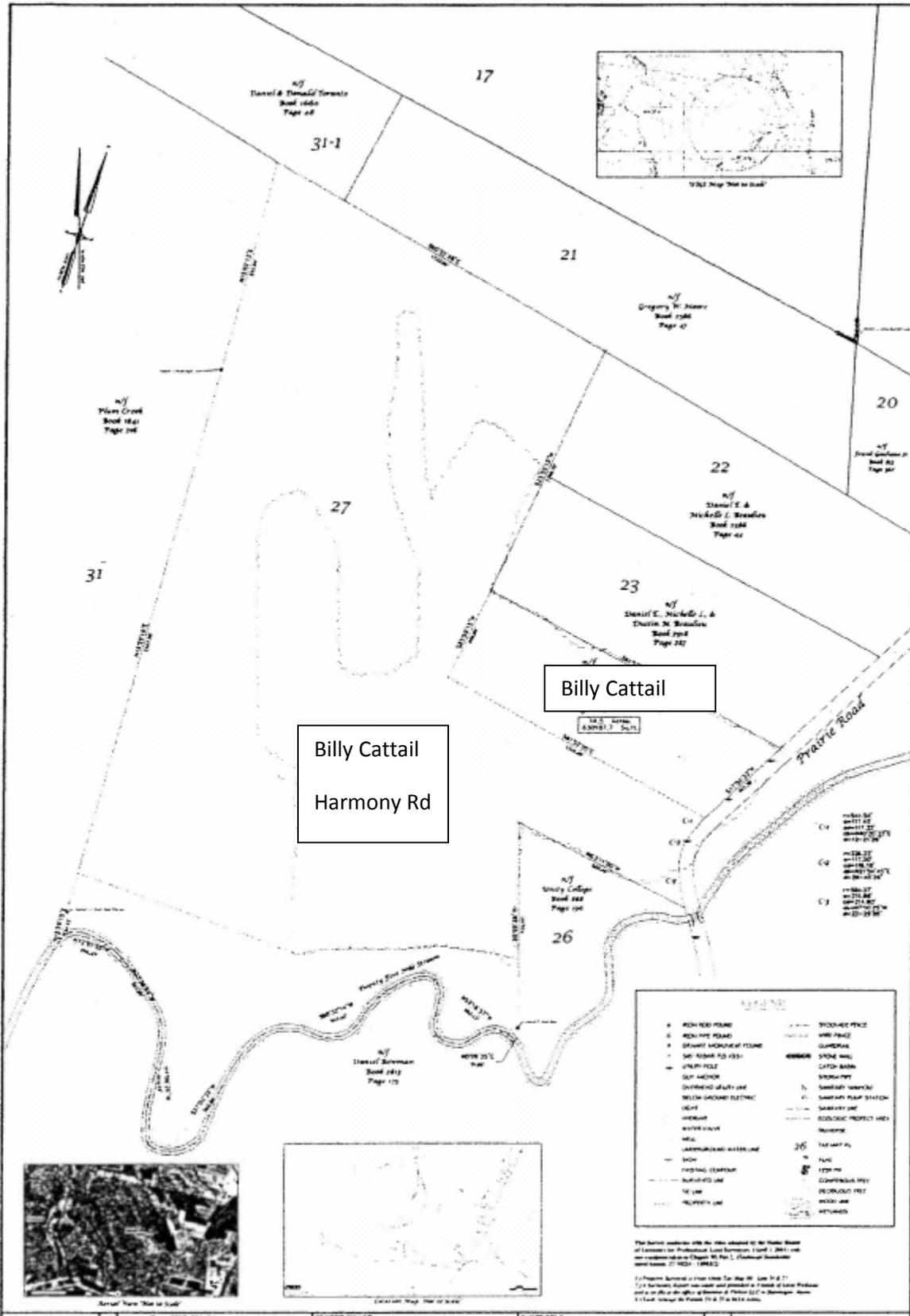
Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 544.54 feet and a distance of 117.45 feet to a point.

Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 226.22 feet and a distance of 117.5 feet to a point.

Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 550.37 feet and a distance of 0015.98 feet to the point of beginning containing 163.8 acres. All capped $5/8$ inch iron rebar are scribed PLS 351.' All bearings are observed magnetic north as of September 2010. Vol. 21 page 12

Being those premises deeded to Billy and Betty Cattail in deed recorded in said Registry of Deeds in Book 1696, Page 169.

EXHIBIT B



Billy Cattail
Harmony Rd

Billy Cattail

LEGEND

4	RED BIRD ROAD	1	SPROUTS FENCE
5	RED PINE ROAD	2	WIRE FENCE
6	SPROUTS WOODCHUCK FENCE	3	CONCRETE
7	WET ALDER RD (31)	4	STONE WALL
8	UPPER FENCE	5	CATCH BASIN
9	UPPER FENCE	6	SPRING PIT
10	DOWNING WALKWAY	7	SEWER MAIN
11	WELLS (COURT) ELECTRIC	8	SEWER PUMP STATION
12	WELLS	9	SEWER LINE
13	WELLS	10	ECOLOGICAL PROTECT AREA
14	WATER VALVE	11	WATERLINE
15	WELLS	12	TRAIL MARK ST
16	UNAPPROVED WATER LINE	13	TRAIL
17	WELLS	14	100' W
18	PROPAG. CHANNEL	15	CONCRETE PILE
19	UNAPPROVED LINE	16	CONCRETE PILE
20	TRAIL	17	WELLS
21	TRAIL	18	WELLS
22	TRAIL	19	WELLS

The Survey conducted on the site was obtained by the Public Board of Landmarks and Historic Landmarks, dated 1/20/11 and was conducted in accordance with Chapter 16, Part 1, Planning Ordinance, dated January 27, 1982 - 1983.

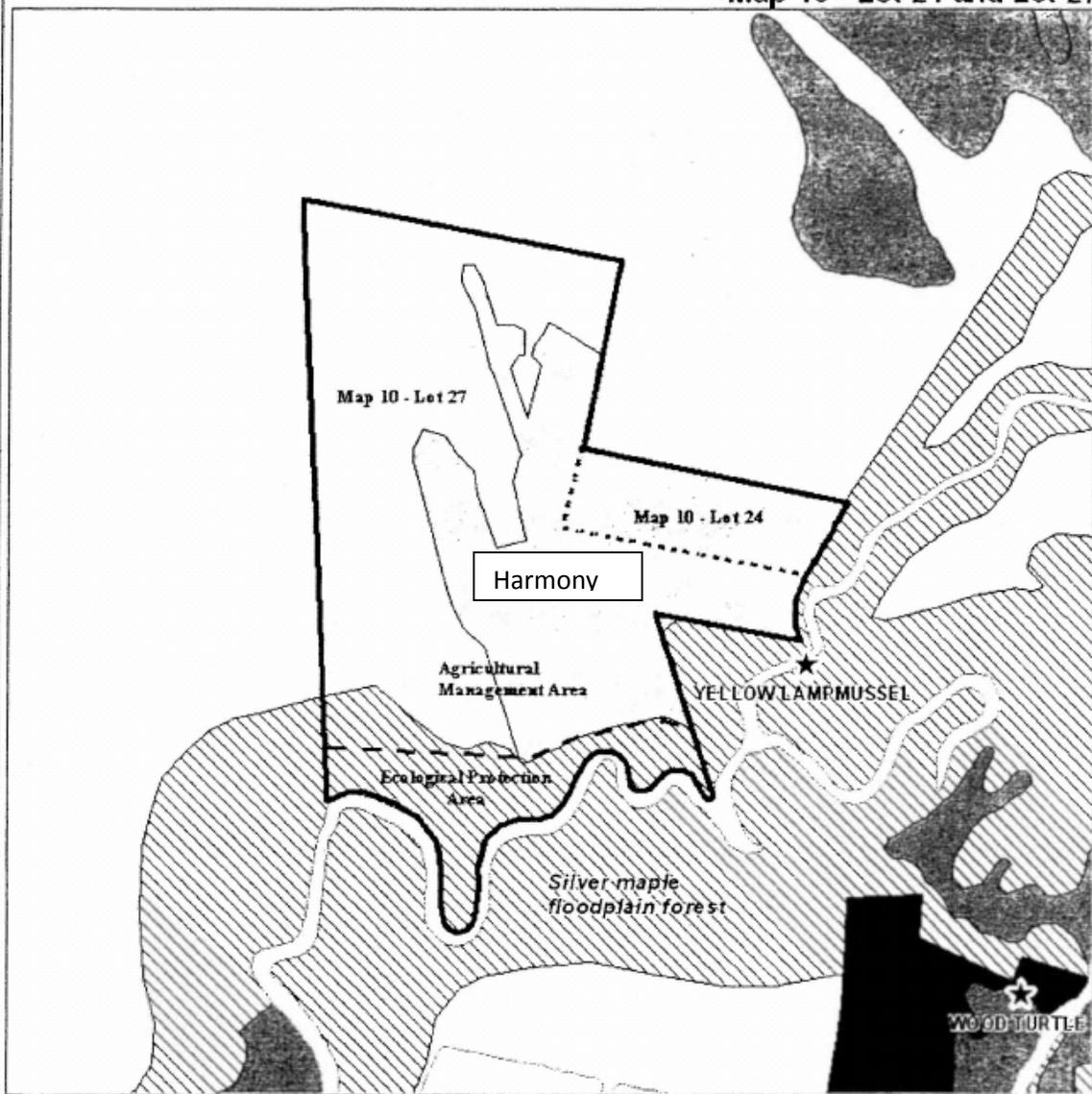
1. Property Surveyed is from United Top Map No. 100, 101 & 102.

2. The boundaries shown are based on a survey of the Landmarks and are in full in the right of Publicity of the Board of Landmarks.

3. The Survey is from Part 16, 17 & 18 of the site.

i EXHIBIT C

Map 10 - Lot 24 and Lot 27



LEGEND

Property Boundary	Prime Farmland Soils	Element Occurrence	Locally Significant Farmland = 72 acres Forest Land = 70 acres Ecological Protection Area = 22 acres All acreages are estimated.
EPA Buffer	Farmland of Statewide Importance	★ Rare Animals	
Water	Locally Significant Farmland	★ Plants	
Established Conservation Land		Natural Communities	
0.25 Miles			
			N

EXHIBIT D
Notice of Grant Agreement

The **State of Grace, Department of Inland Fisheries and Wildlife** and its successors and assigns ("Department") and **Friends of Harmony Wetlands** and its successors and assigns ("Land Trust") acknowledge that the Conservation Easement on lands of Cattail in **Mercy, Grace** to which this Notice is attached ("Easement") is acquired in part with federal funds received from the State Wildlife Grant Program administered by the U.S. Fish and Wildlife Service, Division of Federal Assistance and its successors and assigns ("Service") and that the Easement is subject to all the terms and conditions of Grant Agreement Number **I-74-L-1** between the Service and the Department ("Grant Agreement"). A copy of the Grant Agreement is kept on file at the offices of the Service, 300 Westgate Center Drive, Hadley, MA 01035-9589 and at the offices of the Department, 10 State House Road, Mercy, Grace 00000.

The Department and Land Trust acknowledge that the Easement which is the subject of this Grant Agreement is acquired for the approved purpose of permanent protection of habitat for at-risk species as defined under Title 12, M.R.S.A. Chapter 900. The Department and the Land Trust further acknowledge that the Easement will be administered for the long-term protection of these habitats and species located within the Easement area. The Department, as the Grant Recipient, and the Land Trust, as Subgrantee, hereby acknowledge that they are responsible for ensuring that the Easement is and will continue to be held and managed for its approved purposes and that it may not be conveyed or encumbered, in whole or in part, to any other party or for any other use without the written consent of the Regional Director of the U.S. Fish and Wildlife Service.

If the Department and the Land Trust mutually determine that the Easement is no longer needed or useful for its original purposes, upon concurrence and written consent of the Service, and court confirmation pursuant to 33 MRSA, §477-A(2), the Land Trust shall:

- (1) acquire a conservation easement or other interest in land of equal value that serves the same approved purposes as the original Easement and shall manage the newly acquired conservation easement or other interest in land for the same purposes specified in the original Grant Agreement;
- or
- (2) repay the Service, in cash, the proportionate federal share of funds invested in the original purchase price, or to repay the Service, in cash, the proportionate federal share of the current fair market value of the Easement, or any portion thereof, whichever is higher; or
- (3) as a last resort, transfer the Easement to the Service or to a qualified third-party holder designated or approved by the Service.

The Department, as Grant Recipient, and the Land Trust as Sub grantee hereby confirm their obligations and responsibilities under the Conservation Easement pursuant to terms and conditions associated with Grant Agreement 1-74-L-1.

IN WITNESS WHEREOF, the State of Grace, Department of Inland Fisheries and Wildlife, has caused these presents to be executed in its name and behalf by Roland M. The Great, Commissioner hereunto duly authorized seal this 15th day of October, 2010.

Roland Great

State of Grace
Department of Inland Fisheries and Wildlife
By: Roland M. The Great, Commissioner

State of Grace, County of Hope

October 15th, 2010

Thence personally appeared the above-named, Roland M. The Great, Commissioner, to me personally known, who, being by me duly sworn, did state that the foregoing is his free act and deed in his said capacity and the free act and deed of the State of Grace, Department of Inland Fisheries and Wildlife.

Before Me

Betty Beauocrat

Notary Public

Printed Name: Betty Beauocrat

My Commission Expires: NA

IN WITNESS WHEREOF, the **Friends of Harmony Wetlands** has caused these presents to be executed In its name and behalf by Richard The Lionhearted, its Chair hereunto duly authorized seal this 15th day of October, 2010

Richard Lionhearted

Friends of Harmony Wetlands

By: Richard The Lionhearted, Chair

State of Grace

County of Hope

Friends of Harmony Wetlands

By: Richard The Lionhearted, Chair

Thence personally appeared the above-named Richard The Lionhearted, to me personally known, who, being by me duly sworn, did state that the foregoing is his free act and deed in his said capacity and the free act and deed of said corporation.

Before Me,

Patrick Politician

Patrick Politician

NOTARY PUBUC

State of Grace

My Commission Expires: **07/20/14**

SUBORDINATION AGREEMENT

WHEREAS,

Billy Cattail , of Mercy, Grace and having an address at Box 000, Harmony Road, Mercy, Grace00000 (hereinafter the :Secured Party"), is the secured party under a mortgage from Billy Cattail and Betty Cattail (hereinafter "Debtors") to him, dated May 30, 1997 and recorded in the Hope County Registry of Deeds in Book 1696, Page 177 (hereinafter "the Mortgage"); and

WHEREAS, the Mortgage covers certain real property of Debtors located in the Town of Mercy, Grace, on the Westerly side of the Harmony Road, as more fully set forth in the Mortgage; and .

WHEREAS, Debtors are entering into a Conservation Easement with the Friends of Harmony Wetlands and the State of Grace, Department of Inland Fisheries and Wildlife (hereinafter "the Holders"), dated October 15th, 2010 and recorded in said Registry in Book 100, Page 32. (hereinafter the "Conservation Easement"), which such Conservation Easement encumbers debtors under mortgage to the Secured Party; and

WHEREAS, the Holders require, as a condition of the Conservation Easement, that the rights of the Holders to enforce the Conservation Easement be superior to any security interest evidenced by the Mortgage.

NOW THEREFORE, in order to comply with the provisions of the Conservation Easement, Billy Cattail, as Secured Party, for himself and his successors and assigns does hereby covenant, consent and agree that the Mortgage and any security interest evidenced by the Mortgage on the real property of Debtors set forth therein shall be and are hereby subordinated to the rights of the Holders to enforce the terms, restrictions and covenants of the Conservation Easement so that the Conservation Easement and the Holders' right to enforce the same shall not be terminated or affected by foreclosure or other transfer pursuant to Secured Party's rights.

IN WITNESS WHEREOF, the said Billy Cattail has hereunto set his hand this 15th day of October, 2010

Attest:

Handwritten witness signature and Billy Cattail signature with horizontal lines below them.

State of Grace
County of Hope

October 15, 2010

Thence personally appeared the above-named Billy Cattail and acknowledged the foregoing to be his free act and deed.

Before me,

Handwritten signature of Patrick Politician with horizontal line below it.

Patrick Politician
NOTARY PUBUC

State of Grace

My Commission Expires: 07/20/14

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Conservation Management Plan
For
Harmony Road Wetlands Easement

DRAFT

Conservation Management Plan

The purpose of this Conservation Management Plan is to assist the landowners and the Easement Holder in identifying, monitoring, and preserving the ecological assets found on the protected property and to assure that the management of the property is consistent with the goals of the State Wildlife Grant Program and the requirements of the Internal Revenue Code. The plan is designed to assist in the conservation of rare plants, rare animals, and Significant natural communities found on the protected property. The Conservation Management plan has been developed by The Friends of Harmony Wetlands in partnership with the landowners and with the assistance of the Grace Department of Inland Fisheries and Wildlife, Grace Natural Areas Program and Natural Resources Conservation Service.

I. PROJECT NAME: Harmony Road Wetlands Easement

II. GENERAL INFORMATION

Landowner: Billy & Betty Cattail, 20 Harmony Road, Mercy, Grace 00000

A. Conservation Easement Holder (Plan Preparer): Friends of Harmony Wetlands, PO Box 000, 10 Main Street, Mercy, Grace 00000

B. Effective Date: June 30, 2011.

C. Primary Planning Periods: Five years and every 5 years thereafter

D. Town & County: Mercy, Hope County

E. Tax Information: Mercy Tax Map 10, Lots 24 & 27

F. Parcel Location: The parcel is located on Harmony Road in the north-central region of Mercy, west of Mercy Pond. It is bordered on the south by Hundred Mile Stream and on the east by Harmony Road or other properties that abut Harmony Road. Its western and northern borders abut landlocked private properties.

G. Map showing land-use areas: Attached (draft)

H. Other maps: Resource map attached

III. PROPERTY DESCRIPTION

The 175-acre parcel is part of a 14,263-acre block of undeveloped land within the Harmony Wetlands Focus Area. The wet meadow field component of the property (-72 acres) currently provides one of the largest open grassland habitats in the northern portion of the Focus Area. A series of ditches and culverts to help drain the field were installed in the 1950s. The drainage system has, for the most part, not been maintained. The field is hayed annually when water levels allow. An unimproved road bisects the field to allow access to the woodlot. The southern end of the parcel fronts approximately 1100 ft (0.2 mi) of Hundred Mile Stream with mature, undisturbed hardwood floodplain forest along its entire length. This section of the stream provides valuable habitat for yellow lampmussel and possibly tidewater mucket, two rare freshwater mussels. The forest is dominated by silver maple, red maple, white and bur oak, red oak, ash, and white pine. American hornbeam is abundant in the understory. Adding to the significance of this section of forest are the large backwater flooded pools that become isolated from the mainstem and host active wood frog chorusing. A large area to the west and north of the fields is in moist, mixed forest dominated by red maple and balsam fir but with a good diversity of other tree species including white pine, red spruce, paper birch, aspen, and northern white cedar. This section of forest was the subject of a partial harvest in 2005, where large diameter white pine seemed to be the

primary target. The entire property is considered to be of high potential habitat value (top 25%) by the US Fish and Wildlife Service for grassland and forest-associated priority trust species. The Grace Department of Inland Fisheries & Wildlife has mapped a large portion of the parcel as moderate value Significant Wildlife Habitat for waterfowl and wading birds. The conservation easement divides the property into two land use areas:

- The Ecological Protection Area, the area within 250' of Hundred Mile Stream, in which no forestry or agricultural management activities may occur.
- The Agricultural Management Area, comprised of all other portions of the parcel, in which agricultural and forestry management activities may occur.

IV. GOALS, OBJECTIVES & STRATEGIES

It is the landowner's intention to keep the property essentially as it is at the time the Conservation Management Plan becomes effective. Hay production will continue in the Agricultural Management Area, in accordance with the landowner's NRCS Conservation Plan. There will be no timber harvest until a forest management plan is completed by a Grace licensed professional forester. The Ecological Protection Area will be maintained in its natural condition, with only minor land-use activities, including recreational improvements which require written approval of Holder. There will be no use of motorized vehicles within the Ecological Protection Area. **The easement allows the Ecological Protection Area of the property to be conveyed to a "qualified organization" such as a land trust or educational institution; no other subdivision of the parcel will be permitted.**

Listed below are goals, objectives, and strategies for managing (1) habitat that supports threatened, endangered, or "species of concern" plants and animals; (2) rare or exemplary natural communities and ecosystems; and (3) Significant wildlife habitats and essential habitats.

A. Wildlife

1. Two state threatened species of freshwater mussel, Yellow Lampmussels (*Lampsilis cariosa*) Tidewater Mucket (*Leptodea ochracea*), have been documented in Hundred Mile Stream, which runs along the property value. Population declines have been documented for both species throughout much of their range, prompting Grace to add them to its Threatened list in 1997. Protection of forested riparian areas is necessary for the long-term survival of these species in Hundred Mile Stream, and a primary goal for this property is to maintain the riparian forest in its existing, natural condition. No commercial forestry or agricultural operations will be allowed within 250' of the stream (the Ecological Protection Area).

Objectives and Strategies:

- a. Remove any trash and other human alterations within the Ecological Protection Area.
- b. Work with the landowners and Natural Resources Conservation Service (NRCS) staffs to ensure best management practices that protect water quality are followed in the Agricultural Management Area (in accordance with the landowners' NRCS Conservation Plan).
- c. Support the state's mussel monitoring efforts.

2. Wood turtles (*Glyptemys insculpta*), a species of Special Concern in Grace, have been documented in the vicinity of this property. Status of the population is not currently known. Because vernal pools and other forested wetlands are habitat for the wood turtle, those areas should be protected and disturbed as little as possible. A primary goal will be to maintain the vernal pools, floodplain forest and associated wetlands in their existing, natural condition as key habitat for all amphibians and reptiles, including the wood turtles.

Objectives and Strategies:

- a Inventory and map all vernal pools by 2012
- b Evaluate threats/problems at key habitat sites.
- c Remove any trash and other human alterations at wetland sites.
- d Inventory the property for wood turtles. Continue to conduct surveys for these species.

3. Grassland Birds. The wet meadow and upland field component of the protected property currently provides one of the largest open grassland habitats (~75 acres) in the northern portion of the Harmony Wetlands Focus Area. A primary goal is to manage the fields, which are used for hay production, to allow for use as nesting habitat for several grassland bird species. Delayed harvest (mid-July) is typical due to field conditions and grants the potential for excellent habitat for several grassland bird species that have few other nesting habitat opportunities in the greater Focus Area. Recognizing the importance of this grassland habitat, the conservation easement grants the Holder the right to maintain the field should the landowner ever fail to do so.

Objectives and Strategies:

- a. Work cooperatively with landowners to assure a delayed hay harvest
- b. Work cooperatively with landowners to assure field is maintained as open grassland.
- c. Inventory the property for grassland nesting birds in 2012. Continue to conduct surveys for these species.

Information provided above relates to current knowledge about the property. Within the next five years (2012-2017), the landowner and the conservation easement Holder intend to gather more data about native animal species occurring on this property. Goals, objectives, and strategies will be updated to reflect any new information, especially with regard to other rare, threatened, or endangered animal species.

B. Plants

No occurrences of threatened, endangered or species of concern plant populations are documented at this time, but the goal is to protect rare plant habitat in the Ecological Protection Area.

