

# Lands Course

## Workbook 2020

*Knowledge*



*Easements*



*Acquisition*

*Compliance*



*Valuation*

*Manage & Monitor*



*Disposal / Transfer*



*Inventory  
Record Keeping*

*Reporting*



<b>Agenda</b>	<b>1</b>
<b>Goals and Objectives</b>	<b>2</b>
<b>Real &amp; Personal Property Rights and Interests</b>	<b>3</b>
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# TAB 1

## **Lands Course**

Wildlife and Sport Fish Restoration Program  
Financial Assistance Support and Oversight  
Systems and Training Branch

### **Day One**

*8:30am* Welcome / Introductions / Getting Acquainted

Review Agenda – Module 1

Course Goals and Objectives – Module 2

Ice Breaker

### *MORNING BREAK*

Using the FA Toolkit

Real and Personal Property Rights and Interests – Module 3

### *LUNCH*

Easements, Leases, and Right of Ways – Module 4

### *AFTERNOON BREAK*

Project Statement – Module 5

Wrap up / Review of Day 1 / Preview Day 2

*4:30pm* Adjourn

**Day Two**

8:00 am Review Day 1 / Preview Day 2

Compliance: National Environmental Policy Act – Module 6

Compliance: Endangered Species Act – Module 6

Compliance: National Historic Preservation Act – Module 6

Uniform Relocation Assistance and Real Property Acquisition –  
Module 6

*MORNING BREAK*

Options for Acquisition of Real Property – Module 6

Grant Application: Notice of Funding Opportunity – Module 7

Pre-Award Costs – Module 7

Prior Written Approval Requirements for Real Property Acquisitions  
– Module 7

Notice of Award – Module 7

*LUNCH*

Real Property Valuation – Module 8

Qualifications for Appraisers and Review Appraisers – Module 8

*AFTERNOON BREAK*

Recipient Match Requirements – Module 8

Wrap up / Review Day 2 / Preview Day 3

4:30pm Adjourn

**Day Three**

8:00am Review Day 2 / Preview Day 3

Managing and Monitoring Real Property Interests – Module 9

Recreational / Commercial Activities – Module 9

Loss of Control of Real Property – Module 9

Third-party Agreements – Module 9

*MORNING BREAK*

Lands Records – Module 9

Lands Reconciliation – Module 9

*LUNCH*

Financial and Performance Reports – Module 10

Noncompliance with Reporting Requirements – Module 10

Performance Reporting: Required Information and Documents –  
Module 10

Reporting on Real Property – Module 10

*AFTERNOON BREAK*

Disposition of Real Property – Module 11

Course Wrap up / Discussions / Evaluations

4:30pm Course complete

# TAB 2

## Goals and Objectives

Welcome to the Lands Class. This class is part of a suite of Financial Assistance classes taught by the United States Fish and Wildlife Service (Service) Wildlife and Sport Fish Restoration (WSFR) Program, Division of Financial Assistance Support and Oversight – Systems & Training Branch.

The purpose of the Lands class is to provide recipients, and Service staff, with a basic knowledge of Federal financial assistance requirements for developing, submitting, reviewing, approving, monitoring, and managing real property acquisition awards.

Service Mission Statement: *Working with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people.*

*“The accomplishment of the Service mission is **dependent** upon the effectiveness of its financial assistance (i.e., grants and cooperative agreement) function.”*

- FWS Acquisition and Financial Assistance Management Review, 2010.

## Course Goals

To more effectively manage real property award funding, improve compliance with administrative and financial assistance rules and regulations, reduce audit findings, and promote consistency and communication.

## Course Objectives

The objectives of this course are to increase participant’s knowledge, skills, and abilities related to:

- Understanding Congressional Acts, regulations, and Service policies related to acquisition, management, and disposition of real property.
- Understanding of the various types of real property interests.
- Understanding the options for real property acquisitions.
- Reporting on the status of real property acquired under a Federal award.
- Proper disposition of real property.
- Audit findings, associated real property awards.

## **Congressional Acts and Regulations Referenced in this Course**

### **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (USC 4651, 4652)**

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.

### **49 CFR 24**

Promulgates the administrative rules that implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

### **Financial Institutions Reform, Recovery and Enforcement Act of 1989**

Established a real estate appraiser regulatory system involving the federal government, the states and the Appraisal Foundation

### **2 CFR 200**

Establishes the uniform administrative requirements, costs principles, and audit requirements for Federal awards to non-Federal entities. 2 CFR 200 applies to all WSFR grants approved or amended on or after December 26, 2014.

### **50 CFR 80**

Administrative requirements for the Wildlife Restoration and Sport Fish Restoration Act

**TAB 3**

## Module 3

### Real & Personal Property Rights and Interests

#### Learning 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 award funds

#### Handouts:

- 3-1 – Lands Terms
- 3-2 – Federal Real Property Laws
- 3-3 – Life Estate
- 3-4 – Who May Hold Title flow chart
- 3-5 – Real Property Interests Graphic

**Real Estate** (Land is interchangeable with real estate.)

That part of the earth’s surface that can be owned, whether it is upland or seasonally or permanently submerged;

Anything firmly attached to the part of the earth’s surface that can be owned, whether attached by people or natural processes; and

Any soil, rock, gravel, minerals, gas, oil, groundwater, trees, or other vegetation that is firmly attached to, or part of, the surface or subsurface

**Real Property**

One, several, or all interests, benefits, and rights inherent in the ownership of a **parcel** of land or water. (520 FW 6)

**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

**Parcel** includes the space above and below it and anything physically affixed to it by natural process or human action, e.g. standing timber, buildings, roads, fences and other structures.

Equipment means tangible personal property (including IT systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.



**Exercise: Determining Real Property Types**

Consider each scenario below and determine what type of property is being described.

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

## 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*

- **Full - Fee Interest (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
- **Physical Interests** – air, surface, subsurface rights
- **Claims** – mortgage lien, judgement lien, tax lien

**Full – Fee Interest (Fee Simple)** the maximum possible interests that a person can hold in a parcel of real property, subject only to the limitations of the four powers of government. Includes the right to exclusive possession.

**Fee with exception to title or less than full fee** is an ownership interest in land that excludes one or more interests in real property. Some examples are:

- a parcel with a power-line easement through it,
- a parcel where one entity owns all interests except the mineral rights, **or**
- a parcel subject to a conservation easement

## Partial Interests

Any single right or combination of rights that have been separated from the fee simple.

The separation of an interest from the fee simple occurs through:

- (1) Reservation,
- (2) Lease,
- (3) Condemnation, or
- (4) Other assignment of rights or interests to another owner.

## Ownership Interests - use, occupy, exclude others

### Life Estate (temporary)

An estate in real property limited to the remaining lifetime of a designated individual(s). The life estate ends at the death of the original holder of the life estate even if that individual transferred some or all of the rights in the life estate to another entity.

### Lease/leasehold (temporary)

A contract in which the fee owner transfers to a lessee the right of exclusive possession and use of an area of land or water for a fixed period, which may be renewable.

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

### Undivided Partial Interests (Concurrently held 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 (not recognized in all states).

## Non- Ownership Interests

**Easements** are a non-ownership interest in land owned by another consisting of right to use or control land for specific purposes, e.g. access, restrict development or restrict use

### Public Interests (government)

- **Eminent Domain:** Right of government to take private property for a necessary public use with 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

### Physical Interests

- **Air:** rights to space that can be reasonably used above land
- **Surface** i.e....
  - Use the land or the area on the surface for a specific purpose; grazing, agriculture, timber...
- **Subsurface:** rights to minerals, oil, gas
- **Water** (rights to use water on or below the surface)

### Claims (liens)

- **Mortgage** - Mortgage company holds a debt interest in the real property.
- **Judgment** - A general lien placed by the courts on real property.
- **Tax** - A lien automatically attached to property for unpaid property taxes.

### Non- Interest Land Use Agreements

#### Licenses and Permits

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

Notes:

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## Who May Hold Title?

Title to real property acquired or improved under a Federal award will vest upon acquisition in the non-Federal entity (**2 CFR 200.311(a)**). Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the non-Federal entity must not dispose of or encumber its title or other interests (**2 CFR 200.311(b)**).