Objectives and strategies:

- a. Obtain more information about rare plants on the property beginning in 2012. Easement Holder should complete a botanical survey.
- b. Based on survey results, inform landowners of rare plant species and their locations.

C. Natural Communities and Ecosystems:

The Ecological Protection Area of the property contains mature, undisturbed Hardwood Floodplain Forest, a Grace Natural Areas Program natural community, along 1100 feet of Hundred Mile Stream. The forest is dominated by silver maple, red maple, white/bur oak, red oak, ash, and white pine. Adding to the significance of this section of forest are the large backwater flooded pools that in spring become isolated from the mainstem and host active wood frog chorusing. This community will be protected from human alteration by the no-harvest and no-motorized vehicle provisions for the Ecological Protection Area.

Objectives and strategies:

- a. Holder will maintain a clearly marked boundary for the Ecological Protection Area.
- b. Identify human uses that are or may be damaging to the Ecological

Protection Area and take steps to resolve.
c. Annual inspections by Holder of conservation easement.

D. Invasive Species

There are no documented occurrences of non-native, invasive species within the protected property; however, non-native, invasive plant species are common and locally abundant in some areas of the Harmony Wetlands Focus Area. The most common of these include Morrow's Honeysuckle (*Lonicera morrowi*), Japanese Barberry (*Berberis thunbergii*), Norway Maple (*Acer platanoides*), Multiflora Rose (*Rosa multiflora*) and Purple Loosestrife (*Lythrum salicaria*).

A goal is to increase knowledge of invasive plant species on the protected property and develop a plan for managing them.

Objectives and Strategies:

- a. Easement Holder should inventory and map occurrences of non-native, invasive species by 2013.
- b. Easement Holder, with participation of landowners, should develop action plan for where and how to control invasive plant species, by 2014.

E. Public Access/Recreational Resources

The conservation easement does not grant to the public the right to use any portion of the property; public use is at the landowner's discretion. There are no existing trails on the Protected Property. The landowners permit hunting on the property, but this is at their discretion. No motorized vehicles are allowed within the Ecological Protection Area, with the exception of emergency vehicles. The landowner is permitted under the conservation easement to install and maintain certain structures in the Ecological Protection and Agricultural Management Areas to accommodate wildlife habitat management and traditional, non-intensive outdoor recreation, nature observation and study, and environmental education. These structures include but are not limited to: bird houses; small, unlighted, informational and interpretive signs; rustic footpath improvements such as wetland crossings, water bars, and railings; and minor structures that are necessary for safety, erosion control, or protection of fragile resources. Under all circumstances, a goal will be to discourage human use that could adversely impact key species, habitats, and natural communities.

Objectives and Strategies:

- a. Identify human uses that are or may be damaging to native species, and rare species and natural communities and key habitats.
- b. Annual inspections by Holder of conservation easement.
- c. If necessary, discourage damaging human uses with appropriate signage and/or barriers, as necessary. Installation of signs and barriers will be jointly coordinated by landowners and conservation easement Holder.

G. Wetlands & Waterbodies

The protected property includes a hardwood floodplain forest along Hundred Mile Stream, wet meadow, alder swale and at least two small, anthropogenic vernal pools. Management objectives for the hardwood floodplain forest are addressed in Section 6.3.C1 and the wet meadow in Section 6.3.A3 and 6.3.1.

A large alder swale borders the northwestern portion of the field and extends off the property. Several anthropogenic vernal pools have been observed along the northern and western field/forest margins that hosted large numbers of wood frog egg masses. Threats to wetlands and waterbodies include non-native, invasive plant species, the potential disruption of water flow, and potential water quality impacts from agricultural runoff. The key goals are to protect proper functioning of all natural wetlands and to maintain the existing water quality conditions.

Objectives and Strategies:

- a. Inventory the protected property and map all wetlands, including vernal pools, by 2012.
- b. Evaluate wetlands for invasive species, hydrological and other impacts and conduct annual inspections.
- c. Work with the landowners and Natural Resources Conservation Service (NRCS) staff to ensure best management practices that protects water quality are followed in the Agricultural Management Area (in accordance with the landowners' NRCS Conservation Plan).

H. Forest Resources

A large area on the west and north of the protected property is in moist, mixed forest dominated by red maple and balsam fir but with a good diversity of other tree species including white pine, red spruce, paper birch, aspen, and northern white cedar. The forest west of the agricultural field recently underwent a partial harvest where large diameter white pine seemed to be the primary target. The areas surveyed to date retain a good deal of diversity and silvicultural value. There are no plans at this time for additional timber harvest. A forest management plan by a Grace licensed professional forester will be required and incorporated into this Conservation Management Plan before any timber harvest may occur.

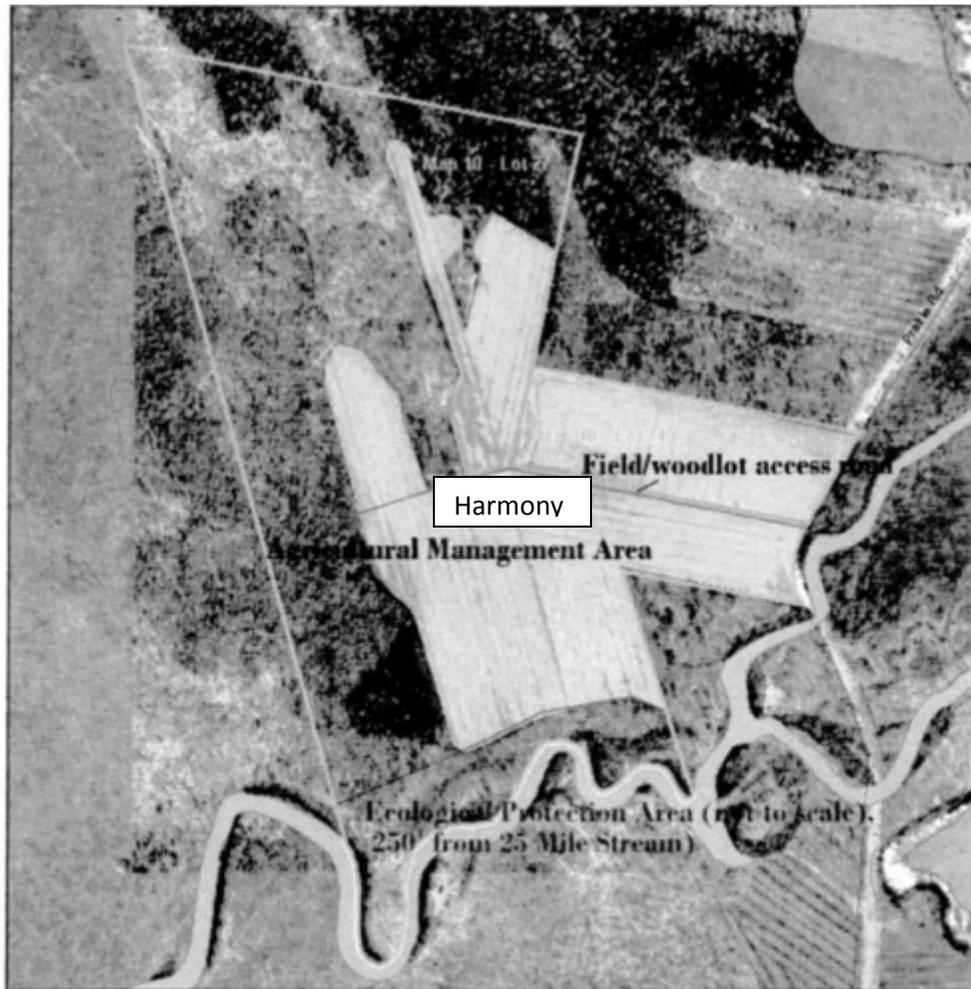
Objectives and Strategies:

- a. Annual inspections by Holder of conservation easement
- b. Work with landowner to develop a forest management plan with a license professional forester prior to any timber harvest operations.

I. Agricultural Resources

The 75-acre wet meadow/field component of the Protected Property is managed for hay production and included in the landowners' Comprehensive Nutrient Management Plan (Natural Resources Conservation Service). The relevant portions of that Plan will be attached to this document. Agricultural use of this portion of the property was made possible by the creation of broad drainage channels across the wet meadow more than 50 years ago. These channels have not been actively maintained but remain functional. A series of culverts under the field road will be replaced in 2012. The conservation easement allows these drainage structures to be maintained. Hay production is likely the only agricultural use of this field due to its drainage and soil constraints. Other uses are permitted in the conservation easement but must be consistent with the landowners' NRCS Conservation Plan and this document.

DRAFT LAND USE AREA MAP Harmony Road, Mercy, Grace



LEGEND

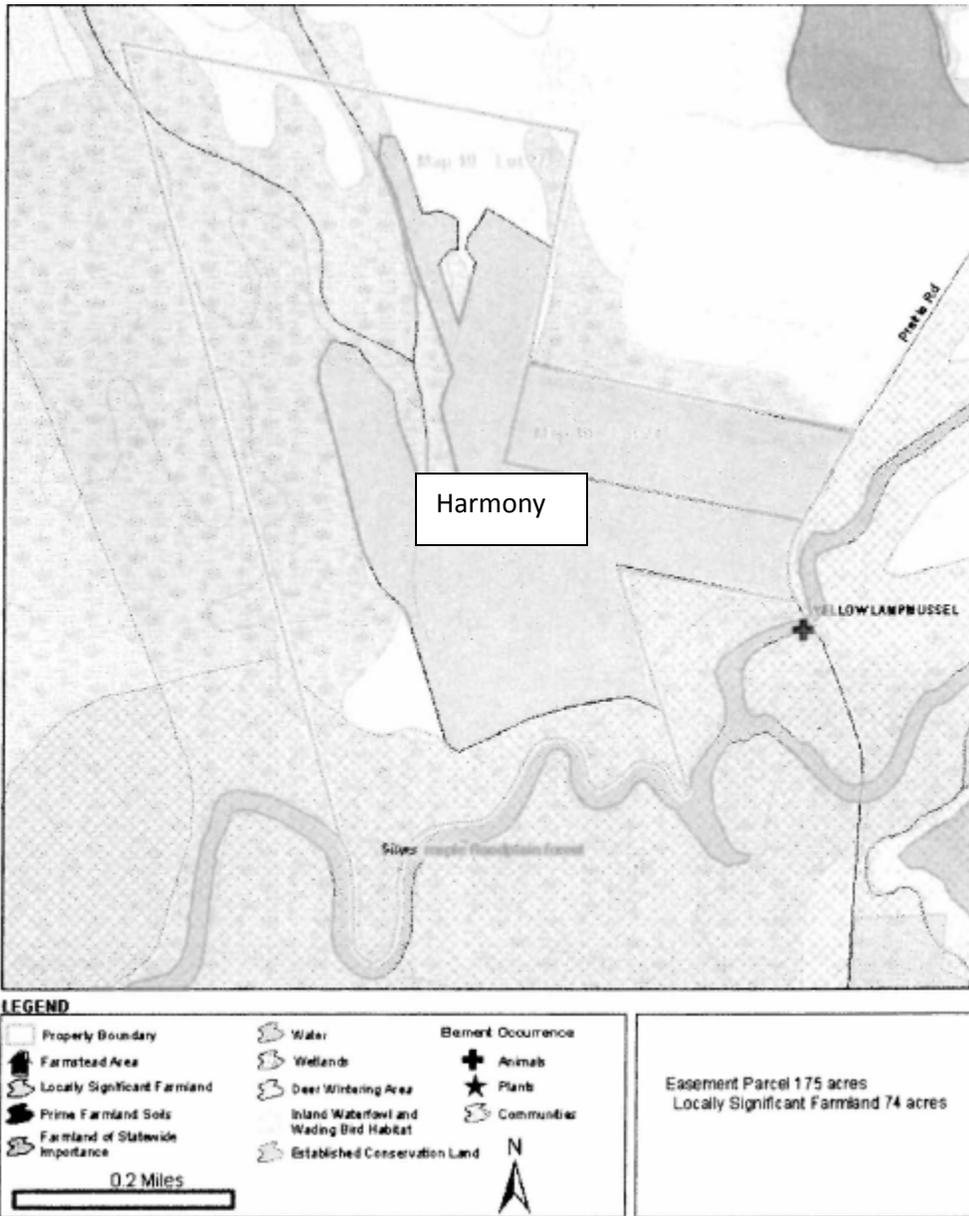
Property Boundary	Water	Element Occurrence
Farmstead Area	Wetlands	Animals
Locally Significant Farmland	Deer Wintering Area	Plants
Prime Farmland Soils	Inland Waterfowl and Wading Bird Habitat	Communities
Farmland of Statewide Importance	Established Conservation Land	

0.2 Miles

N

Easement Parcel 175 acres
Locally Significant Farmland 74 acres

Harmony Road, Mercy, Grace
Lots 24 and 27



IV. UPDATING OF PLAN INFORMATION

To encourage incorporation of new information and enlightened agriculture, forestry, and ecological management practices where appropriate and practical, the plan will, at a minimum, be evaluated within five (5) years of its effective date and every five (5) years thereafter. The Conservation Management Plan will be reviewed and, if necessary, revised within one year of a change in ownership of the protected property. Because of damage from unauthorized wrongful acts by third persons, man-made disasters, meteorological phenomena, floods, storms, infectious organisms, or exotic pest species, it may become necessary to amend the Conservation Management Plan. The Conservation Management Plan may be amended in writing by mutual agreement of the landowner and the Holder of the conservation easement.

DRAFT

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TAB 13

FINAL PERFORMANCE REPORT

Conserve and protect the critical habitats found in Harmony Roads Wetlands and along Hundred Mile Stream in order to maintain the full suite of native plant and animal species that currently exist in Grace.

175 acre Conservation Easement on Harmony Road Wetlands Cattail Property

Hope County, Grace

SWG Program Grant #: 1-74-L



By

Jennifer Birdwatcher of The Friends of Harmony Wetlands in partnership with the landowners
and with assistance of
Grace Department of Inland Fisheries and Wildlife

Background:

This State Wildlife Grant Program - Grant was awarded to the Grace Department of Inland Fisheries and Wildlife in October 2010 to protect the flora and fauna of Harmony Road Wetlands and to conserve the water quality of Hundred Mile Stream, which provides habitat for Yellow Lampmussels (*Lampsilis cariosa*), Tidewater Mucket (*Leptodea ochracea*) Creeper (*Strophitus undulates*) and Wood Turtle (*Glyptemys insculpta*) along the property boundary and wetland values including a Silver Maple Floodplain Forest, which is of significance to the People of the State of Grace. To promote the conservation of threatened and endangered species habitat, rare and exemplary natural communities and other significant wildlife values of the Harmony Wetlands Focus Area, an area of statewide ecological significance in Grace. To provide public benefit by protecting the Protected Property's agricultural soils, and allowing the Protected Property to remain available for commercial agricultural and forest management, provided that such activities are consistent with conserving the flora and fauna and other natural resource values of the Protected Property. To preserve in perpetuity the highly scenic and open views of open fields on the Property as enjoyed by the general public who travel along Harmony Road in Mercy, Grace. To preserve the traditional farming and forestry heritage and rural character of the Town of Mercy. Grantor and Holder intend that this Conservation Easement will confine the use of the Protected Property to activities that are consistent with the purposes of this Conservation Easement and will prohibit and prevent any use of the Protected Property that will impair or interfere with the protected Conservation Values as defined above.

Objectives:

- Protect 175 acres of floodplain habitat along the banks of Hundred Mile Stream by January 2012.
- Purchase a conservation easement on 175 acres of land owned by Billy Cattail by January 2012.

Accomplishments:

- Grace Department of Inland Fisheries and Wildlife successfully negotiated and purchased a 175 acre conservation easement on the Cattail Property and Harmony Road Wetlands adjacent to Hundred Mile Stream in Hope County, Grace on October 15, 2010.
- Completion of a Baseline Documentation Report and Conservation Management Plan to assist the landowners and the Easement Holder in identifying, monitoring, and preserving the ecological assets found on the protected property and to assure that the management of the property is consistent with the goals of the State Wildlife Grant Program on October 15, 2010.

Recommendations:

- Improve access and opportunity to users for wildlife dependent recreation.
- Increase frequency of monitoring to ensure terms of the easement are adhered to.
- Update the conservation management plan every five years.

Summary of Lands Costs

10-4

Tract/Parcel Name:	Harmony Road Wetlands Conservation Easement		
State ID Number (if different from Federal ID #)			
Seller:	Billy and Betty Cattail		
Date Acquired:	October 15, 2010		
Interest Acquired (Fee title or CE):	Conservation Easement		
Title to be Held by:	The Friends of Harmony Wetlands		
Acreage:	175		
Habitat Type(s) (e.g., riparian, wetland, upland, etc.):	Riparian Habitat, Upland meadow (farmland), Forested habitat		
Habitat Acreage (acreage per habitat type):	70 acres forested habitats, 33 acres riparian (3500 feet on Hundred Mile Stream) 72 acres meadow farmland		
Township, Range, and Section:	T65N, R2W, Sections 10, 11, 14, 15 and 23, Hope County, Grace		
Boating Access? Y or N	N		
Encumbrances? Y or N	Y		
Date of Valuation:	September 28, 2010		
Date of Appraisal Review:	October 10, 2010		
Appraised Value (<i>Yellow Book</i>):	\$105,000		
SUMMARY OF PARCEL COSTS	Total	Federal	LGF
1) Purchase Price:	\$105,000	\$78,750	\$26,250
2) Relocation Costs, if any:	0	0	0
3) Appraisal Costs:	\$12,000	\$9,000	\$3,000
4) Survey Costs:	\$3,800	\$2,850	\$950
5) Closing Costs: Title	\$2,400	\$1,800	\$600
6) Other Costs: Staff time, indirect costs, mileage Monitoring costs (4yrs) Baseline Report Phase 1 EA	\$9,800	\$7,350	\$2450
Total Costs to Acquire Parcel:	\$133,000	\$99,750	\$33,250
Grant Cost Share Percentages:		75% federal	25% nonfederal
Total Federal Reimbursement (S):	\$99,750		

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ISSUED By

Mercy Title Insurance

UNITED STATES OF AMERICA

POLICY OF TITLE INSURANCE

POLICY NUMBER

B03-10000. I

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE ,i.

B AND THE CONDITIONS AND STIPULATIONS, MERCY TITLE INSURANCE CORPORATION, a Grace corporation,

herein called the Company, insures, as of Date of Policy shown in Schedule A against less or damage, not exceeding the amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

- 1. Title to the estate or interest described in Schedule A be invested other than as stated therein;
- 2. Any defect in or lien or encumbrance on the title;
- 3. Unmarketability of the title;
- 4. Lack of a right of access to and from the land.
- 5. In instances where the insured acquires title to the land or condemnation, failure of the commitment for title insurance, as updated to the date of the filing of the *lis pendens* notice or the Declaration of Taking, to disclose the parties having an interest in the land as disclosed by the public records.

The Company will also pay the costs, attorneys' fees and expense s incurred in defense of title, as insured, but only to the extent provided in the Conditions and Stipulations.

IN WITNESS WHEREOF, MERCY TITLE INSURANCE CORPORATION has caused its corporate name and seal to be hereunto affixed by its duly authorized officers, the Policy to become valid when countersigned by an authorized officer or agent of the Company.

MERCY TITLE INSURANCE CORPORATION

Attest by

Secretary *Sally Secretary*

President *Peter President*

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

(b) Any governmental police power not excluded by (a) above, except to extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.

Defects, liens, encumbrances, adverse claims or other matters:

(a) created, suffered, assumed or agreed to by the insured claimant;

(b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under the policy;

(c) resulting in no loss or damage to the insured claimant; or

(d) attaching or created subsequent to Date of Policy.

This policy does not insure against the invalidity or insufficiency of any condemnation proceeding instituted by the United States of America, except to the extent set forth in insuring provision 5.

OWNER'S POLICY OF TITLE INSURANCE - SCHEDULE A**Mercy Title Insurance Corporation**

Mercy Title *Mercy Title Insurance Corporation is a member of the RealEstateAmerica family of title insurance underwriters.*

Mercy Title Insurance Corporation

100 Main Street

Mercy, Grace 00000

Date of Policy: October 15, 2010

Amount of Insurance: \$105,000.00

Policy Number: 00000000

1. Name of Insured:

Friends of Harmony Wetlands and The State of Grace Department of Inland Fisheries and Wildlife, as their respective interests may appear.

2. The estate or interest in the Land that is insured by this policy is:

Easement

3. Title is vested in:

Friends of Harmony Wetlands and The State of Grace Department of Inland Fisheries and Wildlife, as their respective interests may appear.

4. The Land referred to in this policy is situated in the County of Hope, State of Grace and is described as follows:

All that certain tract or parcel of land situated in the City of Mercy, Hope County, State of Grace, more particularly described on Exhibit A attached hereto and made a part hereof.

Countersigned:

Authorized Officer or Agent *Arthur Agent*

Gateway Title of Grace, Inc.

This Policy is invalid unless the Insuring Provisions and Schedules A and B are attached

OWNER'S POLICY SCHEDULE B

OWNER'S POLICY NUMBER: B03-100000

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

- a. The homestead and/or other statutory marital rights, if any, of the spouse of any individual insured.
 - b. The mortgage, if any, referred to in Item 4 of Schedule A.
1. Rights or claims of persons and/or parties in possession.
 2. Easements or claims of easements not shown by the public records, boundary line disputes, overlaps, encroachments, title to filled lands (if any), and any matters not of record which would be disclosed by an accurate survey and inspection of the premises.
 3. Any lien, or right to a lien, for services, labor and/or material, heretofore or hereafter furnished, imposed by law and not shown by the public records.
 4. a. Riparian rights of others
 - b. No title is insured to any filled-in land or land lying below the present or any former mean high-water line of any navigable water.
5. IF THE INSURED PREMISES IS A CONDOMINIUM UNIT:
- Covenants, conditions, restrictions, reservations, rights, easements, liens for assessments, options, powers of attorney, and limitations on title created by the Condominium Act of the State of New Hampshire R.S.A Chapter 356-B and/or set forth in the Declaration of Condominium referenced in Exhibit A hereof, as amended of record, in the related By-Laws, Rules and Regulations and the related site and floor plans, in any instrument creating the estate or interest insured by this policy and in any of the instruments aforesaid.
6. Liens for real estate taxes for the current fiscal year, not yet due and payable, and for subsequent years, and for unpaid municipal assessments, water and sewer charges, if any.
 7. Title to and rights of the public and others entitled thereto in and to those portions of the insured premises lying within the bounds of all adjacent streets and ways.

NOTE: Any covenant, condition or restriction taken as an exception in Schedule B of this Policy, indicating a preference, limitation or discrimination, based on race, color, religion, sex, handicap, familial status or national origin is omitted as provided in 42 U.S.C. §3604, unless and only to the extent that the restriction (a) is not in violation of state or federal law, (b) is exempt under 42 U.S.C. §3607, or (c) relates to a handicap, but does not discriminate against handicapped people. FOR ADDITIONAL EXCEPTIONS, SEE SCHEDULE B CONTINUATION SHEET ATTACHED HERETO INFLATION COVERAGE Residential Inflation Endorsement Form 1056-5 is hereby *given* with respect to this Owner's Policy to the same extent as if the endorsement was attached to this policy.