Generally, only a recipient or subrecipient can own or hold real property acquired under a Federal financial assistance award (522 FW 7.13(A)). For WSFR, (WR, BHE, EHE, SFR, BA, AE) the state fish and wildlife agency must hold title to an ownership interest in real property acquired under a Federal award, unless state law requires the state itself or another state administrative unit to hold title on behalf of the state fish and wildlife agency (50 CFR 80.13 / 522 FW 7.13(B)(1)).

The State or one of its administrative units may hold title as long as the state fish and wildlife agency has the authority to manage the real property for its authorized purpose under the Federal awards (**50 CFR 80.130(a)**).

For non-WSFR programs more than one entity may hold title to an ownership interest in real property if the entities holding title are a recipient or subrecipient. Additionally, more than one entity (recipient and subrecipient) may hold a non-ownership interest in the WR, BHE, EHE, SFR, BA, AE, SWG and Cooperative Endangered Species programs. (**50 CFR 80.130**) if approved by the Director or AD. **522 FW 7.13(B)(2)**.

Under WSFR a subrecipient may co-hold an easement or the right to enforce an easement, or both (**50 CFR 80.131** / since easements are considered a non-ownership interest. A subrecipient's right of enforcement must not supersede the state fish and wildlife agency's right of enforcement.

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**Exercise: Real and Personal Property Rights and Interests**

Review **Lands Chapter SM Part 520 FW 6 in Toolkit** 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).

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

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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?

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

4. A landowner agrees to award 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?

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5. Colleen, Jim 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?

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### 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 award 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 award 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.

**Appurtenances:** Anything attached to a piece of land or building such that it becomes a part of that property.

**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.

**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, Mississippi and all states north of the Ohio River and all states west of the Mississippi River except Texas and Hawaii.

**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 discrimination 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.