OWNER'S POLICY SCHEDULE B (CONTINUED)

OWNER'S POLICY NUMBER: B03-1003688

In addition to the other matters set forth in Schedule B, the title to the estate or interest in the land described or referred to in Schedule A is subject to the following additional matters:

2. Title to and rights of the public and others entitled thereto in and to those portions of the insured premises lying within the bounds of adjacent streets, roads and ways.
3. Any exception, reservation, restriction, easement or condition set out in the attached Legal Description.
4. Title to that portion of the property lying below the mean high water mark of any abutting body of water.
5. Rights and easements granted by Billy and Betty Cattail to State of Grace in an instrument dated October 11, 1965 and recorded in the Hope County Registry of Deeds in Book 638, Page 480.
6. Rights and easements granted by Billy and Betty Cattail to State of Grace in an instrument dated February 1, 1966 and recorded in the Hope County Registry of Deeds in Book 650, Page 475.
7. Rights and easements granted by Billy and Betty Cattail to State of Grace in an instrument dated March 17, 1965 and recorded in the Hope County Registry of Deeds in Book 665, Page 932.
8. Rights and easements granted to Central Grace Power Company in an instrument dated May 15, 1952 and recorded in the Hope County Registry of Deeds in Book 498, Page 44.
9. Those matters depicted or shown on a survey plan titled "Harmony Road Project" prepared by Doe and Doe LLC.
10. The interest insured by this policy is an easement interest only.
11. Terms and Provisions set forth in the Conservation Easement by and between Billy and Betty Bass, Friends of Harmony Wetlands, and the State of Grace, acting by and through its Department of Inland Fisheries and Wildlife, dated October 15, 2007 and recorded in Book 3147 Page 332, Hope County Registry of Deeds.
12. Notwithstanding the insuring provisions or exceptions to Schedule B hereto, Standard Exceptions 1, 2, and 3 are hereby omitted.

This Policy is valid only if Cover and Schedule A are attached.

OWNER'S POLICY EXHIBIT A - LEGAL DESCRIPTION

OWNER'S POLICY NUMBER: B03-1003688

The interest insured in the premises described below is an Easement interest only.

A certain lot or parcel of land situated in the Town of Mercy, County of Hope, and State of Grace, and lying on the westerly side of the public highway or road at the foot of the Hundred Mile Pond so called leading from Mercy Village to Burn and bounded and described as follows to wit:

Beginning at a capped 5/8 inch iron rebar set in the ground on the westerly side line of the above mentioned road now called the Harmony Road, which is now the Northeast corner of land now or formerly owned by Mercy College.

Thence following the Northerly line of land now or formerly owned by Mercy College N 630 14' 00" Ea distance of 858.46feet to a capped 5/8 inch iron rebar.

Thence following the Westerly side line of land now or formerly owned by Mercy College So Da 09' 35" W a distance of 926.64 feet to a found 3/4" iron rod.

Thence following a tie line So Da 09' 35" W a distance of 79.06 feet to the center of the Hundred Mile Stream.

Thence following the thread of Hundred Mile Stream with a tie line of N 52° 16' 57" W a distance of 503.13 feet

Thence following the thread of the stream with a tie line of S 680 32' 14" W a distance of 915.62 feet to a point.

Thence following the thread of the stream with a tie line of S 37' 03' 32" W a distance of 562.80 feet to a point.

Thence following the thread of the stream with a tie line of N 04 ° 08' 26" W a distance of 614.15 feet to a point.

Thence following the thread of the stream with a tie line of N 33° 36' 54" W a distance of 303.39 feet to a point.

Thence following the thread of the stream with a tie line of N 72° 01' 52" W a distance of 294.47 feet to a point.

Thence following a tie line N 15° 29' 10" W a distance of 124,23 feet to a found 5/8 inch capped iron rebar.

Thence following the easterly side line of land owned by Crook Creek which deed is recorded in the Hope County Registry of Deeds in Book 1841, Page 216, N 15° 29'10"E a distance of 2547.99 feet to a found 5/8 inch iron rod.

Thence continuing N 15° 02' 13" E a distance of 971.84 feet to a capped 5/8 inch iron rebar.

Thence following the southerly line of land owned by Dan & Don Walleye which deed is recorded in the Hope County Registry of Deeds in Book 1660, Page 48, and land of Greg W. Trout which deed is recorded in the Hope County Registry of Deeds in Book 2586, Page 47, S 60° 22' 28" E a distance of 1733.56 feet to a 5/8 inch iron rebar.

Thence following the Westerly side line of land owned by Dan E. & Michelle L. Perch which deeds are recorded in the Hope County Registry of Deeds in Book 2386, Page 44, and Book 2918, Page 287, S 250 55' 15" W a distance of 1200.78 feet to a capped 5/8 inch iron rebar.

OWNER'S POLICY EXHIBIT A - LEGAL DESCRIPTION (Continued)

OWNER'S POLICY NUMBER: B03-1003688

Thence following the Southerly boundary of land owned by Dan E. & Michelle L. Perch S 61° 05' 05" E a distance of 520.73 feet to a capped 5/8 inch iron rebar set on the Westerly side line of the so called Harmony Road.

Thence following the Westerly side line of the Harmony Road S 4 r 55' 33" W a distance of 467.35 feet to a point.

Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 544.54 feet and a distance of 117.45 feet to a point.

Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 226.22 feet and a distance of 117.5 feet to a point.

Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 550.37 feet and a distance of 215.98 feet to the point of beginning.

This Policy is valid only if Cover, Schedule A & Schedule(s) B are attached.

Owner's Policy (Exhibit A-Legal Description) (07-04091 B FRIENDS.PFD/07-04091 B FRIENDS/30)

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Warranty Deed

William E. Cattail of Hope, County of State of Grace whose mailing address is 2000 Harmony Road, Mercy, Grace 0000,
for consideration paid grant to Billy W And Betty W Cattail, both of Hope, County of State of Grace whose mailing address is Box 20, Harmony Road, Mercy, Grace 00000

With WARRANTY COVENANTS as Joint Tenants.

A one-half interest in common and undivided, in and to the following described lots or parcels of land:

PARCEL ONE: A certain lot or parcel of land situated in Mercy in county of Hope and State of Grace, and lying on the westerly side of the public highway or road at the front of the Hundred(100) mile pond. Leading from Mercy Village Burnham and bounded easterly by said road and land in possession of Ira P. Frog and land of the Heirs of Linda Toad ; northerly by land formerly owned by James Algae; westerly by land in possession of Charles Filterwater southerly by the Outlet Stream and lands of William Cleanstream. Containing one hundred seventy-five (175) acres, more or less. The above described premises known as the "Large Harmony Lot", together with the buildings thereon. Being the same premises conveyed to Billy Cattail and Betty Cattail dated May 27. 1994 and recorded at the Hope County Registry of Deeds in Book 1460, Page 141.

PARCEL TWO: A certain 101 or parcel of land situated in the Town of MERCY. County of Hope and State of Grace and bounded on the north by land formerly owned by Clean Park; the east by the Burnham Road; on the south by land formerly owned by Crisp Air and on the west by land owned by Gerald Duckhunter. Containing fourteen acres, more or less. For further description see Book 368. Page 518, Hope County Registry of Deeds. Being (the same premises conveyed to Billy Cattail and Betty Cattail by deed of Ocean Shores dated March 27. 1979 and recorded at the Hope County Registry of Deeds in Book 764, Page 857.

William E. Cattail releases all rights in the premises being conveyed.

WITNESS my hand this 10th day of May. 1997.

Billy Cattail

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CONSERVATION EASEMENT

Harmony Road Wetlands

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT, made this: day of October, 15, by and between Billy and Betty Cattail, husband and wife of Mercy, having a mailing address of 20 Harmony Road, Mercy, Grace 00000 and (hereinafter referred to as the "Grantor," which word is intended to include, unless the context clearly indicates otherwise, the above-named parties, his /her/their personal representatives, heirs, successors and assigns), and FRIENDS OF HARMONY WETLANDS, a non-profit corporation organized under the laws of the State of Grace with its principal place of business in Mercy, Grace and having a mailing address of P.O. Box 000, Mercy, Grace 00000 (hereinafter referred to as "Holder", which word is intended to include, unless the context clearly indicates otherwise the above-named Holder, its successors and assigns; and the STATE OF GRACE, acting by and through its DEPARTMENT OF INLAND FISHERIES AND WILDLIFE, an agency of the State of Grace having its principal seat in Mercy, Grace and whose mailing address is 10 State House Road, Mercy, Grace 00000 (hereinafter referred to as "Third Party Holder" or "DIFW").

1. PROJECT NAME. *Harmony Road Wetlands*

2. WORDS OF CONVEYANCE.

Grantor, for full consideration and not as a gift, GRANTS to Holder with WARRANTY COVENANTS in perpetuity, the following described Conservation Easement on, over, through, under and across that land and improvements adjacent to Harmony Road in the Town of Mercy, County of Hope, and State of Grace, and being more particularly described in Exhibit A, and depicted on Exhibit B, both attached hereto and made a part hereof by reference and hereinafter referred to as the "Protected Property" or sometimes the "Property". TOGETHER WITH a right of way for pedestrian and vehicular access to the Property as necessary or appropriate to exercise the Holder's rights hereunder, over any and all rights-of-way and roads owned by Grantor or over which Grantor has or shall have rights of access to the Property, as more particularly described in Exhibit A.

3. PURPOSE.

Holder has purchased this Conservation Easement to forever conserve the Protected Property for the following conservation purposes:

To protect the flora and fauna that inhabit the Protected Property and to conserve the water quality of **Hundred Mile Stream**, which provides habitat for Yellow Lampmussels (*Lampsilis cariosa*), Tidewater Mucket (*Leptodea ochracea*) Creeper (*Strophitus undulates*) and Wood Turtle (*Glyptemys insculpta*) along the property boundary and wetland values including a Silver Maple Floodplain Forest, which is of significance to the People of the State of Grace. To promote the conservation of threatened and endangered species habitat, rare and exemplary natural communities and other significant wildlife values of the Harmony Wetlands Focus Area, an area of statewide ecological significance in Grace. To provide public benefit by protecting the Protected Property's agricultural soils, and allowing the Protected Property to remain available for commercial agricultural and forest management, provided that such activities are consistent with conserving the flora and fauna and other natural resource values of the Protected Property.

To preserve in perpetuity the highly scenic and open views of open fields on the Property as enjoyed by the general public who travel along Harmony Road in Mercy, Grace.

To preserve the traditional farming and forestry heritage and rural character of the Town of Mercy. Grantor and Holder intend that this Conservation Easement will confine the use of the Protected Property to activities that are consistent with the purposes of this Conservation Easement and will prohibit and prevent any use of the Protected Property that will impair or interfere with the protected Conservation Values as defined above.

4. RECITALS.

The protected Conservation Values of the Protected Property are documented in the Baseline Documentation and more particularly described in the recitals set forth below.

WHEREAS, the Grantor is the sole owner in fee simple of the Property that consists of approximately seventy-two (72) acres of active agricultural lands, seventy (70) acres of forestlands and thirty-three (33) acres of riparian buffer which includes five (5) acres of substantially undeveloped Silver Maple Floodplain Forest, and approximately thirty-five hundred feet (3,500') of shoreline on Hundred Mile Stream; and

WHEREAS, Hundred Mile Stream has ecological importance as important wildlife and fisheries habitat, including for Yellow Lampmussel (*Lampsilis cariosa*) and Tidewater Mucket (*Leplodea ochracea*) both listed as State Threatened; and Creeper (*Strophitus undulates*) and Wood Turtle (*Glyptemys insculpta*) both listed as Species of Concern in the State of Grace, and for other fish and wildlife species; and development of the Property in excess of that allowed in this Conservation Easement would have an adverse effect on the ecology of the area for said species and uses; and

WHEREAS, the Property will be used for commercial forestry and agricultural management under the terms of this Conservation Easement, consistent with the protection and preservation of rare and endangered species and rare and exemplary natural communities, significant wildlife values, special natural, historical or archaeological features, areas of high public value, and other conservation values identified herein; and

WHEREAS, a portion of the Protected Property consists of locally important farmland soils ("Agricultural Soils") that have been in continuous agricultural production of some kind for approximately (75) years and thus are an agricultural resource of regional or statewide significance as those terms are hereinafter defined in Section 8.; and

WHEREAS, the protection of Agricultural Soils, preservation of agricultural and natural resource based businesses, and maintenance of open space are important to the People of the State of Grace, as evidenced by Article IX Section 8 of the Grace Constitution, and the "Farm and Open Space Tax Law", Title 36 Grace Revised Statutes Annotated ("M.R.S.A."), Section 1101 et seq which confers preferential property tax treatment for active farms and property that owners keep undeveloped and available for open space uses; and

WHEREAS, the Property has significant conservation value as open space within the meaning of Section 170(h) (4)(a)(iii) of the Internal Revenue Code, as it includes approximately seventy four (74) acres of open farmland and hay fields and one hundred and one (101) acres of forestland including approximately ten (10) acres of riparian buffer; and

WHEREAS, the State of Grace has recognized the importance of preserving scenic open space, wildlife habitat and farmland in its Constitution at Article IX, Section 8; and

WHEREAS, this Conservation Easement, including the right for traditional non-intensive outdoor recreational use by the general public, the development and land use rights conveyed, and the land use rights hereby extinguished, has been purchased with funds from the Land for Grace's Future Fund ("LMF"), established under Title 5 M.R.S.A., Chapter 353, Section 6200,

and pursuant to the terms of P.L. 1999 c. 514, Sec A-6, to acquire lands or conservation easements and other interests in land of statewide significance that: a) contain recreation lands, prime physical features of the Grace landscape, areas of special scenic beauty, farmland or open space, undeveloped shorelines, wetlands, fragile mountain areas, or lands with other conservation or recreation values; b) provide habitat for plant or animal species or natural communities considered rare, threatened, or endangered in the State; or c) provide access to recreation opportunities or to the natural resources; and

WHEREAS, this Conservation Easement has been acquired, in part, with federal funds from the State Wildlife Grant Program in accordance with the provisions of the National State Wildlife Grant Program administered by the U.S. Fish and Wildlife Service (the "Service") and authorized by Public Law 108-1-8: Department of the Interior and Related Agencies Appropriations Act, 2004 (the "SWG Program"), which was enacted to protect and restore habitats on private lands, to benefit federally listed, proposed, or candidate species or other species determined to be at risk, and to provide technical and financial assistance to private landowners for habitat protection and restoration; and

WHEREAS, this Conservation Easement is being acquired, in part, with funding received from the Service pursuant to Grant Agreement **Number 1-74-L-1**, dated September 10 2010, between the Service and the State of Grace, Department of Inland Fisheries and Wildlife (the Third Party Holder herein). All present and future terms, conditions and administration of this Conservation Easement shall remain subject to the terms and conditions of the Grant Agreement, a notice of which is attached hereto as **Exhibit D** "Notice of Grant Agreement"; and

WHEREAS, the State of Grace, through its Department of Inland Fisheries and Wildlife may acquire, pursuant to Title 12, M.R.S.A., Chapter 903, lands or any interest therein for the purpose of public use, fish and wildlife management, recreation, and the management of forest resources; and

WHEREAS, a conservation management plan for the Property has been prepared in accordance with guidelines developed by the State of Grace, Department of Inland Fisheries and Wildlife that addresses habitat protection, soil conservation, water quality, nutrient management, and as applicable, rare, threatened and endangered species, species of concern, natural communities and ecosystems, invasive species, public access/ recreational resources, wetlands and water bodies and managed forest and agricultural resources (the "Conservation Management Plan" or the "Plan") as defined herein; and

WHEREAS, the Local Comprehensive Plan for Mercy (adopted in 1993) recognizes the importance of conserving productive farmland and active farms to maintain the municipalities agricultural business sector, cultural heritage and rural character; and

WHEREAS, Holder and Third Party Holder are qualified holders under Title 33 M.R.S.A, Section 476(2)(A) as a "qualified organization" and an "eligible donee" under Internal Revenue Code Section 170(h) 3 and the regulations promulgated thereunder to wit: a governmental entity or a non-profit corporation with the commitment to preserve the conservation values of the Protected Property, authorized by the laws of the State of Grace to accept, hold and administer conservation easements; and it possesses the authority to accept and is willing to accept this Conservation Easement under the terms and conditions hereinafter described; and

WHEREAS, Grantor and Holder agree that as long as the Grantor continues to manage the Property as an "Agricultural Enterprise" as defined in Section 8 herein, such action will confer the following public benefits: (a) provide a renewable and long-term source of farm and forest products and services; (b) provide for long-term management of farmland and forest in accordance with best management practices to prevent erosion, sedimentation and other degradation of soil and water resources; (c) provide employment opportunities in Grace; and (d)

support investment in local businesses and community services that depend directly upon, or provide ancillary services to, the agricultural and silvicultural industries; and WHEREAS, Grantor and Holder agree that permanent protection of the Protected Property to conserve Agricultural Soils and agricultural and forestry productivity and to prevent conversion of the Protected Property to nonagricultural uses will make a lasting contribution to the State of Grace; and

WHEREAS, the State of Grace Department of Inland Fisheries and Wildlife ("DIFW" or "Third Party Holder") shall hold rights of enforcement of this Conservation Easement, the interests of DIFW and the LMF being further outlined and defined under the terms of a certain project agreement between Holder and DIFW dated October 2, 2010 ("Project Agreement") to be recorded with this Conservation Easement; and

WHEREAS, the Property in its present state has additional conservation value for surface and ground water quality protection and as a significant natural heritage area that has not been subject to significant development and is a "relatively natural habitat for fish, wildlife, or plants or similar ecosystem" as that phrase is used in Section 170(h)(4)(A)(ii) of the Internal Revenue Code; and

WHEREAS, the Property is prominently visible from Harmony Road and Hundred Mile Stream and provides scenic enjoyment to the general public.

5. INCORPORATION OF PURPOSES AND RECITALS.

NOW, THEREFORE, in consideration of the foregoing recitals and purposes and for the benefit of the general public, Grantor and Holder have established this Conservation Easement on, over, under and across the Protected Property, consisting of the following terms, covenants, restrictions and affirmative rights granted to Holder, which shall run with and bind the Property in perpetuity.

6. RESTRICTIONS AND RESERVED RIGHTS.

Except for the rights conveyed to Holder by this Conservation Easement, and except for the restrictions stated in this Conservation Easement, Grantor retains all ownership rights in the Protected Property and may use the Protected Property for any lawful purpose provided that any such use is consistent with the purposes of this Conservation Easement. The following land use areas are included in the Property, all as generally depicted in Exhibit B and more particularly depicted in Exhibit C, attached hereto and made a part hereof by reference: the Ecological Protection Area and Agricultural Management Area. Without limiting the generality of the foregoing, the activities described in the following Sections 6.1 through 6.6 are prohibited except as allowed in the Conservation Management Plan as defined in Section 6.7.

6.1. ECOLOGICAL PROTECTION AREA

The Ecological Protection Area along approximately thirty five hundred feet (3500') of Hundred Mile Stream encompasses a Silver Maple Floodplain Forest, recognized as a significant natural community by the State of Grace, and includes a two hundred fifty foot (250') upland buffer from the high water mark of Hundred Mile Stream as depicted on **Exhibit B** and further described in **Exhibit C**. The primary management objective for this area is the preservation of its ecological resources. No agricultural or commercial forest management shall be permitted in the Ecological Protection Area and the cutting, manipulation, alteration or removal of vegetation shall be prohibited except as provided for in the Conservation Management Plan described in Section 6.7.A. No structures may be installed, nor any improvements made within the Ecological Protection

Area, except for Recreational Improvements defined in Section 8.7, the installation of which must have written approval of Holder prior to such installation or improvement. The use of motorized vehicles shall be prohibited within the Ecological Protection Area except for emergency purposes, provided that unauthorized use of motor vehicles by third parties shall not be deemed a violation of this easement. In the event of repeated unauthorized use of motorized vehicles in the Ecological Protection Area, Grantor and Holder shall cooperatively develop a plan to prevent such use.

6.2. AGRICULTURAL MANAGEMENT AREA

The Agricultural Management Area shall include all lands on the Protected Property not included in the Ecological Protection Area. Lands within this area shall be generally available for agricultural, commercial forest management activities and traditional non intensive outdoor recreation activities as described in Section 6.7 and defined in Sections 8.1 through 8.8 all consistent with the terms of this Easement and provided for in the Conservation Management Plan described in Section 6.7.A.

6.3 LAND USE

6.3.A. No industrial or commercial development, quarrying, mining, mineral extraction, earth removal, energy generation installations, alteration of watercourses and water bodies, or building development activities, except for Agricultural Management, Agricultural Enterprises and Commercial Forest Management activities as defined in Section 8, are permitted on the Protected Property within the Agricultural Management Area.

6.3.B. Without limiting the generality of Section 6.3.A, non-agricultural, commercial, or industrial uses and structures such as: cellular communication towers, docks, piers, billboards, campgrounds, condominiums, trailer parks and motels or hotels; activities that result in the removal of agricultural soils, such as construction and operation of golf courses and golf ranges, or ball and burlap horticulture and turf farming; power generation facilities (except for power generation primarily for use on the Protected Property); and use of the Protected Property for airstrips, helicopter pads, or aircraft landing sites, are specifically prohibited on the Protected Property.

6.3.C. The discharge of waste water into surface or ground waters on or about the Protected Property is prohibited. It is forbidden to dispose of or store rubbish, garbage, building debris, unserviceable vehicles and equipment or parts thereof, hazardous or other waste, hazardous or toxic substance, or other unsightly or offensive waste material on the Protected Property, except logging debris may be used, stored, or disposed of in a manner not detrimental to the conservation values of the Protected Property all in accordance with applicable state, local and federal laws and regulations.

6.3.D. Holder and Grantor have prepared an inventory of the Protected Property's relevant features and conditions to describe the present condition and uses of the Protected Property and its Conservation Values, including the natural, scenic and historic resources, to properly monitor future uses of the Protected Property and to assure compliance with the terms hereof ("Baseline Documentation"), and have certified the same as an accurate representation of the condition of the Protected Property as known to them as of the date of this grant. The Baseline Documentation may be augmented by amendment with prior written consent of Holder and Grantor. A copy of the Baseline Documentation is maintained at the offices of Holder and Third Party Holder.

6.3.E. Grantor has the right to use the Protected Property for Agricultural Management

and Commercial Forest Management, as defined in Section 8. Notwithstanding the current uses on the Protected Property as evidenced by the Baseline Documentation, Grantor has no affirmative obligation to actively farm or harvest any portion of the Property.

6.3.F. Grantor reserves the right to apply pesticides, herbicides and soil or crop amendments for use on the Property in accordance with all applicable laws and ordinances and in accordance with the NRCS Conservation Plan.

6.3.G. Grantor has the right, but not the obligation, to use the Property for Traditional Non-Intensive Outdoor Recreation as defined in Section 8, and to establish and maintain unpaved recreational trails consistent with the natural resource purposes of this Conservation Easement, to allow public access on the Protected Property for agricultural and recreational activities offered by Grantor and in keeping with the purposes and protections of this Conservation Easement.

6.3.H. Grantor shall have the right to use all or any portion of the Protected Property for archeological and natural resource educational purposes, including, but not limited to, interpretative activities so long as such activities are consistent with the preservation of the Conservation Values and other terms of this Conservation Easement. Existing archaeologically, culturally or historically significant features on the Protected Property as documented in the Baseline Documentation may not be altered or removed without Holder's prior written approval, which approval shall not be unreasonably withheld.

6.3.I. Grantor shall have the right to temporary access over and across the existing unpaved field road on the Property, extending from Harmony Road to the adjacent lands now or formerly of Plum Creek described in Book 1841, Page 216. Such access may be used for forest management purposes only

6.4. SUBDIVISION.

As of the date hereof, the Protected Property is comprised of a single parcel of land.

6.4.A. The Protected Property shall remain in its current configuration as an entirety without further division, partition, subdivision or other legal *de facto* creation of lots or parcels in separate ownership, except that Grantor may convey any portion of the Protected Property to a "qualified organization" under Section 170(h) of the United States Internal Revenue Code or any successor provision or as a "holder" under Title 33, M.R.S.A., Section 476 or any successor provision provided that Holder receives written notice at least 30 days prior to such proposed transfer in accordance with Section 9. Any lands conveyed in this manner shall remain subject to the terms and conditions of this Easement. Grantor may not separate the ownership of any present or future structures or improvements on the Protected Property from the ownership of the Protected Property by any means, direct or indirect. Grantor may however enter into boundary line agreements to resolve bona fide boundary line disputes, with the prior written consent of Holder which consent shall not be unreasonably withheld, provided that the total acreage of land protected under this Conservation Easement shall not be reduced by more than one quarter (1/4) acre in the aggregate.

6.4.B. Leases and rental agreements for agricultural or forestry purposes within the bounds of the Protected Property shall not be deemed divisions of the Protected Property, provided that they are treated in accordance with Section 6.7.B. Any lease or rental agreement shall specifically state that it is subject to this Conservation Easement and that the parties to such agreement shall conduct themselves on the Protected Property in accordance with this Easement.

6.4.C. Except as allowed under this Section 6.4, Grantor specifically waives rights to any current or future exemptions to the subdivision laws of the State of Grace.

6.5. STRUCTURES.

As of the date of this grant, there are no structures and improvements on the Protected Property, except for boundary markers, as documented in the Baseline Documentation ("Existing Structures"). Except as otherwise provided in this Section 6.5., no additional structures of any kind, temporary or permanent, may be located on the Protected Property.

6.5.A. Agricultural Structures and Improvements in the Agricultural Management Area.

6.5.A.1. Minor, Temporary or Portable Agricultural Structures. Grantor reserves the right to maintain and install minor, temporary or portable structures, such as animal watering systems and pump houses, temporary livestock fencing, portable livestock shelters, temporary sawmills, signs and boundary markers, and other improvements necessary or appropriate to accomplish Agricultural and Forestry Management Activities under Section 6.7, provided that such improvements (1) are set back according to the boundary of the Ecological Protection Area as depicted on Exhibit B and further described in Exhibit C, and outside that Area whenever practicable, at least two hundred fifty feet (250'), measured horizontally, from the high water mark of water bodies and wetlands; (2) are consistent with conserving the productivity of areas of the Protected Property containing Agricultural Soils; and (3) are consistent with the Conservation Management Plan (as defined in Section 6.7.A).

6.5.B. Grantor reserves the right to pump water from streams and other water bodies and to drill and maintain wells for water usage as may be reasonably necessary to support the Protected Property and the agricultural and forestry purposes set forth herein, provided, however, that such improvements are consistent with (1) conservation of the productivity of areas of the Protected Property containing Agricultural Soils and (2) the terms and conditions of the Conservation Management Plan. The size and site of wells must be based upon the farm's water needs, must be compatible with the protection of the Agricultural Soils and water resources of the Protected Property. Grantor shall retain the right to use ground water and any other water rights appurtenant to the Protected Property for agricultural, and forestry, use on the Protected Property, subject to the rights, if any, of others as of the date of this grant, and to the right of the State or other governmental entities to regulate water withdrawals (collectively, "Water Improvements"). All other commercial exploitation of said water rights is prohibited. Grantor shall not convey, encumber, lease, bargain, sell or otherwise transfer or create contractual or other interests in said water rights separately from the ownership of the Protected Property.

6.5.C. Existing fences and stone walls on the Property may be moved, removed, maintained, repaired and replaced, provided that any stone walls located along the boundaries of the Property shall not be relocated, moved or removed. Grantor shall maintain and preserve markers, which allow the Holder to determine the boundaries of the Property for monitoring and other purposes, pursuant to Section 11. New fences may be installed anywhere on the Property without written notice to or approval of Holder only if such fences (1) prevent trespassers from entering the Property; (2) manage livestock, domestic animals; or (3) are for other agricultural purposes. Fencing shall allow for the unrestricted passage of turtles along the entirety of such fencing unless otherwise provided for in the Conservation Management Plan.

6.5.D. Grantor reserves the right to install minor, small-scale structures as may be desirable to enhance the support for Traditional Non-intensive Outdoor Recreation, and as may be necessary for the management of such recreation, all as defined under Section 8, provided that such improvements are consistent with (1) the Conservation Values of the Protected Property; (2) the conservation of Agricultural Soils on the Protected Property; and (3) the Conservation Management Plan. All such structures must be designed and located to blend with the natural surroundings and complement the natural and scenic features of the Protected Property, except in cases where deviation from such standards is necessary to ensure public health or safety.

Notwithstanding the foregoing, Grantor shall not be required to give notice to or obtain approval of Holder for routine repairs and maintenance to any structures and improvements allowed under this Section 6.5.

6.6. SURFACE ALTERATIONS.

As of the date of this grant, there are no surface alterations on the Protected Property except for unpaved woods roads, agricultural fields and use areas, drainage culverts and one (1) unpaved field road all of which are described in the Baseline Documentation.

No additional filling, dumping, excavation or other alteration may be made to the surface or subsurface of the Protected Property or to its surface waters, ground waters or wetlands; except that Grantor reserves the following rights:

6.6.A. The right to maintain existing surface alterations described in Section 6.6, and the right to alter the surface to the minimum extent necessary to exercise the rights reserved in Sections 6.3 through 6.7.

6.6.B. The right to establish and maintain additional unpaved woods and field roads provided for in the Conservation Management Plan; to install erosion control devices; and to establish timber landing areas, temporary winter woods road and skid trails, all subject to any applicable design and location requirements and in compliance with then current Best Management Practices for such activities as set forth by the Grace Forest Service or its successor agency, or with other standards for soil and water protection approved in advance and in writing by Holder, and with the other requirements of this Conservation Easement

6.6.C. The right, after prior written notice to Holder, to permit limited excavation of the surface of the Protected Property for ecological, education, scientific research, or archeological investigations, conducted under then current generally accepted professional standards and without adverse effect upon the conservation values of this Conservation Easement.

6.6.D. The right but not the obligation to establish and maintain additional unpaved trails for Traditional Non-Intensive Outdoor Recreation, provided that they are located and designed in a manner to prevent soil erosion and to prevent damage to fragile plant communities, wildlife habitat and Agricultural Soils, and are consistent with the Conservation Management Plan. In every case of pennitted surface alteration, excepting actively cultivated areas, any disturbed area must be restored as soon as reasonably possible to a state consistent with the Conservation Management Plan and the conservation values protected by this Conservation Easement.

6.7. AGRICULTURAL AND COMMERCIAL FOREST MANAGEMENT ACTIVITIES IN THE AGRICULTURAL MANAGEMENT AREA.

Grantor reserves the right to continue Agricultural and Commercial Forest Management, and Traditional Non-Intensive Outdoor Recreation uses in accordance with generally accepted agricultural and silvicultural practices and sound husbandry principles, the

Conservation Management Plan (as defined below), and all applicable laws. To the extent possible, any new access, field or woods roads shall not be located on Agricultural Soils or in areas where rare, threatened or endangered species and their habitat, and rare or exemplary natural communities have been identified. In all events, Grantor remains legally responsible for compliance with all the terms of this Conservation Easement.

6.7.A. Conservation Management Plan. Grantor and Holder shall prepare a conservation management plan for the Protected Property **in** accordance with guidelines developed by the DIFW and on file with Holder ("Conservation Management Plan"). The purpose of the Conservation Management Plan is to ensure that the easement's conservation values are protected consistent with the terms of the conservation easement. The Conservation Management Plan will include goals, measurable objectives, and strategies for the protection of the conservation values of the property as required in the conservation easement.

Grantor and Holder shall update the Plan every five (5) years as well as at any time the Protected Property conditions change or ownership of the Property changes. Holder and Third Party Holder shall have the right to enter upon the Property in order to monitor compliance with the Plan.

6.7.A.1 Commercial Forest Management activities as defined in 8.4 that include vegetation manipulation must be conducted as prescribed in a "Forest Management Plan", certified by a Grace licensed professional forester, and in accordance with the applicable laws of the State of Grace and ordinances of the local municipality. The forest management plan shall:

- (1) Include defined management goals;
- (2) Prescribe specific practices that ensure sustainable timber production and maximize ecological benefits and
- (3) Reference and employ current Best Management Practices as defined by the Grace Forest Service.

6.7.A.2. Agricultural Management activities as defined in 8.1 must follow best management practices recommended in a conservation plan prepared in consultation with the USDA Natural Resource Conservation Service (NRCS), or its successor agency, and approved by the Hope County Soil and Water Conservation District, or its successor agency. In the event that NRCS or its successor agency no longer administer such programs, Grantor and Holder shall mutually agree on a mechanism for ensuring that Agricultural Management activities are consistent with the conservation values of the Protected Property.

Both the Forest Management Plan and the NRCS Conservation Plan are components of the Conservation Management Plan, which shall be approved in writing by the Holder and Third Party Holder prior to its implementation.

6.7.B. Grantor reserves the right to cut, harvest and process trees and vegetation in the Agricultural Management Area, in accordance with the Conservation Management Plan described in Section 6.7.A for the following purposes only:

- (1) to conduct Agricultural Management activities reserved by Grantor in this Easement;
- (2) to control insects and diseases;
- (3) to prevent personal injury and property damage;
- (4) to supply firewood and forest products for uses on the Property, including construction of permitted structures and fences on the Property;
- (5) to remove invasive species and to restore native species;
- (6) to enhance wildlife habitat;

- (7) to mark boundaries;
- (8) to clear land for use by livestock;
- (9) to establish unpaved recreational trails, in accordance with Section 6.6.0.;
- (10) to sell commercially, but only in accordance with a Forest Management Plan as provided for in Section 6.7.A.1.

6.7.C. Grantor reserves the right to prohibit trespass upon the Protected Property.

6.7.D. Grantor reserves the right to rent or lease the Protected Property for agricultural and forestry purposes, as a whole, or in part. Grantor shall provide Holder with a copy of any written lease agreement or contract. Each such lease or contract shall specifically require that all tenants conduct themselves on the Protected Property in accordance with the Conservation Management Plan and the terms of this Conservation Easement.

7. EXTINGUISHMENT OF DEVELOPMENT RIGHTS.

All rights to develop or use the Protected Property that are prohibited by or inconsistent with this Easement are extinguished and cannot be used to transfer development rights to other land, or to permit increased development of, or natural resource use or removal to, other land, or to achieve other regulatory mitigation credits for fiber, discharge of pollutants, wetlands, or other similar accommodation on land not subject to this Easement.

8. DEFINITIONS.

The terms used in this Conservation Easement shall have the following meanings unless otherwise specifically defined:

8.1. Agricultural Management. Farming activity anywhere in the Agricultural Management Area which includes the establishment, re-establishment, maintenance of wooded pastures; the planting, growing, and harvesting of forest products; the pasturing, grazing and raising of poultry, animals and livestock of every nature and description for breeding, milking, and selling for fiber or slaughter; the application of manure, soil amendments, soil conditioners and chemical fertilizers, herbicides and pesticides; and the construction and maintenance of structures for water source and water quality protection only as necessary to support allowed activities on the Protected Property. For the purposes of this protection effort, farming activity does not include row crops and orchards.

8.2. Agricultural Enterprises. The processing and production of forage crops and firewood harvested primarily on the Protected Property anywhere in the Agricultural Management Area. "Agricultural Enterprise" may also include the growing, harvesting or further processing of forest species of trees for the purpose of producing pulp or other materials used in the paper manufacturing or wood manufacturing process as defined under Section 8.4.

8.3. Agricultural Soils. Prime, unique, statewide or locally important farmland soils identified and classified by the USDA Natural Resource Conservation Service as "Prime, Unique, Statewide or Locally Important Farmland Soils."

8.4 Commercial Forest Management. The planting, growing, cultivation, stocking, and cutting of trees and other forest products anywhere in the Agricultural Management Area, and includes timber cruising; resource evaluation; manual herbicide, pesticide and fertilizer application; timber stand improvement; pruning, mechanical and conventional timber harvesting and other forest harvesting; forest products transportation; natural and artificial regeneration of forest stands; maple sugaring; other substantially similar and associated activities; and the construction, creation, use and maintenance of woods roads,

skid trails and winter haul roads, turnouts, 'timber landings and crossings of flowing waters for such purposes, all as consistent with the terms of this Easement.

8.5. Environmental law or Environmental laws. Any and all federal, state, local or municipal laws (including common law), rules, orders, regulations, statutes, ordinances, codes or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct concerning the following: air, water, solid waste, hazardous materials, worker right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land uses as may now or hereafter be in effect.

8.6. Hazardous Materials. Any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment, as said term ("hazardous materials") may now or hereafter be defined by federal or state law.

8.7. Recreational Improvements. Trail markers and bird houses; small unlighted informational and interpretive signs; trail improvements such as steps, bog bridges, water bars, footbridges, wildlife observation stations; study markers and grids; and gates, barriers or low fences to control unauthorized uses, prevent access by motor vehicles, or protect fragile areas and areas under active management or study.

8.8. Traditional Non-Intensive Outdoor Recreation. Dispersed, non-commercial, nonexclusive, and non-motorized (except as may be noted herein) public recreational activities that generally do not rely on buildings or spectator facilities. Such activities include hunting, fishing, trapping, nature observation, boating, cross country skiing, snow-shoeing, and outdoor education and nature study, including scientific and archeological research and observation, and enjoyment of open space.

9. NOTICES.

Any notices or requests for approval required by this Easement shall be in writing and shall be personally delivered or sent registered or certified mail, return receipt requested, or by other courier providing reliable proof of delivery, to Grantor and each Holder, and, if applicable, to the Third Party Holder, at the following addresses, unless one has been notified by the other of a change of address:

To Grantor:

To Holder:

To Third Party

Holder:

Billy and Betty Cattail

20 Harmony Road

Mercy, Grace 00000

Friends of Harmony Wetlands

PO Box 000

Mercy, ME 00000

State of Grace, Department of Inland Fisheries and Wildlife

10 State House Road

Mercy, 00000

Attention: Commissioner

Notices to Third Party Holder. Except for required notices to and approvals of the Third Party Holder under Sections 11.B.5 through 11.B.7, Sections 12.C through 12.G, and amendments under Section 13.F, Grantor and Holder shall not be required to give notice to State Third Party under this Conservation Easement.

9.A. In the event that notice mailed to Grantor at the last address on file with Holder is returned as undeliverable, Holder and/or Third Party Holder shall send notice by certified mail, return receipt requested, or by such commercial carrier as requires a receipt, and by regular mail to Grantor's last known address on file with the municipality of Albion, Grace, and with the Bureau of Corporations, Secretary of the State of Grace, if applicable and the mailing of such notice shall be deemed in compliance with the notice provisions of this Easement. Grantor's notices must include sufficient information to enable Holder and Third Party Holder to determine whether Grantor's plans are consistent with the terms of this Easement and the conservation purposes hereof.

9.B. When Grantor is required to provide only notice to Holder, such notice shall be given in writing at least sixty (60) days prior to the events giving rise to the need to give notice. Upon receipt of any notice from Grantor, Holder shall provide copies of such notice to Third Party Holder. .

9.C. When Grantor is required to obtain Holder's and Third Party Holder's prior written consent and approval, Grantor's request shall be in the form of a written application and shall include sufficient details and specifications for Holder to adequately review and analyze the same. Unless notified in writing by the Third Party Holder, the Holder shall carry out the review process.

Holder shall give Grantor notice when the application is deemed complete. Within 120 days of receipt of a complete application, Holder shall provide a written decision, which shall grant, grant with conditions, withhold approval, or, with consent of Grantor, extend the time within which to complete analysis of the application. Upon completion of review, Holder shall provide copies of its response to Third Party Holder. The parties agree that the application and review process shall be completed as expeditiously as possible.

9.D. Holder and, where applicable, Third Party Holder, shall not give written consent and approval unless Grantor demonstrates to the satisfaction of Holder that the proposed use or facilities is consistent with the terms, conditions, and purposes of this Easement and will not diminish or impair the ecological integrity, agricultural productivity, other natural resource, and scenic values of the Property.

9.E. In the event that the Protected Property is owned by a trust, business entity, or any common or jointly held ownership, the Grantor entity or the common or joint owners shall designate an agent responsible for the seeking of approvals from Holder, and for the receipt of notices from Holder. In the event that no single owner or agent is so designated, the approval of or notice to any executive officer of the Grantor business entity, or anyone common or joint owner, shall be deemed the approval of or notice to all such owners.

10. COSTS AND LIABILITIES.

10.A. Grantor shall pay and discharge when due all property taxes and assessments imposed upon the Protected Property and any uses thereof, and shall avoid the imposition of any liens that may affect Holder's rights hereunder. Grantor shall keep the Protected Property free of any liens or encumbrances, including without limitation those arising out

of any work performed for, materials furnished to or obligations incurred by Grantor.

10.B. Grantor acknowledges that Holder, and Third Party have no possessory rights in the Protected Property, nor any responsibility or right to control, maintain, or keep up the Protected Property or any improvements located thereon. Grantor shall retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property and any improvements located thereon. Grantor shall indemnify, defend and hold Holder and Third Party Holder harmless from and against any and all liabilities, costs, damages, or expenses of any kind that Holder or Third Party Holder, respectively, may suffer or incur as a result of or arising out of the activities of Grantor or any other parties other than Holder or Third Party Holder, respectively, on the Protected Property.

10.C. Grantor warrants that Grantor is in compliance with all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or properties of the Protected Property. Grantor warrants that there are no underground or aboveground storage tanks on the Protected Property. Grantor warrants that the removal of any underground or above ground storage tanks was done in compliance with all applicable Environmental Laws; further, Grantor warrants that any new underground or aboveground storage tank will comply with all applicable Environmental Laws. Grantor warrants that it has no actual knowledge of a release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property. Grantor shall have responsibility, and Holder and Third Party Holder shall have no responsibility whatsoever, for the operation of the Protected Property or the monitoring of hazardous and other conditions thereon. Notwithstanding any other provision of this Conservation Easement to the contrary, the parties do not intend, and this Conservation Easement shall not be construed, such that: (1) it creates in Holder or Third Party Holder the obligations or liabilities of an "owner" or "operator" as those words are defined and used in the environmental laws, as defined above, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 United States Code, Sections 9601 et seq.) or any successor or related law; (2) it creates in Holder, or Third Party any obligations or liabilities of a person described in 42 United States Code Section 9607(a)(3) or any successor or related law; or (3) Holder or Third Party Holder have any control over Grantor's ability to investigate and remediate any hazardous materials associated with the Protected Property.

11. HOLDER AND THIRD PARTY AFFIRMATIVE RIGHTS.

11.A. Access.

Holder and Third Party Holder have the right to enter the Protected Property by foot, and by snowmobile on frozen ground, including over roads owned by Grantor or rights of way or other access ways available to Grantor, in a reasonable manner, for access to the Protected Property for inspection and monitoring purposes and for enforcement of the terms of this Easement

11.B. Enforcement of Easement and Prevention and Correction of Violations.

11.B.1. Holder has the right to prevent and correct violations of the terms of this Easement notwithstanding the provisions of Section 6. If Holder finds what it believes is a violation or threatened violation, Holder may at its discretion notify

Grantor and Third Party and take appropriate legal action. Except when an ongoing or imminent violation could, in Holder's judgment, irreversibly diminish or impair the agricultural productivity of the Protected Property, Holder shall give Grantor and Third Party Holder written notice of the violation and thirty (30) days to correct it before filing any legal action.

11.B.2. In the event that Grantor retains a third party to correct the violation, Grantor shall provide Holder with a copy of a fully executed contract for such services within thirty (30) days of the notice of violation, and said contract shall provide that the corrective action be completed within ninety (90) days of said notice of violation.

11.B.3. Holder has the right to enforce this Easement by proceedings at law and in equity, including without limitation the right to require the restoration of the Protected Property to a condition in compliance herewith and receive damages for irreparable harm due to violation hereof. If a court of competent jurisdiction determines that a violation may exist, has occurred, or is threatened, Holder may obtain an injunction to stop it, temporarily or permanently. A court may also issue an injunction requiring Grantor to restore the Protected Property to its condition prior to the violation. Wherever in this Easement Grantor is afforded or retains a right to provide a plan or otherwise express an intention to take an action (regardless of whether Holder has any right to approve Grantor's action, plan or statement of intention), nothing in this Easement shall be construed to impair Holder's right to seek injunctive or other relief as necessary to enforce the terms of this Easement against a violation or threatened violation thereof. If a Court (or other decision maker chosen by mutual consent of the parties) determines that this Easement has been breached, Grantor will reimburse Holder for any reasonable costs of enforcement, including all expenses incurred in stopping and correcting the violation, court costs, reasonable attorney's fees, and any other payments ordered by such Court or decision maker. The failure of Holder or Third Party Holder to discover a violation or to take immediate legal action shall not bar it from doing so at a later time.

11.B.4. Holder may not bring an enforcement action against Grantor for injury to or change in the Protected Property resulting from natural causes or environmental catastrophe beyond Grantor's control, such as fire, flood, storm, and earth movement, any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes, or the unauthorized wrongful acts of third persons, except that Grantor is responsible for the actions of employees, contractors, licensees, invitees or any other person acting for the benefit of, or with the permission of, Grantor. In the event of violations of this Easement caused by unauthorized wrongful acts of third persons, at Holder's option, Grantor agrees to assign its right of action to Holder, to join in any suit, and/or to appoint Holder its attorney-in-fact for the purposes of pursuing enforcement action. Grantor shall take all reasonable actions, but consistent in any event with customary standards for the management of comparable areas utilized for the same purposes as the Protected Property, to prevent or abate third persons from taking such unlawful or unauthorized actions on the Protected Property.

11.B.5. In the event that Holder fails to enforce any of the terms of this Easement, as determined in the sole discretion of the Third Party Holder, the said Third Party Holder and its respective successors and assigns shall have the right to enforce the

terms of the Easement through any and all authorities available under Federal or State law.

11.B.6. In the event that Holder attempts to terminate, transfer or otherwise divest themselves of any rights, title, or interests in this Easement without the prior consent of Third Party Holder and payment of consideration to Third Party Holder, then, any such action, together with the recording of any document purporting to divest any of Holder's interests shall be void, and all right, title, and interest in this Easement shall become vested in the Third Party Holder.

11.B.7. Third Party Holder is granted the same notification, entry, inspection, enforcement, assignment rights and rights to reimbursement for legal expenses as those granted to Holder hereinabove, except that Holder is primarily responsible for stewardship and enforcement of this Easement. Holder shall forward copies of all communication between the parties in furtherance of this grant to Third Party Holder. Third Party Holder may initiate legal proceedings in furtherance of its rights and obligations hereunder only after reasonable prior notice to Grantor and Holder, asserting and documenting Holder's failure to properly enforce this grant.