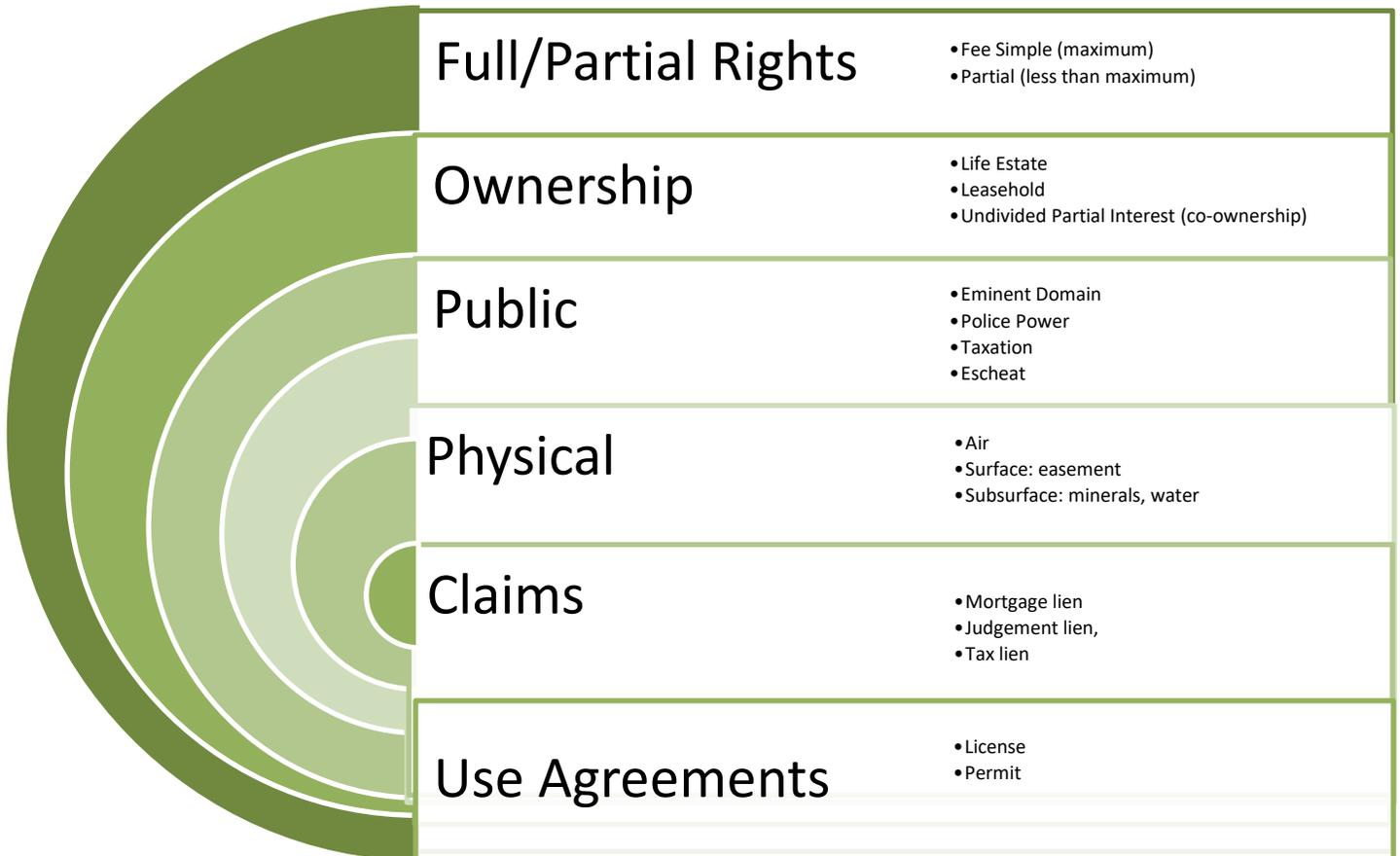
## Uses of a life estate

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**

## Module 4 Easements, Leases, and Right-of-Ways

### Learning 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

### Handouts:

- None

## Easement

Easement is a partial interest in a designated area of land owned by another entity. The holder of the easement may have the right to (1) use the land or the area above or below its surface for a specific purpose, or (2) prevent specific uses of the land. An easement does not allow its holder to take anything from the land.

Possible future uses include

- ✓ Preservation
- ✓ Conservation
- ✓ Wildlife habitat

## 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 award objective(s)

## Conservation Easement Benefits for Resource Agencies

- Enables cooperative efforts with 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

In some cases it is beneficial 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 awarded to the qualified easement-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 recipients. 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, award number and name, award purpose and effective date (Recitals section)
  - Statement that the recipient 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 award (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

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## Other Supporting Documents

- Draft Management Plan (if applicable)  
The plan should:
  - 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

A Draft Management Plan should be developed and submitted to WSFR if any action beyond monitoring is necessary to achieve the purpose and objectives of the award or project.

## Managing Responsibilities for WSFR-Funded Easements

### The Recipient

- Responsible for ensuring legal sufficiency of the easement to meet the objectives of the award
  - Protection of CE's biological objectives
  - Objectives as outlined in other easements
- Must be able to perform the terms of the easement
- Submit reports at least annually on the status of real property unless the Federal interest in the real property extends 15 years or longer (if so, may require reporting up to 5-year intervals) 2 CFR 200.329

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

### WSFR

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

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.

### Common Pitfalls

Because a conservation easement is a non-ownership interest, the recipient or subrecipient 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 of the easement terms are not occurring.
- On-going communication with the landowners and easement holder.

\* See Land Trust Alliance for BMP's <https://www.landtrustalliance.org/>

## Lease Agreements

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

- The terms and duration are adequate to achieve the award objective(s), and
- There are sufficient award funds to make payments for the entire lease term
  - Alternatively, the recipient or subrecipient can commit to use their own funds to make the remaining lease term payments or qualify for multi-year financing.

WSFR requires that for a lease funded by an award, matching funds (or contributed as match) we must receive only copies of documents that have been recorded in a book of public records, unless this is not a customary practice e.g., title insurance and some short-term leases. Best practice is to record a lease 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.

- Recipients may use award 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.

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

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.



**Exercise: Easements, Leases and Right of Ways**

Review 50 CFR 80.130, 131 and 132 to answer the following questions.

1. What type of real property interest is a conservation easement?

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2. A State wildlife agency grants a WR subaward for concurrent right to hold an easement to a non-profit organization. Is this allowable? Explain your answer.

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3. If you answered yes to question 2, who is responsible for carrying out the conservation objectives of the easement?

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4. A state wildlife agency awarded a private gun club a WSFR Basic Hunter Education program subaward to build a shooting range. Is this allowable? Is the state responsible to maintain control of the capital improvement? If so, how?