11.C. Boundaries. It is Grantor's obligation to locate and keep the boundaries of the Protected Property clearly marked on the ground so as to permit Holder and Third Party Holder to accurately identify their location. In the absence of such accurately marked boundaries, Holder and Third Party Holder have the right to require Grantor to reestablish the location of such boundaries at Grantor's expense. Holder shall be responsible for maintaining a clearly marked boundary of the Ecological Protection Area.

11.D. Signage. Holder and Third Party Holder have the right, after consultation with Grantor, to install and maintain small unlighted signs visible from public vantage points, to identify Holder and Third Party Holder and inform the public and abutting property owners that the Protected Property is under the protection of this grant. Holder and Third Party Holder also has the right to erect and maintain unlighted signs of one (1) square foot or less that indicates that the Protected Property is under an agricultural Easement, and that provide an address from which further details may be obtained about the Easement. Such signs shall be located by mutual agreement of Grantor and Holder and, if applicable, Third Party Holder.

11.E. Additional Rights of Holder. With written approval from Grantor, Holder shall have the right to improve wildlife habitat and conduct ecological research in accordance with the Conservation Management Plan.

11.E.1 Educational. Holder shall have the right to use any portion of the Ecological Protection Area for natural resource educational purposes, including, but not limited to, interpretative activities so long as such activities are consistent with the preservation of the Conservation Values and other terms of this Conservation Easement.

11.E.2 Fields. In the event that Grantor fails to maintain the fields on the Protected Property, as set forth herein and described in the Baseline Documentation, Holder has the right, to maintain the fields, either by periodic mowing, haying, bushhogging, or by other means mutually agreed to by Grantor and Holder. Holder may dispose of the byproducts of such operations to defray the expense of undertaking such actions.

11.E.3 Trails. With prior written approval of Grantor, Holder may construct and maintain pedestrian trails in locations mutually agreed upon by Grantor and Holder and consistent with the Conservation Management Plan. Once created, trails may be relocated only by mutual agreement when reasonably necessitated by regulations, agricultural and forestry

operations or environmental conditions. Trails shall be constructed and maintained in an environmentally sound manner, including the following: selective clearing of trees and other vegetation to provide and maintain a footpath the width of which shall be kept as narrow as practicable, while allowing for single-file pedestrian use; constructing water bars, bridges and bog bridges out of materials that have not been treated with chemicals, stone steps, erosion control measures, and cairns; and erecting small directional and informational signs to identify the location of the trail and the rules for public use.

12. CONSERVATION EASEMENT REQUIREMENTS UNDER FEDERAL LAWS AND REGULATIONS.

12.A. Conservation Purposes. This Easement is established exclusively for conservation purposes consistent with the provisions of the Internal Revenue Code, as amended (hereinafter referred to as the "Code") at Title 26, U.S.C.A., Section 170(h)(1)-(6) and Sections 2031 (c), 2055, and 2522, and under Treasury Regulations at Title 26 C.F.R. §1.170A-14 *et seq.*, as amended.

12.B. Qualified Donee. The Holder is qualified to hold Easements pursuant to Title 33, M.R.S.A., Section 476(2)(B), as amended, and is a Qualified Organization under Code Section 170(h) 3, to wit: a publicly funded, non-profit 501(c)(3) organization with the authority to accept, hold and administer lands, easements, and buildings for the purpose of preserving and protecting natural, scenic, educational, recreational and open space values of real property.

12.C. Assignment Limitation. Subject to the Third Party Holder's written consent, and prior written consent of the Regional Director of the U.S. Fish and Wildlife Services, this Easement is assignable, but only to an entity that satisfies the requirements of Section 170(h)(3) of the Internal Revenue Code, (or successor provisions thereof) and the requirements of Title 33, M.R.S.A., Section 476(2), as amended (or successor provisions thereof), and that as a condition of transfer, agrees to uphold the conservation purposes of this grant and expressly agrees to assume the rights and obligations of Holder provided for by this Easement, and provided that the Third Party Holder or its successor grants written approval of such transfer by Holder. Holder agrees to provide Grantor and Third Party Holder with written notice of intent to assign any interest in this Easement. If Holder ceases to exist or ceases to qualify as a "qualified organization" under Section 170(h) of the United States Internal Revenue Code or any successor provision or as a "holder" under Title 33, M.R.S.A., Section 476 or any successor provision, the Third Party Holder, shall have the right, in the name and behalf of Holder, to transfer all rights and obligations of the Holder under this Easement to an entity which qualifies as a Holder under the foregoing federal and state laws, provided that the successor Holder agrees to assume the responsibilities imposed by this Easement and Third Party Holder provides written consent to such transfer.

12.D. Proceeds Clause. The parties agree that the grant of this Conservation Easement creates a property right vesting immediately in Holder and Third Party Holder. At the time of this grant, Holder's and Third Party Holder's property right has a fair market value equal to the amount by which the fair market appraisal value of the Protected Property unrestricted by this Conservation Easement is reduced by the terms and conditions imposed by this Conservation Easement. The parties further agree that the future value of Holder's and Third Party Holder's property right in the Protected Property may increase to a greater extent than the future value of Grantor's property right. In the event that this Conservation Easement is extinguished or reduced by judicial

decree, eminent domain or other legal authority for which action the parties are entitled to receive compensation, the parties agree that notwithstanding any other valuation process proposed to calculate compensation due to the parties by the entity accomplishing the extinguishment or reduction, Holder and Third Party Holder shall be entitled to that portion of the proceeds of such sale, exchange or conversion equal to the amount by which the fair market appraisal value of the Protected Property unrestricted by this Conservation Easement is reduced by the terms and conditions imposed by this Conservation Easement as of the date of such extinguishment or reduction.

Whenever all or part of the Protected Property is taken in the exercise of eminent domain so as to abrogate the restrictions imposed by this Conservation Easement, the parties shall join in appropriate actions at the time of such taking to recover the full value of the taking and all incidental or direct damages resulting from the taking. All proceeds shall be divided in accordance with the proportionate value of Grantor's, Holder's, and Third Party Holder's interests as specified in this Subsection. Holder and Third Party Holder share of proceeds will not include value attributable to authorized improvements made and paid for by Grantor after the date of this grant except as to improvements made by or at the expense of Holder or Third Party Holder

Holder and Third Party Holder shall use their respective shares of the proceeds or other moneys received under this subsection in a manner consistent with the purposes of this Conservation Easement, and subject to the terms and conditions of the National State Wildlife Grant Program administered by the U.S. Fish and Wildlife Service under Grant Number I-4-L-I, and the Notice of Grant Agreement attached hereto as Exhibit D.

12.E. Termination. If, in accordance with Title 33, M.R.S.A., Section 478, or any successor thereto, a court of competent jurisdiction determines that change of circumstances has rendered all of the purposes of this Easement no longer in the public interest, the court may, with prior written consent of Grantor, Holder and Third Party Holder, terminate or modify this Easement in accordance with applicable state and/or federal law. If the court finds good cause to terminate the Easement as to any portion of the Property, Holder and Third Party Holder, collectively, shall be entitled to an amount of proceeds from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such finding, equal to the fair market value of the Easement, or proportionate part thereof, as determined in accordance with subparagraph 12.D, Holder and Third Party Holder's proportional interest will not include value attributable to authorized improvements to the Protected Property made after the date of this grant, except as to improvements that are made by or at the expense of Holder or Third Party Holder. That portion of the award that is allocated to the contribution of the Land for Grace's Future Fund shall be credited to the Land for Grace's Future Fund or its successor entity, to be used for farmland preservation programs.

12.F. Condemnation. If all or any part of the Protected Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Easement, in whole or in part, Grantor, Holder and Third Party Holder shall act jointly to recover the full value of the interests in the Protected Property subject to the taking or in lieu purchase and all direct and incidental damages resulting there from. The collective share of Holder and Third Party of the balance of the amount recovered shall be determined pursuant to subparagraph 12.D. and shall be allocated to each respective party in accordance with each party's respective percentage interest as set forth in subparagraph 12.G.

12.G. Application of Proceeds. The collective share of Holder and Third Party

Holder of the amount recovered shall be allocated as follows: (1) Thirty-three and three tenths percent (33.3 %) to be delivered to the State of Grace, Department of Inland Fisheries and Wildlife on behalf of the United States Fish and Wildlife Service, for use in acquiring a substitute site as set forth in the Notice of Grant Agreement (Exhibit D); (2) Zero percent (0 %) to the Holder; and (3) Sixty-six and seven tenths percent (66.7 %) to the State of Grace, Land for Grace's Future Fund or its successor program, or in the absence of both, the Grace Department of Inland Fisheries and Wildlife or its successor state agency (each such program or agency, as its interests may appear. Holder shall deliver to Third Party Holder the Third Party Holder's share of any proceeds received under the circumstances described in subsections 12.A. through 12.F. attributable to the Third Party Holder. Any proceeds received by the State of Grace, Land for Grace's Future Fund shall be used for farmland conservation purposes consistent with those of this Easement.

13. GENERAL PROVISIONS.

13.A. Applicable Law. This Easement is created pursuant to the Uniform Easement Act at Title 33, M.R.S.A., Sections 476 through 479-B, inclusive, as amended, and shall be construed in accordance with the laws of the State of Grace, regardless of any conflict of law provisions.

13.B. Interpretation. If uncertainty should arise in the interpretation of this Easement, judgment should be made in favor of conserving the Protected Property in its undeveloped, agriculturally productive and open scenic state. Nothing in this Easement should be construed to permit any activity otherwise prohibited by existing or future laws and regulations imposed by any federal, state, or local government or governmental agency having jurisdiction over the Protected Property, nor to prohibit the imposition of further land use restrictions by the agreement of the parties, or by operation of law.

13.C. Non Waiver. The failure or delay of Holder or Third Party Holder, for any reason whatsoever, to discover a violation or initiate an action to enforce this Easement shall not constitute laches or a waiver or estoppel of its rights to do so at a later time. Grantor waives all defenses of laches, estoppel, and prescription.

13.D. Compliance. A person's obligation hereunder as Grantor, or successor owner of the Protected Property, will cease, if and when such person or entity ceases to have any present, partial, contingent, collateral or future interest in the Protected Property, but only to the extent that the Protected Property is then in compliance herewith. Responsibility of owners for breaches of this Easement that occur prior to transfer of title will survive such transfer; provided that the new owner shall also be responsible for bringing the Protected Property into compliance unless Holder releases the new owner.

13.D.1. Estoppel Certificates. Upon written request of Grantor or other party and at Grantor's expense, Holder shall, within a reasonable time after such request, inspect the Protected Property and shall provide a Compliance Estoppel Certificate that indicates the extent to which, to the best of Holder's knowledge, the Protected Property is in compliance with the terms of this Easement.

13.E. Severability. If any provision of this Easement or the application of any provision to a particular person or circumstance is found to be invalid, the remainder of this Easement and the application of such provision to any other person or in any other circumstance, shall remain valid.

13.F. Amendment and Discretionary Consents. Grantor and Holder acknowledge that, in view of the perpetual nature of this Easement, they are unable to foresee all potential

future land uses, future technologies and future evolution of the land and other natural resources, and other future occurrences affecting the Purposes of this Easement. Holder therefore may determine whether (a) proposed uses or proposed improvements not contemplated by or addressed in this Easement or (b) alterations in existing uses or structures, are consistent with the Purposes of this Easement. Any legally permissible amendment hereto, and any discretionary consent by Holder contemplated by this Easement, may be granted only if the Holder has determined in its discretion, that the proposed use furthers or is not inconsistent with the purposes of this Easement, substantially conforms to the intent of this grant, meets any applicable conditions expressly stated herein, and does not materially increase the adverse effect of expressly permitted actions under this Easement on the conservation values of the Protected Property. Holder has no right or power to consent to any use that would result in building development on the Protected Property other than that which is expressly allowed herein, or that would be inconsistent with the Purposes of this Easement or limit the term or terminate this Easement, or that would impair the qualification of this Easement or the status of the Holder under any applicable laws, including Title 33 M.R.S.A. Section 476 et seq., and/or Section 170(h) or 501(c)(3) of the Internal Revenue Code, or successor provisions thereof. Any amendment of this Easement shall be in writing, reviewed, approved and executed by Grantor, Holder and Third Party, and recorded in the County Registry of Deeds for the county in which the Protected Property is located.

13.G. Potential Increase in Value Acknowledged. In making this grant, Grantor has considered the fact that uses prohibited hereby may become more economically valuable than permitted uses, and that neighboring properties may in the future be put entirely to such prohibited uses. It is the intent of both Grantor and Holder that any such changes not be deemed to be changed conditions permitting alteration or termination of this Easement.

13.H. Liens Subordinated. Grantor represents that as of the date of this grant there are no liens or mortgages outstanding against the Protected Property, except any listed in **Exhibit A**, which have been subordinated to all of Holder's rights under this Easement. Grantor has the right to use the Protected Property as collateral to secure the repayment of debt, provided that any lien or other rights granted for such purpose are subordinate to all of Holder's rights under this Easement. Grantor shall notify Holder and Third Party in writing at least sixty (60) days prior to the grant of any interest in the Protected Property. The granting of a mortgage or a security interest in any structure or improvement shall be subject to this Easement but shall not require prior notice to Holder. Grantor shall provide a complete copy of this Easement to any grantee of any rights in the Protected Property prior to any such grant. The failure of Grantor to perform any act required by this Section 13.H shall not impair the validity of this Easement or limit its enforceability in any way. Under no circumstances may Holder's or Third Party Holder's rights be extinguished or otherwise affected by the recording, foreclosure or any other action taken concerning any lien or other interest in the Protected Property.

13.I. Rights and Immunities. Grantor, Holder, and Third Party Holder claim all of the rights and immunities against liability to the fullest extent of the law under Title 14 M.R.S.A., Section 159-A, et seq. as amended and any successor provisions thereof (Grace Recreational Use Statute), and Title 14 M.R.S.A. Section 8101, et seq. as amended and any successor provisions thereof, (Grace Tort Claims Act), and under any other applicable provision of law.

13.J. Standing to Enforce. Only the Holder, the Third Party Holder and Grantor may

bring an action to enforce this grant, and nothing herein should be construed to grant the public standing to bring an action hereunder, nor any rights in the Protected Property by adverse possession or otherwise, provided that nothing in this Easement shall affect any public rights in or to the Protected Property acquired by common law, adverse possession, prescription or other law, prior to this grant.

13.K. Reasonable Control of Access. Grantor reserves the right to reasonably control, by posting and other means, any use not specifically granted to the Holder herein that may unreasonably interfere with the proper exercise of Grantor's reserved rights. Grantor may exercise this right following reasonable, prior notice to Holder and an Opportunity to comment, except in an emergency, in which case notice to Holder shall be notified as soon thereafter as possible.

13.L. Transfer of Property Rights and Additional Grant of Access Rights Limited. At any time Grantor contemplates deeding the Protected Property itself, or any real property interest in it, to any grantee, mortgagee or lessee holding a lease term of two or more years, Grantor shall notify Holder and Third Party Holder in writing at least thirty (30) days prior to the execution of such conveyance instrument. In no event shall Grantor convey easements or rights of way to third parties over roads or ways not now in existence on the Protected Property. In the event that the transfer contemplates the grant of an easement or right of way running over an existing road or way on or adjacent to the Protected Property, Holder and Third Party Holder shall have the right to review and approve said transfer document prior to execution, to ensure that the agricultural and conservation purposes of this Easement are protected and that such a conveyance is consistent with the terms of this Easement. Grantor agrees to incorporate the terms of this Easement by reference in any deed or other legal instrument by which the Grantor divest themselves of any interest in all or a portion of the Protected Property, including, but not limited to, a security or leasehold interest.

13.M. Entire Agreement. This instrument sets forth the entire agreement of the parties and supersedes all prior discussions, negotiations, understandings or agreements relating to the Easement.

13.N. State's Ability to Exercise Rights. The parties acknowledge that the ability of State of Grace to exercise the rights or carry out the duties as Third Party Holder hereunder, if any, are subject to the availability of moneys appropriated or otherwise available to the State of Grace and designated for such purposes and shall not create any obligation on behalf of the State of Grace in excess of such appropriations.

14. HABENDUM AND SIGNATURES.

TO HAVE AND TO HOLD the said Conservation Easement unto the said Holder and its successors and assigns forever.

IN WITNESS WHEREOF, We, the said Billy and Betty Cattail, husband and wife, have hereunto set our hands and seals this 15th day of October, 2010.

Billy Cattail

Billy Cattail

Betty Cattail

Betty Cattail

15. ACKNOWLEDGEMENT.

STATE OF GRACE
COUNTY OF HOPE

Thence personally appeared the above-named Billy and Betty Cattail and acknowledged the foregoing instrument to be their free act and deed.

Alina Attorney

Licensed Grace Attorney
My commission expires: NA

16. HOLDER ACCEPTANCE.

The above and foregoing Conservation Easement is hereby accepted for and on behalf of the Friends of Harmony Wetlands by Richard The Lionhearted, its duly authorized Chair this 15th day of October

Friends of Mercy Wetlands

By: Name: Richard The Lionhearted Richard Lionhearted

Title: Chair

17. HOLDER ACKNOWLEDGEMENT.

STATE OF GRACE
COUNTY OF HOPE Date: October 15th, 2010

Thence personally appeared the above-named Richard The Lionhearted, Chair, and acknowledged acceptance of the foregoing Conservation Easement as his free act and deed in his said capacity, and the free act and deed of the Friends of Harmony Wetlands.

Before me,

Alina Attorney

Licensed Grace Attorney

18. STATE THIRD PARTY ACCEPTANCE.

Pursuant to 12 M.R.S.A. Chapter 100, Roland M. The Great, Commissioner, of the Department of Inland Fisheries and Wildlife, hereby gives consent to acquisition by the STATE OF GRACE, of the above and foregoing Conservation Easement. Executed this 15th day of October, 2010.

Signed Sealed & Delivered *under witness*
in the Presence of: _____
Witness

STATE OF GRACE

Department of
Inland Fisheries and Wildlife
Roland Great

Roland M. The Great, Commissioner

19. STATE THIRD PARTY ACKNOWLEDGEMENT.

STATE OF GRACE
COUNTY OF HOPE

Date: October 15th, 2010

Personally appeared the above-named Roland M. The Great, Commissioner as aforesaid, and acknowledged acceptance of the above and foregoing Conservation Easement as his free act and deed in said capacity, and the free act and deed of the State of Grace.

Before me,
Betty Beauocrat

Notary Public
Printed Name: Betty Beauocrat

EXHIBITA

Legal Description of the Protected Property

A certain lot or parcel of land situated in the Town of Mercy, County of Hope, and State of Grace, and lying on the westerly side of the public highway or road at the foot of the Hundred Mile Pond so called leading from Mercy Village to Burnham and bounded and described as follows to wit:

Beginning at a capped 5/8 inch iron rebar set in the ground on the westerly side line of the above mentioned road now called the Harmony Road, which is now the Northeast corner of land now or formerly owned by Mercy College which deed is recorded in the Hope County Registry of Deeds in Book 888, Page 196.

Thence following the Northerly line of land now or formerly owned by Mercy College N6YI4'00"W a distance of 858.46 feet to a capped 5/8 inch iron rebar.

Thence following the Westerly side line of land now or formerly owned by Mercy College SOO'09'35"W a distance of 926.64 feet to a found 3/4" iron rod.

Thence following a tie line SOO'09'35"W a distance of 79.06 feet to the center of the Hundred Mile Stream.

Thence following the thread of Hundred Mile Stream with a tie line of N52'16'S7"W a distance of 503.13 feet to a point.

Thence following the thread of the stream with a tie line of S6S'32' 14"W a distance of 915.62 feet to a point.

Thence following the thread of the stream with a tie line of S3T03'32"W a distance of 562.80 feet to a point.

Thence following the thread of the stream with a tie line of N04'08'26"W a distance of 614.15 feet to a point.

Thence following the thread of the stream with a tie line of N33'36'S4"W a distance of 303.39 feet to a point.

Thence following the thread of the stream with a tie line of N72'OI 'S2"W a distance of 294.47 feet to a point.

Thence following a tie line N15'29' 10"E a distance of 124.23 feet to a found 5/8 inch capped iron rebar.

Thence following the easterly side line of land owned by Clean Creek which deed is recorded in said Registry in Book IS41, Page 216, N15'29' 10"E a distance of 2547.99 feet to a found 5/8 inch iron rod.

Thence continuing N15'02' 13"E a distance of 971.84 feet to a capped 5/8 inch iron rebar.

Thence following the southerly line of land owned by which deed is recorded in said Registry in Book 1660, Page 48, and land of which deed is recorded in said Registry in Book 2586, Page 47, S60'22'28"E a distance of 1733.56 feet to a 5/8 inch iron rebar.

Thence following the Westerly side line of land owned by which deeds are recorded in said Registry in Book 2386, Page 44, and Book 2918, Page 287, S25'55' 15"W a distance of 1200.78 feet to a capped 5/8 inch iron rebar.

Thence following the Southerly boundary of land owned by S61'52'05"E a distance of 1520.73 feet to a capped 5/8 inch iron rebar set on the Westerly side line of the so called Harmony Road.

Thence following the Westerly side line of the Harmony Road S4T55'33"W a distance of 467.35 feet to a point.

Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 544.54 feet and a distance of 117.45 feet to a point.

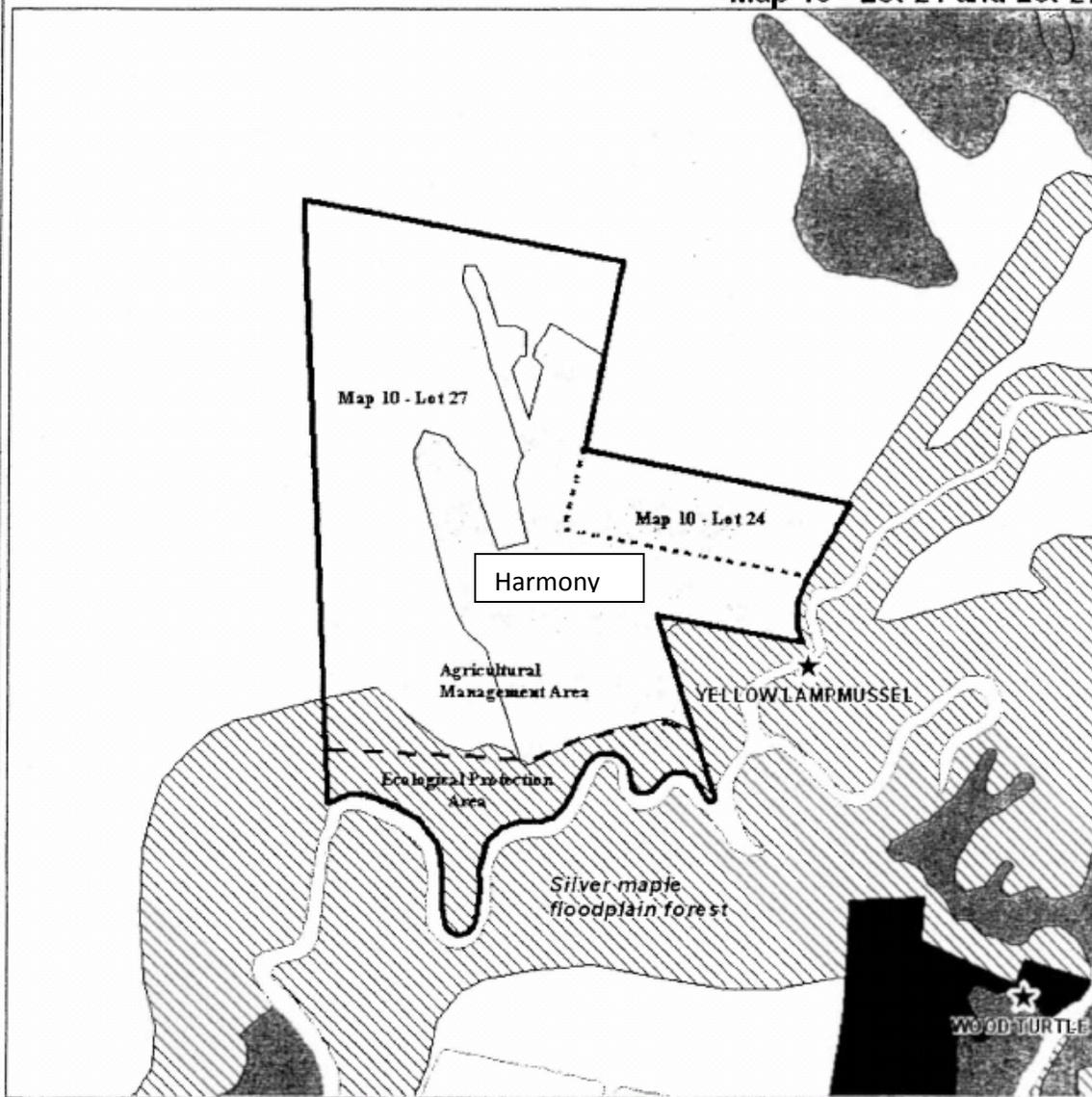
Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 226.22 feet and a distance of 117.5 feet to a point.

Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 550.37 feet and a distance of 15.98 feet to the point of beginning containing 163.8 acres. All capped 5/8 inch iron rebar are scribed PLS 351. All bearings are observed magnetic north as of September 2010. Vol. 21 page 12

Being those premises deeded to Billy and Betty Cattail in deed recorded in said Registry of Deeds in Book 1696, Page 169.

i EXHIBIT C

Map 10 - Lot 24 and Lot 27



LEGEND

Property Boundary	Prime Farmland Soils	Element Occurrence	Locally Significant Farmland = 72 acres Forest Land = 70 acres Ecological Protection Area = 22 acres All acreages are estimated.
EPA Buffer	Farmland of Statewide Importance	★ Rare Animals	
Water	Locally Significant Farmland	★ Plants	
Established Conservation Land		Natural Communities	
0.25 Miles		N 	

EXHIBIT D
Notice of Grant Agreement

The **State of Grace, Department of Inland Fisheries and Wildlife** and its successors and assigns ("Department") and **Friends of Harmony Wetlands** and its successors and assigns ("Land Trust") acknowledge that the Conservation Easement on lands of Cattail in **Mercy, Grace** to which this Notice is attached ("Easement") is acquired in part with federal funds received from the State Wildlife Grant Program administered by the U.S. Fish and Wildlife Service, Division of Federal Assistance and its successors and assigns ("Service") and that the Easement is subject to all the terms and conditions of Grant Agreement Number **I-74-L-1** between the Service and the Department ("Grant Agreement"). A copy of the Grant Agreement is kept on file at the offices of the Service, 300 Westgate Center Drive, Hadley, MA 01035-9589 and at the offices of the Department, 10 State House Road, Mercy, Grace 00000.

The Department and Land Trust acknowledge that the Easement which is the subject of this Grant Agreement is acquired for the approved purpose of permanent protection of habitat for at-risk species as defined under Title 12, M.R.S.A. Chapter 900. The Department and the Land Trust further acknowledge that the Easement will be administered for the long-term protection of these habitats and species located within the Easement area. The Department, as the Grant Recipient, and the Land Trust, as Subgrantee, hereby acknowledge that they are responsible for ensuring that the Easement is and will continue to be held and managed for its approved purposes and that it may not be conveyed or encumbered, in whole or in part, to any other party or for any other use without the written consent of the Regional Director of the U.S. Fish and Wildlife Service.

If the Department and the Land Trust mutually determine that the Easement is no longer needed or useful for its original purposes, upon concurrence and written consent of the Service, and court confirmation pursuant to 33 MRSA, §477-A(2), the Land Trust shall:

- (1) acquire a conservation easement or other interest in land of equal value that serves the same approved purposes as the original Easement and shall manage the newly acquired conservation easement or other interest in land for the same purposes specified in the original Grant Agreement;
- or
- (2) repay the Service, in cash, the proportionate federal share of funds invested in the original purchase price, or to repay the Service, in cash, the proportionate federal share of the current fair market value of the Easement, or any portion thereof, whichever is higher; or
- (3) as a last resort, transfer the Easement to the Service or to a qualified third-party holder designated or approved by the Service.

The Department, as Grant Recipient, and the Land Trust as Sub grantee hereby confirm their obligations and responsibilities under the Conservation Easement pursuant to terms and conditions associated with Grant Agreement 1-74-L-1.

IN WITNESS WHEREOF, the State of Grace, Department of Inland Fisheries and Wildlife, has caused these presents to be executed in its name and behalf by Roland M. The Great, Commissioner hereunto duly authorized seal this 15th day of October, 2010.

Roland Great

State of Grace
Department of Inland Fisheries and Wildlife
By: Roland M. The Great, Commissioner

State of Grace, County of Hope
October 15th, 2010

Thence personally appeared the above-named, Roland M. The Great, Commissioner, to me personally known, who, being by me duly sworn, did state that the foregoing is his free act and deed in his said capacity and the free act and deed of the State of Grace, Department of Inland Fisheries and Wildlife.

Before Me

Betty Beauocrat

Notary Public
Printed Name: Betty Beauocrat
My Commission Expires: NA

IN WITNESS WHEREOF, the **Friends of Harmony Wetlands** has caused these presents to be executed In its name and behalf by Richard The Lionhearted, its Chair hereunto duly authorized seal this 15th day of October, 2010

Richard Lionhearted

Friends of Harmony Wetlands
By: Richard The Lionhearted, Chair

State of Grace
County of Hope

Friends of Harmony Wetlands
By: Richard The Lionhearted, Chair

Thence personally appeared the above-named Richard The Lionhearted, to me personally known, who, being by me duly sworn, did state that the foregoing is his free act and deed in his said capacity and the free act and deed of said corporation.

Before Me,

Patrick Politician

Patrick Politician
NOTARY PUBUC
State of Grace
My Commission Expires: **07/20/14**

SUBORDINATION AGREEMENT

WHEREAS,

Billy Cattail , of Mercy, Grace and having an address at Box 000, Harmony Road, Mercy, Grace00000 (hereinafter the :Secured Party"), is the secured party under a mortgage from Billy Cattail and Betty Cattail (hereinafter "Debtors") to him, dated May 30, 1997 and recorded in the Hope County Registry of Deeds in Book 1696, Page 177 (hereinafter "the Mortgage"); and

WHEREAS, the Mortgage covers certain real property of Debtors located in the Town of Mercy, Grace, on the Westerly side of the Harmony Road, as more fully set forth in the Mortgage; and .

WHEREAS, Debtors are entering into a Conservation Easement with the Friends of Harmony Wetlands and the State of Grace, Department of Inland Fisheries and Wildlife (hereinafter "the Holders"), dated October 15th, 2010 and recorded in said Registry in Book 100, Page 32. (hereinafter the "Conservation Easement"), which such Conservation Easement encumbers debtors under mortgage to the Secured Party; and

WHEREAS, the Holders require, as a condition of the Conservation Easement, that the rights of the Holders to enforce the Conservation Easement be superior to any security interest evidenced by the Mortgage.

NOW THEREFORE, in order to comply with the provisions of the Conservation Easement, Billy Cattail, as Secured Party, for himself and his successors and assigns does hereby covenant, consent and agree that the Mortgage and any security interest evidenced by the Mortgage on the real property of Debtors set forth therein shall be and are hereby subordinated to the rights of the Holders to enforce the terms, restrictions and covenants of the Conservation Easement so that the Conservation Easement and the Holders' right to enforce the same shall not be terminated or affected by foreclosure or other transfer pursuant to Secured Party's rights.

IN WITNESS WHEREOF, the said Billy Cattail has hereunto set his hand this 15th day of October, 2010

Attest:

Wesley Watson

Billy Cattail

Billy Cattail

State of Grace
County of Hope

October 15, 2010

Thence personally appeared the above-named Billy Cattail and acknowledged the foregoing to be his free act and deed.

Before me,

Patrick Politician

Patrick Politician
NOTARY PUBUC

State of Grace

My Commission Expires: **07/20/14**

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Conservation Management Plan
For
Harmony Road Wetlands Easement

Conservation Management Plan

The purpose of this Conservation Management Plan is to assist the landowners and the Easement Holder in identifying, monitoring, and preserving the ecological assets found on the protected property and to assure that the management of the property is consistent with the goals of the State Wildlife Grant Program and the requirements of the Internal Revenue Code. The plan is designed to assist in the conservation of rare plants, rare animals, and Significant natural communities found on the protected property. The Conservation Management plan has been developed by The Friends of Harmony Wetlands in partnership with the landowners and with the assistance of the Grace Department of Inland Fisheries and Wildlife, Grace Natural Areas Program and Natural Resources Conservation Service.

I. PROJECT NAME: Harmony Road Wetlands Easement

II. GENERAL INFORMATION

Landowner: Billy & Betty Cattail, 20 Harmony Road, Mercy, Grace 00000

A. Conservation Easement Holder (Plan Preparer): Friends of Harmony Wetlands, PO Box 000, 10 Main Street, Mercy, Grace 00000

B. Effective Date: June 30, 2011.

C. Primary Planning Periods: Five years and every 5 years thereafter

D. Town & County: Mercy, Hope County

E. Tax Information: Mercy Tax Map 10, Lots 24 & 27

F. Parcel Location: The parcel is located on Harmony Road in the north-central region of Mercy, west of Mercy Pond. It is bordered on the south by Hundred Mile Stream and on the east by Harmony Road or other properties that abut Harmony Road. Its western and northern borders abut landlocked private properties.

G. Map showing land-use areas: Attached (draft)

H. Other maps: Resource map attached

III. PROPERTY DESCRIPTION

The 175-acre parcel is part of a 14,263-acre block of undeveloped land within the Harmony Wetlands Focus Area. The wet meadow field component of the property (-72 acres) currently provides one of the largest open grassland habitats in the northern portion of the Focus Area. A series of ditches and culverts to help drain the field were installed in the 1950s. The drainage system has, for the most part, not been maintained. The field is hayed annually when water levels allow. An unimproved road bisects the field to allow access to the woodlot. The southern end of the parcel fronts approximately 1100 ft (0.2 mi) of Hundred Mile Stream with mature, undisturbed hardwood floodplain forest along its entire length. This section of the stream provides valuable habitat for yellow lampmussel and possibly tidewater mucket, two rare freshwater mussels. The forest is dominated by silver maple, red maple, white and bur oak, red oak, ash, and white pine. American hornbeam is abundant in the understory. Adding to the significance of this section of forest are the large backwater flooded pools that become isolated from the mainstem and host active wood frog chorusing. A large area to the west and north of the fields is in moist, mixed forest dominated by red maple and balsam fir but with a good diversity of other tree species including white pine, red spruce, paper birch, aspen, and northern white cedar. This section of forest was the subject of a partial harvest in 2005, where large diameter white pine seemed to be the

primary target. The entire property is considered to be of high potential habitat value (top 25%) by the US Fish and Wildlife Service for grassland and forest-associated priority trust species. The Grace Department of Inland Fisheries & Wildlife has mapped a large portion of the parcel as moderate value Significant Wildlife Habitat for waterfowl and wading birds. The conservation easement divides the property into two land use areas:

- The Ecological Protection Area, the area within 250' of Hundred Mile Stream, in which no forestry or agricultural management activities may occur.
- The Agricultural Management Area, comprised of all other portions of the parcel, in which agricultural and forestry management activities may occur.

IV. GOALS, OBJECTIVES & STRATEGIES

It is the landowner's intention to keep the property essentially as it is at the time the Conservation Management Plan becomes effective. Hay production will continue in the Agricultural Management Area, in accordance with the landowner's NRCS Conservation Plan. There will be no timber harvest until a forest management plan is completed by a Grace licensed professional forester. The Ecological Protection Area will be maintained in its natural condition, with only minor land-use activities, including recreational improvements which require written approval of Holder. There will be no use of motorized vehicles within the Ecological Protection Area. **The easement allows the Ecological Protection Area of the property to be conveyed to a "qualified organization" such as a land trust or educational institution; no other subdivision of the parcel will be permitted.**

Listed below are goals, objectives, and strategies for managing (1) habitat that supports threatened, endangered, or "species of concern" plants and animals; (2) rare or exemplary natural communities and ecosystems; and (3) Significant wildlife habitats and essential habitats.

A. Wildlife

1. Two state threatened species of freshwater mussel, Yellow Lampmussels (*Lampsilis cariosa*) Tidewater Mucket (*Leptodea ochracea*), have been documented in Hundred Mile Stream, which runs along the property value. Population declines have been documented for both species throughout much of their range, prompting Grace to add them to its Threatened list in 1997. Protection of forested riparian areas is necessary for the long-term survival of these species in Hundred Mile Stream, and a primary goal for this property is to maintain the riparian forest in its existing, natural condition. No commercial forestry or agricultural operations will be allowed within 250' of the stream (the Ecological Protection Area).

Objectives and Strategies:

- a. Remove any trash and other human alterations within the Ecological Protection Area.
- b. Work with the landowners and Natural Resources Conservation Service (NRCS) staffs to ensure best management practices that protect water quality are followed in the Agricultural Management Area (in accordance with the landowners' NRCS Conservation Plan).
- c. Support the state's mussel monitoring efforts.

2. Wood turtles (*Glyptemys insculpta*), a species of Special Concern in Grace, have been documented in the vicinity of this property. Status of the population is not currently known. Because vernal pools and other forested wetlands are habitat for the wood turtle, those areas should be protected and disturbed as little as possible. A primary goal will be to maintain the vernal pools, floodplain forest and associated wetlands in their existing, natural condition as key habitat for all amphibians and reptiles, including the wood turtles.

Objectives and Strategies:

- a Inventory and map all vernal pools by 2012
- b Evaluate threats/problems at key habitat sites.
- c Remove any trash and other human alterations at wetland sites.
- d Inventory the property for wood turtles. Continue to conduct surveys for these species.

3. Grassland Birds. The wet meadow and upland field component of the protected property currently provides one of the largest open grassland habitats (~75 acres) in the northern portion of the Harmony Wetlands Focus Area. A primary goal is to manage the fields, which are used for hay production, to allow for use as nesting habitat for several grassland bird species. Delayed harvest (mid-July) is typical due to field conditions and grants the potential for excellent habitat for several grassland bird species that have few other nesting habitat opportunities in the greater Focus Area. Recognizing the importance of this grassland habitat, the conservation easement grants the Holder the right to maintain the field should the landowner ever fail to do so.

Objectives and Strategies:

- a. Work cooperatively with landowners to assure a delayed hay harvest
- b. Work cooperatively with landowners to assure field is maintained as open grassland.
- c. Inventory the property for grassland nesting birds in 2012. Continue to conduct surveys for these species.

Information provided above relates to current knowledge about the property. Within the next five years (2012-2017), the landowner and the conservation easement Holder intend to gather more data about native animal species occurring on this property. Goals, objectives, and strategies will be updated to reflect any new information, especially with regard to other rare, threatened, or endangered animal species.

B. Plants

No occurrences of threatened, endangered or species of concern plant populations are documented at this time, but the goal is to protect rare plant habitat in the Ecological Protection Area.

Objectives and strategies:

- a. Obtain more information about rare plants on the property beginning in 2012. Easement Holder should complete a botanical survey.
- b. Based on survey results, inform landowners of rare plant species and their locations.

C. Natural Communities and Ecosystems:

The Ecological Protection Area of the property contains mature, undisturbed Hardwood Floodplain Forest, a Grace Natural Areas Program natural community, along 1100 feet of Hundred Mile Stream. The forest is dominated by silver maple, red maple, white/bur oak, red oak, ash, and white pine. Adding to the significance of this section of forest are the large backwater flooded pools that in spring become isolated from the mainstem and host active wood frog chorusing. This community will be protected from human alteration by the no-harvest and no-motorized vehicle provisions for the Ecological Protection Area.

Objectives and strategies:

- a. Holder will maintain a clearly marked boundary for the Ecological Protection Area.
- b. Identify human uses that are or may be damaging to the Ecological

Protection Area and take steps to resolve.
c. Annual inspections by Holder of conservation easement.

D. Invasive Species

There are no documented occurrences of non-native, invasive species within the protected property; however, non-native, invasive plant species are common and locally abundant in some areas of the Harmony Wetlands Focus Area. The most common of these include Morrow's Honeysuckle (*Lonicera morrowi*), Japanese Barberry (*Berberis thunbergii*), Norway Maple (*Acer platanoides*), Multiflora Rose (*Rosa multiflora*) and Purple Loosestrife (*Lythrum salicaria*).

A goal is to increase knowledge of invasive plant species on the protected property and develop a plan for managing them.

Objectives and Strategies:

- a. Easement Holder should inventory and map occurrences of non-native, invasive species by 2013.
- b. Easement Holder, with participation of landowners, should develop action plan for where and how to control invasive plant species, by 2014.

E. Public Access/Recreational Resources

The conservation easement does not grant to the public the right to use any portion of the property; public use is at the landowner's discretion. There are no existing trails on the Protected Property. The landowners permit hunting on the property, but this is at their discretion. No motorized vehicles are allowed within the Ecological Protection Area, with the exception of emergency vehicles. The landowner is permitted under the conservation easement to install and maintain certain structures in the Ecological Protection and Agricultural Management Areas to accommodate wildlife habitat management and traditional, non-intensive outdoor recreation, nature observation and study, and environmental education. These structures include but are not limited to: bird houses; small, unlighted, informational and interpretive signs; rustic footpath improvements such as wetland crossings, water bars, and railings; and minor structures that are necessary for safety, erosion control, or protection of fragile resources. Under all circumstances, a goal will be to discourage human use that could adversely impact key species, habitats, and natural communities.

Objectives and Strategies:

- a. Identify human uses that are or may be damaging to native species, and rare species and natural communities and key habitats.
- b. Annual inspections by Holder of conservation easement.
- c. If necessary, discourage damaging human uses with appropriate signage and/or barriers, as necessary. Installation of signs and barriers will be jointly coordinated by landowners and conservation easement Holder.

F. Wetlands & Waterbodies

The protected property includes a hardwood floodplain forest along Hundred Mile Stream, wet meadow, alder swale and at least two small, anthropogenic vernal pools. Management objectives for the hardwood floodplain forest are addressed in Section 6.3.C1 and the wet meadow in Section 6.3.A3 and 6.3.1.

A large alder swale borders the northwestern portion of the field and extends off the property. Several anthropogenic vernal pools have been observed along the northern and western field/forest margins that hosted large numbers of wood frog egg masses. Threats to wetlands and waterbodies include non-native, invasive plant species, the potential disruption of water flow, and potential water quality impacts from agricultural runoff. The key goals are to protect proper functioning of all natural wetlands and to maintain the existing water quality conditions.

Objectives and Strategies:

- a. Inventory the protected property and map all wetlands, including vernal pools, by 2012.
- b. Evaluate wetlands for invasive species, hydrological and other impacts and conduct annual inspections.
- c. Work with the landowners and Natural Resources Conservation Service (NRCS) staff to ensure best management practices that protects water quality are followed in the Agricultural Management Area (in accordance with the landowners' NRCS Conservation Plan).

G. Forest Resources

A large area on the west and north of the protected property is in moist, mixed forest dominated by red maple and balsam fir but with a good diversity of other tree species including white pine, red spruce, paper birch, aspen, and northern white cedar. The forest west of the agricultural field recently underwent a partial harvest where large diameter white pine seemed to be the primary target. The areas surveyed to date retain a good deal of diversity and silvicultural value. There are no plans at this time for additional timber harvest. A forest management plan by a Grace licensed professional forester will be required and incorporated into this Conservation Management Plan before any timber harvest may occur.

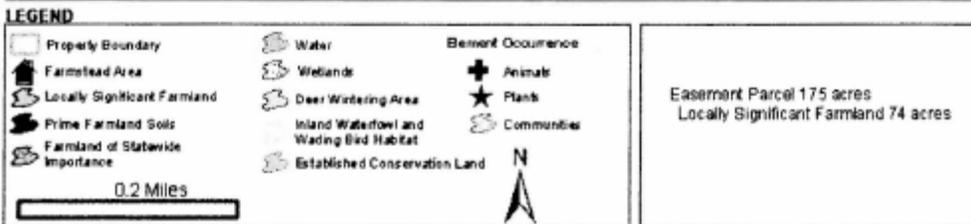
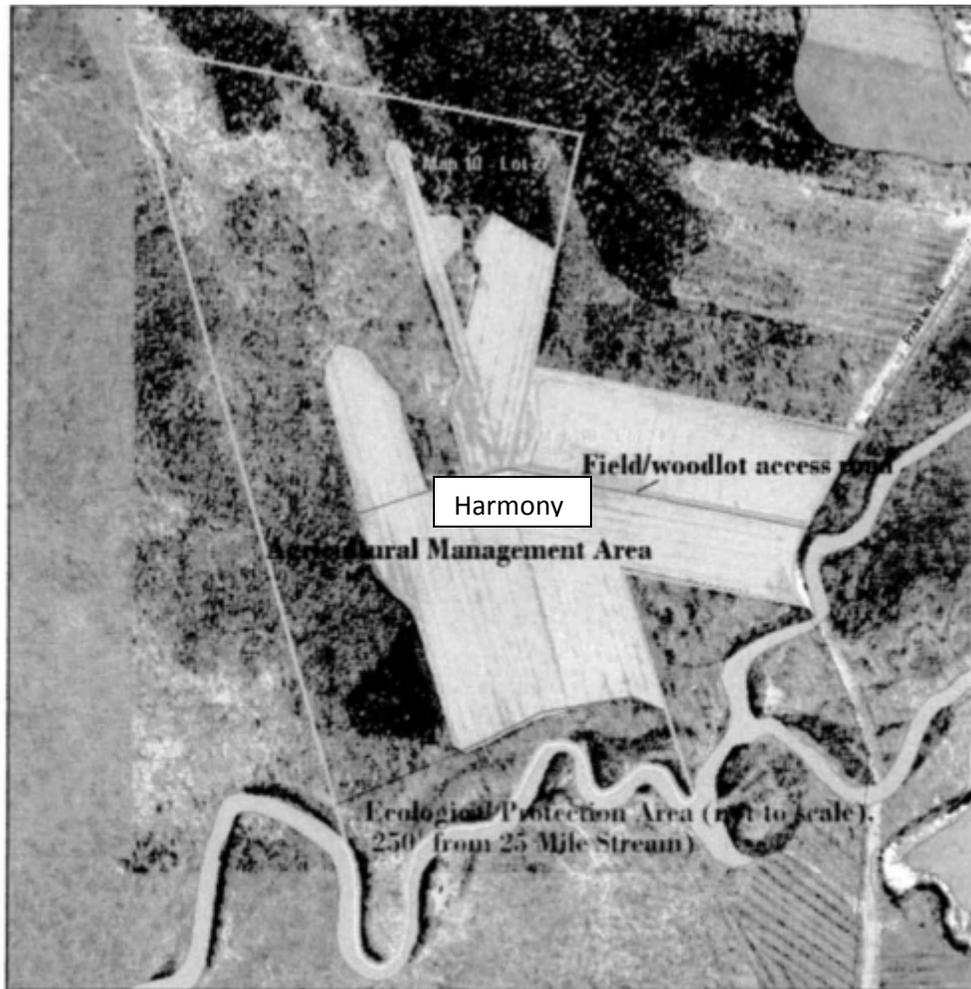
Objectives and Strategies:

- a. Annual inspections by Holder of conservation easement
- b. Work with landowner to develop a forest management plan with a license professional forester prior to any timber harvest operations.

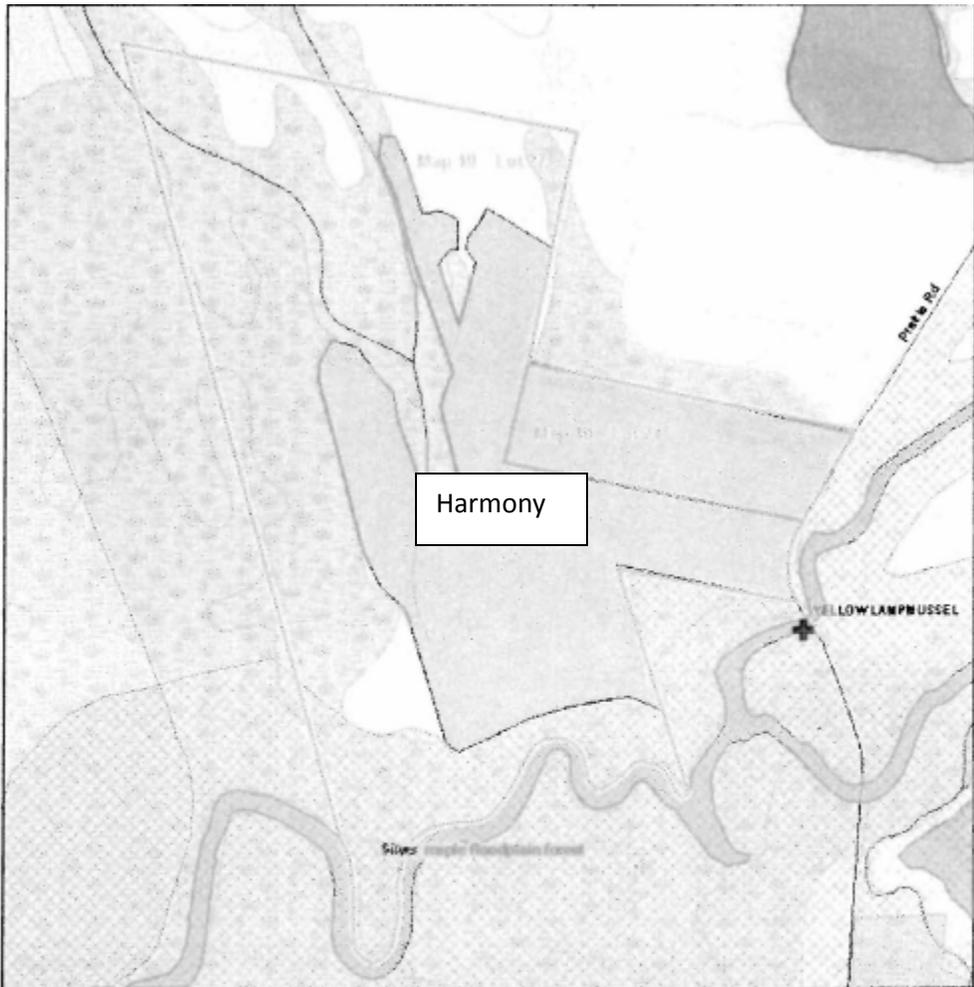
H. Agricultural Resources

The 75-acre wet meadow/field component of the Protected Property is managed for hay production and included in the landowners' Comprehensive Nutrient Management Plan (Natural Resources Conservation Service). The relevant portions of that Plan will be attached to this document. Agricultural use of this portion of the property was made possible by the creation of broad drainage channels across the wet meadow more than 50 years ago. These channels have not been actively maintained but remain functional. A series of culverts under the field road will be replaced in 2012. The conservation easement allows these drainage structures to be maintained. Hay production is likely the only agricultural use of this field due to its drainage and soil constraints. Other uses are permitted in the conservation easement but must be consistent with the landowners' NRCS Conservation Plan and this document.

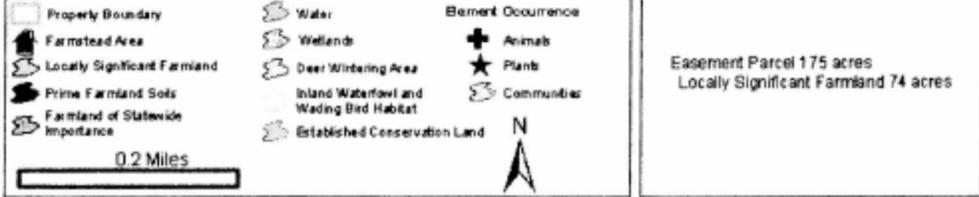
DRAFT LAND USE AREA MAP Harmony Road, Mercy, Grace



Harmony Road, Mercy, Grace
Lots 24 and 27



LEGEND



IV. UPDATING OF PLAN INFORMATION

To encourage incorporation of new information and enlightened agriculture, forestry, and ecological management practices where appropriate and practical, the plan will, at a minimum, be evaluated within five (5) years of its effective date and every five (5) years thereafter. The Conservation Management Plan will be reviewed and, if necessary, revised within one year of a change in ownership of the protected property. Because of damage from unauthorized wrongful acts by third persons, man-made disasters, meteorological phenomena, floods, storms, infectious organisms, or exotic pest species, it may become necessary to amend the Conservation Management Plan. The Conservation Management Plan may be amended in writing by mutual agreement of the landowner and the Holder of the conservation easement.

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BASELINE DOCUMENTATION REPORT

Harmony Road Wetlands

Mercy, Grace
Friends of Harmony Wetlands

Prepared by:
Friends of Harmony Wetlands
Main Street
P.O. Box 000
Mercy, Grace 00000
(200) 000-0000

Conservation Easement Grantor:

Bill and Betty Cattail
 20 Harmony Road
 Mercy, Grace 00000
 (200) 100-0000

Third-Party Holder:

State of Grace
 Department of Inland Fisheries & Wildlife
 10 State House Road, Mercy, Grace 00000

Project Acreage:

Acres Conserved at Closing: 175
 Acres Excluded:
 Total Acres: 175

Approximately 3500 feet of shoreline on
 Hundred Mile Stream

Public Access: None

Recreational Improvements: None

Conservation Easement Holder:

Friends of Harmony Wetlands
 PO Box 000
 Mercy, Grace 00000
 (200) 000-0000

Property Location:

Road: Harmony Road
 Town: Mercy
 County: Hope
 State: Grace

Land Use of Conserved Property:

44% Open farmland - 100% in hay production
 43% Forested-13% Silver Maple Floodplain Forest Community

Project Funding:

Land for Grace's Future
 State Wildlife Grant Program
 John Doe Foundation (Stewardship Fund)

Description of Land, Natural Features, and Existing Conditions:

This 175-acre parcel is located on Harmony Road in the north-central region of Mercy west of Mercy Pond. It is bordered on the south by Hundred Mile Stream and on the east by Harmony Road or other properties that abut Harmony Road. Its western and northern borders are shared with landlocked private properties. The wet meadow/field component of the property (-72 acres) currently provides one of the open grassland habitats in the northern portion of the Focus Area. A series of ditches and culverts to help drain the field were installed in the 1950s. The drainage system for the most part, not been maintained. The field is hayed annually when water levels allow. The southern end of the parcel fronts approximately 3500 feet of Hundred Mile Stream with mature hardwood floodplain forest along its entire length, with approximately 33 acres of habitat. There is evidence of a prior selective harvest within the western end of the floodplain forest. This section of the stream provides valuable habitat for yellow lampmussel and possibly tidewater mucket, two rare freshwater mussels. The forest is dominated by silver maple, red maple, white and bur oak, red oak, ash, and white pine. American hornbeam is abundant in the understory. Adding to the significance of this section of forest are the large backwater flooded pools that become isolated from the mainstem.

A large area (approximately 70 acres) to the west and north of the fields is in moist, mixed forest dominated by red maple and balsam fir but with a good diversity of other tree species including white pine, red spruce, paper birch, aspen, and northern white cedar.

Land Use and/or Management Status:

The conservation easement divides the property into two land use areas:

- The Ecological Protection Area, the area within approximately 250' of Hundred Mile Stream, in which no forestry or agricultural management activities may occur. The EPA is located on the southern end of the property. Its interior boundary coincides with the field edge, then follows a straight course through the woods to the western property boundary. The Holder will ensure the boundary of the EPA is clearly marked on the ground.
- The Agricultural Management Area, comprised of all other portions of the parcel, in which agricultural and forestry management activities may occur in accordance with the approved Conservation Management Plan. There is no forest management plan for the Protected Property. No forest management activities may occur until such plan is drafted by a licensed professional forester and approved by Holder. All agricultural activities must be in accordance with the landowner's Natural Resources Conservation Service (NRCS) Conservation Plan.

Evidence of gravel pits, quarries, dumps: None found

Evidence of recent disturbances to the land, including, timber harvest, road building, other: Timber harvest in the 70-acre woodlot west and north of the grassland in 2005, where large diameter white pine seemed to be the primary target. Hay harvest in 2007. The dirt access road from Prairie Road to the abutting parcel owned by Plum Creek was improved in 2007, in preparation for a timber harvest on the Plum Creek parcel anticipated in the winter of 2007-2008. See below.

Note any recent land use changes: None.

Structures and Man Made Incursions:

Buildings/Structures: None.

Roads/Bridges/Culverts: A dirt access road begins at the Prairie Road boundary, extends westerly toward the back field, then cuts northerly to the field edge where it continues across the woodlot to the boundary with lands currently owned by Plum Creek. A series of 11 culverts with associated fill was installed in 2007 (nine in the field, two in the woodlot). The culverts in the field portion of the road are associated with an old series of drainage channels constructed to help move water from the field.

Structures accessory to residential, farm or forestry use (silos, concrete pads, utilities, antenna, flagpoles, etc.): None

Public including poles and lines, wells, pump underground utility boxes/lines:
There are three utility poles on the property, along the shoulder of Harmony Road.

Historic or archeological resources, including stonewalls, cellar holes, other: None

Other "structures and incursions," interpreted in the broadest sense, including, anything that might be "grandfathered" but might not otherwise be permitted in the easement, such as gravel pits, farm dumps, tree stands. etc.: None

Other Conservation Resources: (include this section only if it is applicable)

- *Scenic views of, from or across the protected property*

The subject property, particularly its unobstructed grassland, is highly visible from Harmony Road, a heavily-traveled commuter road. The grassland was nominated as "the prettiest field in Mercy" in the 2007 Places that Matter project sponsored by Friends of Mercy Wetlands and Grace Community Foundation. Scenic views of the undeveloped woodlot and shoreline are afforded boaters on Hundred Mile Stream.

- *Proximity to other parks, preserves, refuges or other conserved areas*

The subject parcel is located within 1.14 mile of the Mercy Meadows National Wildlife Refuge (Sandy Creek Division, approx. 55 acres) and adjacent to lands currently owned and used by Mercy College for environmental education and research.

• *Wildlife habitats or corridors*

The subject parcel is a part of a 14,623-acre block of undeveloped land and within the northeastern portion of the Mercy Wetlands Focus Area, where some of the most significant ecological values are concentrated. In addition, the wet meadow/field component of the property currently provides one of the largest open grassland habitats in the northern portion of the Mercy Wetlands Focus Area.

This report was prepared by Jennifer Birdwatcher for the Friends of Harmony Wetlands and is an accurate description to the best of her knowledge.

Jennifer Birdwatcher

October 15, 2010

Preparer's signature

Date

This baseline documentation report is an accurate representation of the property, including its physical features and current uses at the time of the conservation easement execution.

Grantor's Signature *Billy Cattail*

Date: *October 15, 2010*

Grantor's Signature *Betty Cattail*

Date: *October 15, 2010*

State of Grace
County of Hope

On this 15th day of October, before me the undersigned officer, personally appeared

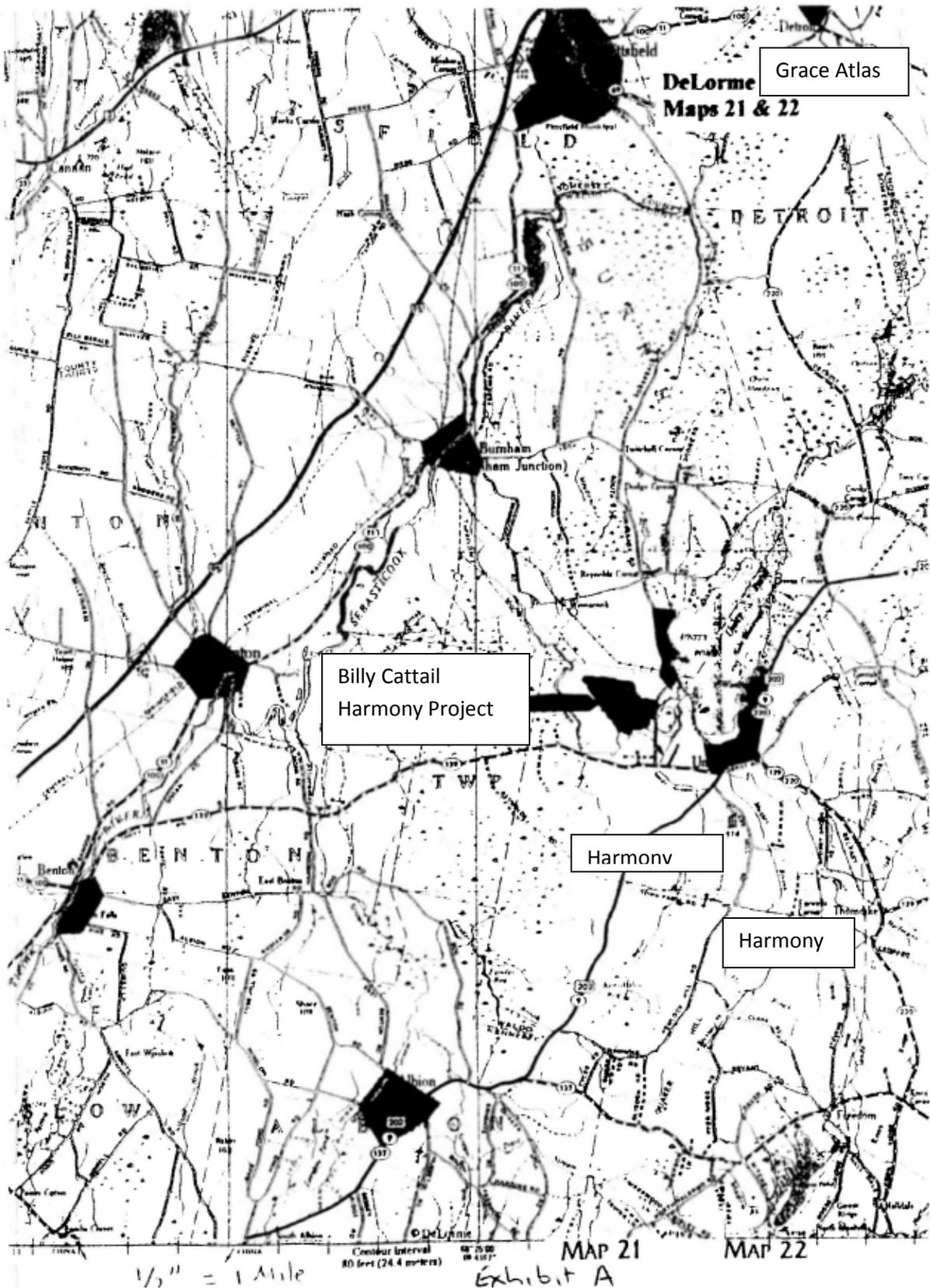
Billy and Betty Cattail known to me to be the person(s) described in the foregoing instrument and acknowledged that he/she/they executed the same for the purposes therein contained. In witness whereof I set my hands and seal.

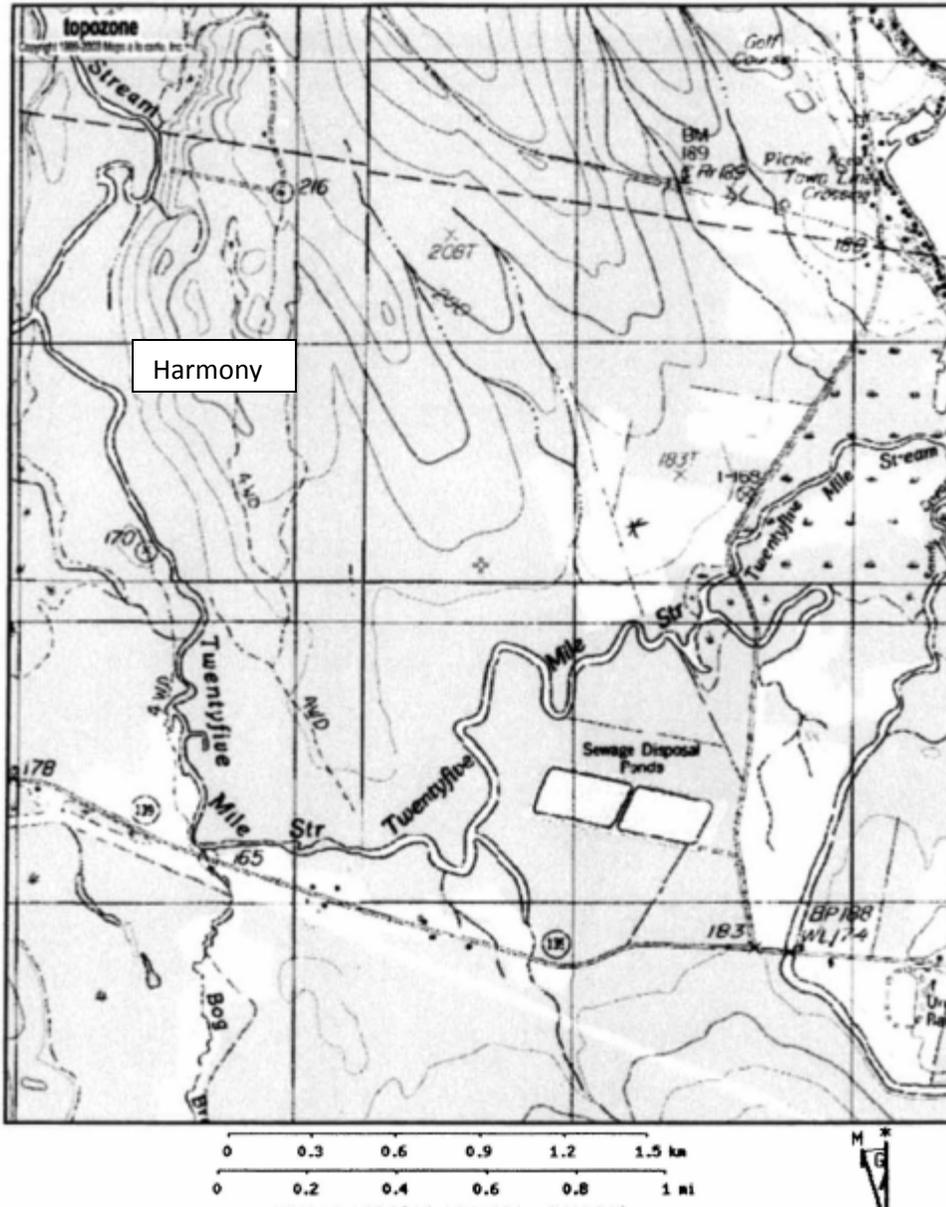
Alina Attorney

Attorney

Documentation enclosures:

- A. Area map
- B. Topographic map
- C. Tax map
- D. Conservation map
- E. Land use areas of protected property
- F. Deed
- G. Boundary survey





Map 10 - Lot 24 and Lot 2



Harmony

Agricultural Management Area

Ecological Protection Area

LEGEND



LEGEND

<ul style="list-style-type: none"> Property Boundary Field Edge Buffer Prime Farmland Soils Farmland of Statewide Importance Locally Significant Farmland 	<ul style="list-style-type: none"> Water Wetlands Deer Wintering Area Inland Waterfowl and Wading Bird Habitat Established Conservation Land 	<p>Element Occurrence 'Not Shown'</p> <ul style="list-style-type: none"> Animals Plants Natural Communities 	<p>Easement Parcel 163.8 acres Locally Significant Farmland 74 acres Field edge buffer area 18.85 acres</p>
<p>0.25 Miles </p>		<p>N </p>	

EXHIBITA

Survey and Legal Description of the Protected Property

A certain lot or parcel of land situated in the Town of Mercy, County of Hope, and State of Grace, and lying on the westerly side of the public highway or road at the foot of the Hundred Mile Pond so called leading from Mercy Village to Burnham and bounded and described as follows to wit:

Beginning at a capped $S/8$ inch iron rebar set in the ground on the westerly side line of the above mentioned road now called the Harmony Road, which is now the Northeast corner of land now or formerly owned by Mercy College which deed is recorded in the Hope County Registry of Deeds in Book 888, Page 196.

Thence following the Northerly line of land now or formerly owned by Mercy College $N6YI4'00''W$ a distance of 888.46 feet to a capped $5/8$ inch iron rebar.

Thence following the Westerly side line of land now or formerly owned by Mercy College $SOO'09'35''W$ a distance of 926.64 feet to a found $3/4''$ iron rod.

Thence following a tie line $SOO'09'35''W$ a distance of 79.06 feet to the center of the Hundred Mile Stream.

Thence following the thread of Hundred Mile Stream with a tie line of $N52'16'S7''W$ a distance of 503.13 feet to a point.

Thence following the thread of the stream with a tie line of $S6S'32'14''W$ a distance of 915.62 feet to a point.

Thence following the thread of the stream with a tie line of $S3T03'32''W$ a distance of 562.80 feet to a point.

Thence following the thread of the stream with a tie line of $N04'08'26''W$ a distance of 614.15 feet to a point.

Thence following the thread of the stream with a tie line of $N33'36'S4''W$ a distance of 303.39 feet to a point.

Thence following the thread of the stream with a tie line of $N72'OI'S2''W$ a distance of 294.47 feet to a point.

Thence following a tie line $N15'29'10''E$ a distance of 124.23 feet to a found $5/8$ inch capped iron rebar.

Thence following the easterly side line of land owned by Clean Creek which deed is recorded in said Registry in Book IS41, Page 216, $N15'29'10''E$ a distance of 2547.99 feet to a found $5/8$ inch iron rod.

Thence continuing $N15'02'13''E$ a distance of 971.84 feet to a capped $5/8$ inch iron rebar.

Thence following the southerly line of land owned by which deed is recorded in said Registry in Book 1660, Page 48, and land of which deed is recorded in said Registry in Book 2586, Page 47, $S60'22'28''E$ a distance of 1733.56 feet to a $5/8$ inch iron rebar.

Thence following the Westerly side line of land owned by which deeds are recorded in said Registry in Book 2386, Page 44, and Book 2918, Page 287, $S25'55'15''W$ a distance of 1200.78 feet to a capped $5/8$ inch iron rebar.