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**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 recipient or subrecipient as long as certain conditions are met
- ✓ WSFR must review the easement language to ensure adequacy to meet the award objectives and consistency with the purposes of the award program
- ✓ Required information in an award-funded conservation easement (to include match) should include award program name, authorizing legislation, award number, award approval date, purpose of the award program and Notice of Federal Participation
- ✓ WSFR may approve a recipient or subrecipient 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 award objective(s)
- ✓ Funds must be sufficient to make payments for the entire lease term

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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 2017 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 2018 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 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

## Module 5 Project Statement

### Learning Objectives:

1. Identify and explain the required elements of a project statement.
2. Understand the concept of “substantial in character and design” as it relates to a proposed project under the Wildlife and Sport Fish Restoration programs.
3. Understand the function and roll of TRACS as being the WSFR programs performance accomplishment reporting system. It is not a grant management system.
4. Become familiar with using the TRACS matrix in order to classify your project activities under the appropriate strategies, standard objectives, and activity tags.

### Handouts:

- 5-1 – Best Management Practices for Writing Project Statements
- 5-2 – TRACS Matrix (version 17.0)
- 5-3 – Wildlife-Oriented Recreation Land Acquisition Project Statement (example only)
- 5-4 – Boating Access Construction Project Statement (example only)
- 5-5 – Boating Infrastructure Grant Program Project Statement (example only)

## Project Statement

A project statement is one of the required documents (perhaps the most important document) to be included in an application for Wildlife and Sport Fish Restoration program funding. Other WSFR-administered programs also require a project statement, but sometimes refer to it by other means (i.e. project narrative or proposal).

Project statements are not required for those States applying for a CMS grant. (see **50 CFR 80.81**)

The project statement is the heart and soul of your grant application. It helps to identify a conservation issue, problem, or opportunity that must be addressed, as well as, the actions that your agency will implement to help resolve the issue, problem, or opportunity.

There is no standard, specific format that all applicants must use for their project statements. However, there are certain required elements that must be included for a complete project statement. When applying for Wildlife and Sport Fish Restoration funding, there are 13 required elements that comprise a complete project statement (**50 CFR 80.82(c)**). These elements include:

1. Need
2. Purpose and Objectives
3. Results or benefits expected
4. Approach
5. Useful life
6. Geographic location
7. Principal investigator for research projects
8. Program income
9. Budget narrative
10. Multipurpose projects
11. Relationships with other grants
12. Timeline
13. General

Projects are approvable for funding if they qualify as Substantial in Character and Design. (see **50 CFR 80.56**)

Other Federal awarding programs (to include competitive programs) may require different elements to be included in application proposals. Applicants should pay close attention to the Federal program's Notice of Funding Opportunity (NOFO) which will describe any additional requirements used to evaluate and rank applications.

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**Exercise: Substantial in Character and Design**

Using the FA Toolkit, review **50 CFR 80.56** “*How does a proposed project qualify as substantial in character and design*” and answer the following questions.

1. In your own words, define substantial in character and design.

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

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

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While the term “*substantial in character and design*” is specific to Wildlife and Sport Fish Restoration program awards, the Service uses similar criteria for evaluating the soundness and cost effectiveness of applications submitted for other Federal financial assistance program funding.

## Elements of the Project Statement

### NEED:

The need explains why the project is necessary and how it fulfills the purposes of the relevant Act(s). It basically identifies a conservation issue, problem, or opportunity facing the State fish and wildlife agency, wildlife, sport fish, or their habitats.

When writing the need, it is often considered a best management practice to provide or cite some form of evidence or data to support your need statement. Examples of data include: fish and wildlife abundance and population metric surveys, participation use surveys, angler creel surveys, and hunter or angler or boater satisfaction surveys.

While not a regulatory requirement, another best management practice is to articulate the null alternative, which is the negative result of taking no action. For example, if the State fish and wildlife agency does not increase recreational hunting opportunities, then hunters will go elsewhere (outside of the state) or perhaps not go hunting at all.

See **Handout 5-1** for Best Management Practices when writing a Project Statement.

When you think you have identified the need, ask yourself “why”. For example, many project leaders often think that the need is to acquire land. When in reality, the need is often to increase recreational hunting or wildlife-viewing opportunities, increase recreational fishing or boating opportunities, or protect/conservate vital habitat.

### PURPOSE and OBJECTIVES:

State the purpose and objectives of the project and base them on the need.

The purpose states the desired outcome of the proposed project in rather general or abstract terms. For example, in the case where a State fish and wildlife agency is seeking to acquire real property to increase access and opportunity for hunting, the purpose statement might be, “*The purpose of this project is to secure sufficient public wildlife acreage to meet the demands of the State’s small and big game hunters.*” Alternatively, in the case where a State fish and wildlife agency is seeking to acquire real property in order to construct a shooting range, the purpose statement might be, “*The purpose of this project is to secure land for the future construction and operation of a public, recreational shooting/target range facility.*”

Don’t underestimate the value and importance of the “Purpose” element in a real property acquisition project statement. After all, once the non-Federal entity

acquires the real property, they are required by regulation to use it, in perpetuity, for the purpose authorized in the Federal award (**2 CFR 200.311(b)** / **50 CFR 80.134(a)**). If the non-Federal entity allows a use of real property that interferes with its authorized purpose, this may represent a “loss of control”, and potentially a “diversion” (**50 CFR 80.135-136**). In such cases, having a clear, well defined “purpose” can assist the non-Federal entity, as well as the WSFR Regional Office, in resolve issues pertaining to interference and other uses of real property.

The objectives state the desired outcome of the proposed project in terms that are specific and quantified.

Objectives should be written in an active tense and use action verbs such as construct, survey, train, construct, repair, operate and maintain, and acquire. As a best management practice, the WSFR program encourages the use of “SMART” objectives.

SMART objectives:

- ✓ Specific
- ✓ Measureable
- ✓ Achievable
- ✓ Relevant
- ✓ Time bound

Wildlife TRACS Enhancement will provide applicants/recipients with a list of “standard objectives” in an effort to help streamline applications and focus performance reporting to increase transparency and demonstrate the national accomplishments of the WSFR-administered financial assistance programs (especially the Wildlife and Sport Fish Restoration programs). These standard objectives are classified into 14 distinct categories (strategies). Each category has one or more standard objectives. See the TRACS Enhancement matrix (**Handout 5-2**) for a listing of project strategies, standard objectives, and activity tags (used for performance reporting).

The most current, updated version of the TRACS matrix can always be found here:

<https://fawiki.fws.gov/display/WSFR/Standard+Project+Statements>

In the case of real property acquisition projects, applicants would have at least one objective (“Acquire real property interest in XX acres by XXXX”). In the case of a real property construction project, applicants would have at least one objective (“Construct, renovate, or acquire XX facilities by XXXX”).

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APPROACH:

The approach describes the methods used to achieve the stated objectives. It describes the specific conservation actions (i.e. activity tags) and efforts that the applicant will implement in order to fulfill the objectives of the Federal award. The approach section answers the question “*How will the objectives be accomplished?*”

The approach section should be written to a level of adequate detail to fully describe the actual work that is proposed for accomplishment. The level of detail should help to demonstrate that the applicant is using a sound design, appropriate procedures, and accepted fish and wildlife conservation, management, or research principles. The level of detail should also be adequate enough to help assist the WSFR grants management specialist conduct a thorough and complete review for compliance with the National Environmental Policy Act, Section 7 of the Endangered Species Act, and the National Historic Preservation Act.

After the applicant has written a detailed approach, they should consult the TRACS matrix (**Handout 5-2**) in order to determine what reportable metrics will be quantified during performance reporting. As part of the performance report, recipients will quantify those metrics, based upon project type (strategy), that have been determined to be of national significance. These metrics will help to tell the accomplishment story of the WSFR programs, as well as, answer common questions or inquiries from Congress, industry, and stakeholders.

RESULTS OR BENEFITS EXPECTED:

The results or benefits expected will specify the benefits of completing the objectives and resolving the need for which the project was funded. When completing this section, as a best management practice, applicants should consider the potential benefits to the:

- Resource
- Users
- Economy
- Society

In performance reports, recipients are not bound to report on whether the results or benefits expected actually occurred.

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**BUDGET NARRATIVE (COSTS):**

Provide cost estimates by project and subaccount program with additional information to show that the project is cost effective. Applicants should provide a justification for each budget category. This justification should be a brief general description of the costs that makeup the category, yet provide enough detail to demonstrate that the applicant has a financial plan for implementation of the proposed objectives. For example, under personnel costs, include the total number of staff and the various job titles anticipated to be charging to the project.