Thence following the Southerly boundary of land owned by $S61'52'05''E$ a distance of 1520.73 feet to a capped $5/8$ inch iron rebar set on the Westerly side line of the so called Harmony Road.

Thence following the Westerly side line of the Harmony Road $S4T55'33''W$ a distance of 467.35 feet to a point.

Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 544.54 feet and a distance of 117.45 feet to a point.

Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 226.22 feet and a distance of 117.5 feet to a point.

Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 550.37 feet and a distance of 1015.98 feet to the point of beginning containing 163.8 acres. All capped $5/8$ inch iron rebar are

scribed PLS 351. All bearings are observed magnetic north as of September 2010. Vol. 21 page 12 Being those premises deeded to Billy and Betty Cattail in deed recorded in said Registry of Deeds in Book 1696, Page 169.

Warranty Deed

William E. Cattail of Hope, County of State of Grace whose mailing address is 2000 Harmony Road, Mercy, Grace 0000, for consideration paid grant to Billy W And Betty W Cattail, both of Hope, County of State of Grace whose mailing address is Box 20, Harmony Road, Mercy, Grace 00000

With WARRANTY COVENANTS as Joint Tenants.

A one-half interest in common and undivided, in and to the following described lots or parcels of land:

PARCEL ONE: A certain lot or parcel of land situated in Mercy in county of Hope and State of Grace, and lying on the westerly side of the public highway or road at the front of the Hundred(100) mile pond. Leading from Mercy Village Burnham and bounded easterly by said road and land in possession of Ira P. Frog and land of the Heirs of Linda Toad ; northerly by land formerly owned by James Algae; westerly by land in possession of Charles Filterwater southerly by the Outlet Stream and lands of William Cleanstream. Containing one hundred seventy-five (175) acres, more or less. The above described premises known as the "Large Harmony Lot", together with the buildings thereon. Being the same premises conveyed to Billy Cattail and Betty Cattail dated May 27. 1994 and recorded at the Hope County Registry of Deeds in Book 1460, Page 141.

PARCEL TWO: A certain 101 or parcel of land situated in the Town of MERCY. County of Hope and State of Grace and bounded on the north by land formerly owned by Clean Park; the east by the Burnham Road; on the south by land formerly owned by Crisp Air and on the west by land owned by Gerald Duckhunter. Containing fourteen acres, more or less. For further description see Book 368. Page 518, Hope County Registry of Deeds. Being (the same premises conveyed to Billy Cattail and Betty Cattail by deed of Ocean Shores dated March 27. 1979 and recorded at the Hope County Registry of Deeds in Book 764, Page 857.

William E. Cattail releases all rights in the premises being conveyed.

WITNESS my hand this 10th day of May. 1997.

Billy Cattail

TAB 14

Boating Infrastructure Grant Program

1. Enabling Legislation:

- Sport Fishing and Boating Safety Act of 1998

2. Purpose:

- Grants to States and Territories to construct, renovate, or maintain tie-up facilities for recreational boats 26 feet or more in length

3. Eligible Grantees:

- States and Territories

4. Eligible Projects:

- Construction, renovation and maintenance of boating infrastructure tie-up facilities either publicly or privately owned for non-trailerable recreational vessels 26 feet or more in length
- Produce information and education materials such as charts, cruising guides and brochures

5. Source of funds:

Permanent/Indefinite Appropriation

2% of amount in Sport Fish Restoration & Boating Trust Fund (authorized through 2009) - revenues from the following:

- Excise taxes on sport fishing equipment, electric motors and sonar
- Import duties on fishing tackle, yachts and pleasure craft
- Portion of gasoline tax attributable to motorboats and small engines
- Interest earned on Trust Fund

6. Distribution method:

- Tier 1 - Non-competitive \$100,000 per year for each State
- Tier 2 - Nationally competitive based on ranking criteria

7. Spending mandates, fund matching requirements, and/or limitations on availability of funds:

- Must be spent on needs identified in Act
- Requires 25% matching, federal share not to exceed 75% of total costs
- Funds are available from time of obligation on awarded grant until grant closing date. Unspent funds are returned to the BIG Program to be awarded in addition to new funds in the subsequent year
- Funds not obligated 3 years from date of availability are reverted and made available to the U.S. Coast Guard for use on Boating Safety

8. Special conditions or requirements:

- Facilities constructed, operated or maintained with grant funds must have reasonable access for all recreational vessels for the full period of their useful life
- Be open for reasonable periods
- Charge equitable fees based on prevailing rate in area
- New construction and renovations must be designed to last at least 20 years

9. Governing Guidance:

- Sport Fishing and Boating Safety Act of 1998
- 50 CFR Part 86
- 43 CFR Part 12
- USFWS Manual Chapters

Clean Vessel Act

1. Enabling Legislation:

- Clean Vessel Act of 1992 (amendment to the Sport Fish Restoration Act)

2. Purpose:

- Grants to coastal and inland States for pump-out stations and waste reception facilities to dispose of recreational boater sewage

3. Eligible Grantees:

- Coastal and Inland States

4. Eligible Projects:

Coastal States:

- Identifying operational pump-out & dump stations
- Survey of recreational vessels in coastal waters with holding tanks/portable toilets
- Cost of developing list of operational pump-out & dump stations and plans for construction/renovation of pump-out & dump stations in coastal zone

All States:

- Education / information program to educate / inform recreational boaters about environmental pollution resulting from sewage discharges from vessels
- Location of pump-out & dump stations
- Construction, renovation, operation and maintenance of pump-out & dump stations including floating restrooms used by boaters
- Activities involved with holding, transporting, and getting sewage treatment facilities to accept sewage

5. Source of funds:

Permanent/Indefinite Appropriation

2% of amount in Sport Fish Restoration & Boating Trust Fund (authorized through 2009) - revenues from the following:

- Excise taxes on sport fishing equipment, electric motors and sonar
- Import duties on fishing tackle, yachts and pleasure craft
- Portion of gasoline tax attributable to motorboats and small engines

- Interest earned on Trust Fund

6. Distribution method:

- Nationally competitive based on ranking criteria

7. Spending mandates, fund matching requirements, and/or limitations on availability of funds:

- Must be spent on needs identified in Act
- Requires 25% matching, federal share not to exceed 75% of total costs
- Funds are available from time of obligation on awarded grant until grant closing date. Unspent funds are returned to the CVA Program to be awarded in addition to new funds in the subsequent year
- Funds not obligated 3 years from date of availability are reverted and made available to the U.S. Coast Guard for use on Boating Safety

8. Special conditions or requirements:

- Requires each coastal State to conduct survey of facilities and recreational vessels with certain marine sanitation devices
- Requires each coastal State to develop and submit plan for construction and/or renovation of facilities within coastal zone
- Facilities constructed, operated or maintained with grant funds must be accessible to public for the full period of their useful life
- Limits charges for use of these facilities

9. Governing Guidance:

- Clean Vessel Act of 1992
- 50 CFR Part 85
- 43 CFR Part 12
- Service Manual 523 FW 1

Endangered Species Grant Program

1. Enabling Legislation:

- Endangered Species Act of 1973 – Section 6

2. Purpose:

- Provide assistance to State fish and wildlife agencies to assist in development of programs for the conservation of endangered and threatened species on non-federal lands

3. Eligible Grantees:

- All State and Territory agencies that have entered into a cooperative agreement with the Secretary of Interior

4. Eligible Projects:

- Animal, plant and habitat surveys; research; planning; monitoring; habitat protection, restoration, management and acquisition; and public education

5. Source of funds:

Annual Appropriation

- Cooperative Endangered Species Conservation Fund

6. Distribution method:

- Traditional Conservation Grants – funding allocated by formula to USFWS Regions based on number of species covered in cooperative agreements. Regions further allocate funding to States by formula or competitive basis.
- Habitat Conservation Planning Assistance Grants – awarded based on National competition
- Habitat Conservation Plan Land Acquisition Grants – awarded based on National competition
- Recovery Land Acquisition Grants – awarded based on Regional competition

7. Spending mandates, fund matching requirements, and/or limitations on availability of funds:

- Provides up to 75% federal funding, 25% required from non-federal sources (up to 90% federal funding when two or more States cooperate to conserve an endangered or threatened species of common interest)
- 100% federal funds for Virgin Islands, Guam, American Samoa and N. Mariana Islands

8. Special conditions or requirements:

- State or Territory must currently have or enter into a cooperative agreement with USFWS
- Submit proposals meeting eligibility requirements for specific grant program

9. Governing Guidance:

- Endangered Species Act
- Notice of Availability of Federal Assistance for Section 6 ESA Grant Program
- 43 CFR 12
- USFWS Manual Chapters

Landowner Incentive Program

1. Enabling Legislation:

- Annual Appropriations Act

2. Purpose:

- Establish or supplement landowner incentive programs that protect and restore habitat on private lands to benefit Federally listed, proposed or candidate species or other species determined to be at-risk.
- Provide technical and financial assistance to private landowners for habitat protection and restoration

3. Eligible Grantees:

- All State and Territory agencies with primary responsibility for fish and wildlife

4. Eligible Projects:

- Tier 1 grants to fund staff and associated support necessary to develop or enhance existing landowner program to benefit private landowners and other partners to help manage and protect habitats that benefit species at-risk
- Tier 2 grants to provide funding for technical and financial assistance to private landowners for the protection and restoration of habitats that benefit Federally listed, proposed, or candidate species or other at-risk species on private land
- Tier 2 grants to expand existing landowner incentive programs or those created under Tier 1

5. Source of funds:

Annual Appropriation

Land and Water Conservation Fund – revenues from:

- Outer Continental Shelf Oil & Gas

6. Distribution method:

- Tier 1 – each State receives \$180,000, Territories and DC receive \$75,000 for eligible projects meeting Tier 1 criteria
- Tier 2 – Nationally competitive based on criteria

7. Spending mandates, fund matching requirements, and/or limitations on availability of funds:

- Provides up to 75% federal funding, 25% required from non-federal sources
- 100% federal funds for Virgin Islands, Guam, American Samoa and N. Mariana Islands
- Funds are available from time of obligation on awarded grant until grant closing date. Unspent funds are returned to the LIP to be awarded in addition to new funds in the subsequent year

8. Special conditions or requirements:

- Submit proposals meeting eligibility requirements for Tier 1 and/or Tier 2 funding

9. Governing Guidance:

- Appropriations Act
- Landowner Incentive Grant Program Implementation Guidelines
- 43 CFR 12
- USFWS Manual Chapters

Multi-State Grant Program

1. Enabling Legislation:

- Wildlife and Sport Fish Restoration Programs Improvement Act of 2000, amended Sport Fish Restoration (Dingell-Johnson) and Wildlife Restoration (Pittman-Robertson)

2. Purpose:

- Provide funding for wildlife and sport fish restoration projects identified as priority projects by the Association of Fish & Wildlife Agencies (AFWA)
- Program is intended to address regional or national level priorities of state fish and wildlife agencies

3. Eligible Grantees:

- States or group of States
- USFWS, a State or group of States for the purpose of carrying out the National Survey of Fishing, Hunting and Wildlife Associated Recreation
- Non-governmental organizations

4. Eligible Projects:

- Sport fisheries and wildlife management and research projects, boating access development, hunter safety, aquatic education, habitat improvements and other projects consistent with Wildlife and Sport Fish Restoration Acts
- Projects must benefit at least 26 States or a majority of States in any USFWS or AFWA Region

5. Source of funds:

Permanent/Indefinite Appropriation

Sport Fish Restoration & Boating Trust Fund \$3 million (authorized through 2009) - revenues from the following:

- Excise taxes on sport fishing equipment, electric motors and sonar
- Import duties on fishing tackle, yachts and pleasure craft
- Portion of gasoline tax attributable to motorboats and small engines
- Interest earned on Trust Fund

Wildlife Restoration Trust Fund \$3 million (authorized through 2009) - revenues from the following:

- Excise taxes on sporting arms and ammunitions (firearms, ammunition, pistols, handguns, revolvers, bows, archery, arrow components)

6. Distribution method:

- Awarded through cooperative process with AFWA

7. Spending mandates, fund matching requirements, and/or limitations on availability of funds:

- \$6 million available annually
- No matching requirements
- Funds available to be obligated for 2 years
- Obligated funds are available from time of obligation on awarded grant until grant closing date. Unspent funds are returned to the multi-state grant program to be awarded in addition to new funds in the subsequent year

8. Special conditions or requirements:

- Applicants must satisfy all standard Federal application and assurance requirements as well as standards set by AFWA
- Non-governmental applicants must provide certification to AFWA that grant funds will not be used for any activities, projects or programs that promote or encourage opposition to regulated hunting or trapping of wildlife or angling for or taking of fish
- Submit proposals to AFWA

9. Governing Guidance:

- Wildlife and Sport Fish Restoration Acts
- 50 CFR 80
- 43 CFR 12
- USFWS Manual Chapter

National Coastal Wetlands

1. Enabling Legislation:

- Coastal Wetlands Planning, Protection and Restoration Act of 1991

2. Purpose:

- Provide funding for long-term conservation of coastal wetland ecosystems by helping States to protect, restore and enhance coastal habitats

3. Eligible Grantees:

- Any agency or agencies of a coastal State designated by the Governor as having responsibility for coastal wetlands
- Usually a State natural resource agency or fish and wildlife agency
- Exception: State of Louisiana which receives funding from Coastal Wetlands Planning, Protection and Restoration Act for LA Coastal Wetlands Program

4. Eligible Projects:

- Acquisition of real property interest in coastal lands or waters providing that terms and conditions ensure property will be administered for long-term conservation
- Restoration, enhancement, or management of coastal wetlands ecosystems, providing restoration, enhancement, or management will be administered for long-term conservation

5. Source of funds:

15% annually of the 18.5% distributed to Coastal Wetlands Planning, Protection and Restoration Act from the Sport Fish Restoration & Boating Trust Fund (authorized through 2009) - revenues from the following:

- Excise taxes on sport fishing equipment, electric motors and sonar
- Import duties on fishing tackle, yachts and pleasure craft
- Portion of gasoline tax attributable to motorboats and small engines
- Interest earned on Trust Fund

6. Distribution method:

- Awarded through National competition to coastal States

7. Spending mandates, fund matching requirements, and/or limitations on availability of funds:

- Provides up to 50% federal funding, remaining 50% of costs must be from non-federal source (funds increased to 75% federal share for coastal States that have and are using a fund for acquiring coastal wetlands or other natural areas or open spaces)
- 100% Federal funding for American Samoa, Guam, N. Mariana Islands and Virgin Islands

8. Special conditions or requirements:

- Designated agencies of coastal States submit eligible proposals
- Provide non-federal matching funds

9. Governing Guidance:

- Coastal Wetlands Planning Protection and Restoration Act
- 50 CFR 84
- 43 CFR 12
- USFWS Manual Chapters

Sport Fish Restoration Program

1. Enabling Legislation:

- Sport Fish Restoration Act also known as Dingell-Johnson (DJ) Act of 1950

2. Purpose:

- Restoration and management of fish species of material value for sport-fishing and recreation
- Provide facilities that create or add to public access for recreational boating
- Provide aquatic education to public to increase understanding of water resources and associated aquatic life

3. Eligible Grantees:

- All State / Territory fish and wildlife agencies with assent legislation

4. Eligible Projects:

- Projects restoring, conserving, managing, and enhancing sport fish having material value for sport or recreation
- Projects enhancing the public's understanding of water resources and aquatic life, assisting them in developing attitudes toward the aquatic environment

5. Source of funds:

Permanent/Indefinite Appropriation

57% of amount in Sport Fish Restoration & Boating Trust Fund (authorized through 2009) - revenues from the following:

- Excise taxes on sport fishing equipment, electric motors and sonar
- Import duties on fishing tackle, yachts and pleasure craft
- Portion of gasoline tax attributable to motorboats and small engines
- Interest earned on Trust Fund

6. Distribution method:

- Apportioned based on formula

7. Spending mandates, fund matching requirements, and/or limitations on availability of funds:

- Cost reimbursement
- Provides up to 75% federal funding, 25% required from non-federal sources
- 100% federal funding for Puerto Rico, Virgin Islands, Guam, American Samoa and N. Mariana Islands
- Annual apportionment available for 2 years
- Reverted funds are reapportioned to Sport Fish Restoration in subsequent cycle
- Only 15% of apportioned funds may be used for aquatic education (no limit for PR, DC, CNMI, Guam, VI and American Samoa)
- At least 15% of apportioned funds must be used for acquisition, development, renovation or improvement of facilities to create or add public access to waters for recreational boating (averaged by region over 5 year period)
- Coastal States must equitably allocate apportionment between freshwater and marine projects in proportion to number of resident marine / freshwater anglers
- Amount allocated by States for freshwater programs each fiscal year cannot be less than amount allocated for fiscal year 1988

8. Special conditions or requirements:

- Pass and maintain assent legislation
- Submit eligible sport fish restoration projects including boating access and/or aquatic education
- Submit annual license certification

9. Governing Guidance:

- Sport Fish Restoration Act
- 50 CFR 80
- 43 CFR Part 12
- USFWS Manual Chapters

State Wildlife Grant Program

1. Enabling Legislation:

- Annual Appropriations Act

2. Purpose:

- Provide funds for development and implementation of programs that benefit wildlife and their habitat, including species not hunted or fished
- Planning and implementation programs are permitted

3. Eligible Grantees:

- All State and Territory fish and wildlife agencies

4. Eligible Projects:

- Development and implementation of programs benefiting wildlife and their habitats, including species not hunted or fished, priority placed on species of greatest conservation concern

5. Source of funds:

Land and Water Conservation Fund (annual appropriation) – revenues from:

- Outer Continental Shelf Oil & Gas
- General treasury since 2006

6. Distribution method:

- Apportioned based on formula and a portion based on a nationally competitive basis

7. Spending mandates, fund matching requirements, and/or limitations on availability of funds:

- Planning grants require 25% matching, federal share not to exceed 75% of total costs
- Implementation grants require 35% matching, federal share not to exceed 65% of total costs since fy 2010. 50% federal share, 50% state share prior to fy 2010.
- 100% federal funds for Virgin Islands, Guam, American Samoa and N. Mariana Islands
- Annual appropriation available for 2 years

8. Special conditions or requirements:

- State / Territory must develop or commit to develop a comprehensive wildlife conservation plan by October 1, 2005

9. Governing Guidance:

- Appropriations Act
- State Wildlife Grant Program Implementation Guidelines
- 43 CFR 12
- USFWS Manual Chapters

Tribal Landowner Incentive Grant Program

1. Enabling Legislation:

- Annual Appropriations Act

2. Purpose:

- Provide funding to federally recognized Tribes for actions and activities that protect and restore habitats that benefit federally-listed, proposed, or candidate species or other at-risk species on tribal lands

3. Eligible Grantees:

- Federally recognized Tribes in all parts of the United States, including Federally recognized Tribes, pueblos, rancheros, and Alaska native villages or traditional councils as defined by the Alaska Native Claims Settlement Act

4. Eligible Projects:

- Projects to improve, preserve, or maintain habitat for endangered, threatened, candidate, or other at-risk species.

5. Source of funds:

Annual Appropriation

Land and Water Conservation Fund – revenues from:

- Outer Continental Shelf Oil & Gas
- **No current appropriations**

6. Distribution method:

- Competitive based on Request for Grant Proposals and Final Policy and Implementation Guidelines

7. Spending mandates, fund matching requirements, and/or limitations on availability of funds:

- Cost reimbursement
- Provides up to 75% federal funding, 25% required from non-federal sources
- Funds are available from time of obligation on awarded grant until grant closing date. Unspent funds are returned to the TLIP to be awarded in addition to new funds in the subsequent year

8. Special conditions or requirements:

- Eligible grantees submit application including Tribal resolution of support to Regional Native American Liaisons of USFWS

9. Governing Guidance:

- Appropriations Act
- Tribal Landowner Incentive Program Implementation Guidelines
- 43 CFR Part 12
- USFWS Manual Chapters

Tribal Wildlife Grant Program

1. Enabling Legislation:

- Annual Appropriations Act

2. Purpose:

- Provide funding to federally recognized Tribes for development and implementation of programs that the benefit wildlife and their habitat, including species of tribal cultural or traditional importance and species that are not hunted or fished.

3. Eligible Grantees:

- Federally recognized Tribes in all parts of the United States, including Federally recognized Tribes, pueblos, rancheros, and Alaska native villages or traditional councils as defined by the Alaska Native Claims Settlement Act

4. Eligible Projects:

- Development and implementation of programs for the benefit of wildlife and their habitat, including species of tribal cultural or traditional importance and species that are not hunted or fished.
- Activities may include, but are not limited to, planning for wildlife and habitat conservation, ongoing and/new fish and wildlife management actions, fish and wildlife related laboratory and field research, natural history studies, habitat mapping, field surveys and population monitoring, habitat preservation, land acquisition, conservation easements, and outreach efforts.

5. Source of funds:

Land and Water Conservation Fund (annual appropriation) – revenues from:

- Outer Continental Shelf Oil & Gas
- General Treasury since 2006

6. Distribution method:

- Competitive based on Request for Grant Proposals and Final Policy and Implementation Guidelines

7. Spending mandates, fund matching requirements, and/or limitations on availability of funds:

- Cost reimbursement
- Provides up to 100% federal funding
- Annual appropriation available for 2 years

8. Special conditions or requirements:

- Eligible grantees submit application including Tribal resolution of support to Regional Native American Liaisons of USFWS

9. Governing Guidance:

- Appropriations Act
- Tribal Wildlife Grant Program Implementation Guidelines
- 43 CFR Part 12
- USFWS Manual Chapters

Wildlife Restoration Grants

1. Enabling Legislation:

- Wildlife Restoration Act also known as Pittman-Roberson (PR) Act of 1937

2. Purpose:

- Restoration, conservation, management and enhancement of wild birds and mammals and their habitat.
- Provide public use and access to wildlife resources
- Provide for education of hunters and development of shooting ranges

3. Eligible Grantees:

- All State / Territory fish and wildlife agencies with assent legislation

4. Eligible Projects:

- Selection, restoration, rehabilitation and improvement of areas of land or water adaptable as feeding, resting, or breeding places for wildlife

5. Source of funds:

Permanent/Indefinite Appropriation

Wildlife Restoration Trust Fund – revenues from:

- Excise taxes on sporting arms and ammunitions (firearms, ammunition, pistols, handguns, revolvers, bows, archery, arrow components)

6. Distribution method:

- Apportioned based on formula

7. Spending mandates, fund matching requirements, and/or limitations on availability of funds:

- Cost reimbursement
- Provides up to 75% federal funding, 25% required from non-federal sources
- 100% federal funding for Puerto Rico, Virgin Islands, Guam, American Samoa and N. Mariana Islands
- Annual apportionment available for 2 years
- Reverted are returned to U.S. Fish and Wildlife Service for use in Migratory Bird Program
- Basic Hunter Education (separate formula and apportionment) - may be used for hunter education or other WR Act authorized projects
- Enhanced Hunter Education (\$8 million set aside) – must be used for hunter education or shooting range enhancements (if all Basic Hunter Education funds are used for hunter education, Enhanced HE may be used for any WR Act authorized projects)
- Enhanced HE funds available for 1 year

8. Special conditions or requirements:

- Pass and maintain assent legislation
- Submit eligible wildlife restoration projects including hunter education and/or shooting range enhancements
- Submit annual license certification

9. Governing Guidance:

- Wildlife Restoration Act
- 50 CFR 80
- 43 CFR Part 12
- USFWS Manual Chapters

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