Applicants should also describe any particular item of cost that requires the Service’s approval (see **2 CFR 200.407**). The item’s estimated cost should also be included. Examples are preaward costs (i.e. surveys, designs, permits, appraisals, or appraisal reviews); capital expenditures for land, buildings, and equipment; capital expenditures for improvements to land, buildings, or equipment; and capital expenditures for special purpose equipment.

Recipients seeking to use financial assistance funding to purchase an interest in real property, must obtain the Service’s prior written approval by submitting the SF-429B or an approved alternate (**2 CFR 200.439 / 2 CFR 1402.329(a)**).

Applicants should also include information about:

- ✓ In-Kind match – Include the source, amount, and the valuation methodology.
- ✓ Program Income – Include the source, amount, and requested method of disposition of the program income.
- ✓ Indirect costs – Any entity that is charging indirect costs must: (1) include those indirect costs in the approved budget; and (2) have, during the period of performance of the grant award, an approved negotiated indirect cost rate agreement (NICRA).

See **Handouts 5-3** through **5-5** for example Project Statements that are “TRACS-ready” and use the standard objective formats for projects involving land acquisition and facility construction.

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## Wildlife TRACS Enhancement

TRACS will serve as WSFR's electronic repository system for all performance and accomplishment reporting related to those Federal awards administered by the WSFR program. It is not a grants management system.

TRACS will allow applicants/recipients to enter their project statement information directly into the system and it will generate a project statement. Applicants may choose to include this project statement output as part of their application. Recipients will also be able to report on the performance of their Federal award directly in TRACS.

## Project Statements for Competitive Programs

Competitive federal programs may contain additional requirements used to evaluate and rank applications. Specific program guidance (i.e. the program's NOFO) should be reviewed for this additional information, especially the ranking criteria and points. Applicants should be conscious to:

- Carefully follow the competitive program guidance and be aware of critical submission (pre-proposal and full proposal) deadline dates.
- Make sure that the application is easy to read and is formatted, per the requirements, in a logical progression. Make it easy for the reviewers to find the required elements and the ranking criteria throughout the project statement.
- Address each and every ranking criteria. Write the project statement to address the ranking criteria as this is how the Federal program will review and rank your project compared to others.
- Maximize the use of non-Federal cost-sharing or matching funds, if applicable. Providing additional third-party funding or third-party *in-kind* contributions often makes your proposal more attractive, and may earn additional points if this is part of the merit review process.
- Make your project statement short, sweet, and concise, but yet complete. Be aware that many competitive programs have page limitations (some even include limitations on appendices and attachments).
- Follow the formatting requirements of the Federal program. Make sure your project statement follows all requirements for page numbers, margins, and font size.
- Communicate whether your project would accept partial funding (this is often important in highly competitive programs).
- Communicate in advance to the WSFR Regional Office about your desire to apply for competitive funding. In some cases, WSFR staff may be able to conduct a review of your proposal prior to its actual submission.



**Exercise: Review of a 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

- ✓ A project statement is one of the required documents (perhaps the most important document) to be included in an application for Wildlife and Sport Fish Restoration program funds on a project-by-project grant.
- ✓ A project statement may not be required for those States applying for a Comprehensive Management System (CMS) grant.
- ✓ The project statement(s) is the heart and soul of your grant application. It helps to identify a conservation issue, problem, or opportunity that must be addressed, as well as, the actions that your agency will implement to help resolve the issue, problem, or opportunity.
- ✓ Under the Wildlife and Sport Fish Restoration grant programs, a project statement is comprised of 13 required elements (**50 CFR 80.82(c)**).
- ✓ Projects are approvable for funding if they qualify as Substantial in Character and Design.
- ✓ The need explains why the project is necessary and how it fulfills the purposes of the relevant Act(s). It basically identifies a conservation issue, problem, or opportunity facing the State fish and wildlife agency, wildlife, sport fish, or their habitats.
- ✓ Objectives state the desired outcome of the proposed project in terms that are specific and quantified.
- ✓ The approach describes the methods used to achieve the stated objectives. It describes the specific conservation actions and efforts that the applicant will conduct in order to fulfill the objectives of the grant award. It should be written to a level of adequate detail to fully describe the actual work that is proposed for accomplishment.
- ✓ TRACS will provide applicants/recipients with a list of “standard objectives” in an effort to help streamline applications and focus performance reporting to increase transparency and demonstrate the national accomplishments of the WSFR-administered financial assistance programs (especially the Wildlife and Sport Fish Restoration 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:**

**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?) Train

(How many?) 150

(Who or what?): Volunteer hunter education instructors

(By when?): June 30, 2019.

Putting it all together:

***Train 150 instructors by June 30, 2019.***

Objective Examples:

Not SMART: Acquire as much land as is possible to increase access to recreational hunting opportunities.

SMART: Acquire real property interests in 3,000 acres by December 21, 2019.

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

SMART: Directly restore, enhance, create, or manage 50 miles by June 30, 2019..

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

SMART: Directly restore, enhance, create, or manage 1,500 acres by June 30, 2019.

## Approach

The approach describes the specific conservation activities 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 **TRACS Activity Matrix** to classify each activity.

Example:

- Activity Tag 1: Hunter Education
- Activity Tag 2: Firearms - Hunting

Provide a narrative description of each activity after identifying the Activity Tags.

Example: Training of instructors, teachers, mentors, and students in hunting, shooting, and trapping.

## Expected Results and Benefits

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.

### TRACS Enhancement Matrix Version 17 (Final)

*The Activity Matrix corresponds to Standard Objectives. For each Standard Objective, a TRACS user is required to select at least one Activity Tag 1 and provide the corresponding unit of measurement. More than one Activity Tag 1 may be selected per strategy. One or more Activity Tag 2 is required if present but does not require a unit of measurement (with the exception of recreational boating facilities for the strategy of "Construction, Renovation of Acquisition"). Activity Tag 2 data is from State-based organizations (SOBA, AREA, IHEA) that have requested that certain information be collected in TRACS specific to their organizations interests. Additional Info indicates those activities where a real property or facilities information is required and/or where target species and/or habitat is required and needs to be identified.*

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
<b>COORDINATION AND ADMINISTRATION</b>					
Administer XX Projects under a grant(s) that includes Coord/Admin by XXXX					Coordination and administration necessary for effective agency operations and program/project management and identified in WSFR-Funded grant(s)/project(s).  Coordination and administration of a project(s) that is identified in a WSFR funded grant(s) (e.g., acquisition of goods and services, human resources tasks, environmental compliance, monitoring progress of grant proposal and reporting processes) necessary for effective agency operations, project management, compliance, or monitoring. Note: This objective does not include day-to-day grant administration activities.
	Project coordination and administrative support, compliance, and monitoring	# of projects	NA	NA	Coordination and administration of a project(s) that is identified in a WSFR funded grant(s) (e.g., acquisition of goods and services, human resources tasks, environmental compliance, monitoring progress of grant proposal and reporting processes) necessary for effective agency operations, project management, compliance, or monitoring. Note: This objective does not include day-to-day grant administration activities.
<b>DIRECT HABITAT AND SPECIES MANAGEMENT</b>					
Directly restore, enhance, remove, create or manage XX structures by XXXX.					Creation, maintenance, or removal of natural or man-made structures for the benefit of fish, wildlife, their habitats and/or recreational users.
	Aquatic barriers removal	# of structures	NA	Identify target species and habitat type(s)	Removal of barriers to maintain aquatic species populations and restore ecological functions.
	Aquatic barriers modification	# of structures	NA	Identify target species and habitat type(s)	Modification of barriers to maintain aquatic species populations and restore ecological functions.
	Terrestrial wildlife habitat structures	# of structures	NA	Identify target species and habitat type(s)	Structures to benefit terrestrial wildlife, their habitats and/or recreational users. Includes Exclusion structures.
	Freshwater fish and wildlife habitat structures	# of structures	NA	Identify target species and habitat type(s)	Structures to benefit freshwater fish, wildlife, their habitats and/or recreational users. Excludes fish passage and screening facilities. See activity tags under the Facilities objective.
	Marine/Estuary fish and wildlife habitat structures	# of structures	NA	Identify target species and habitat type(s)	Structures to benefit marine/estuary fish, wildlife, their habitats and/or recreational users, including breakwaters, artificial reefs, etc.
	Hazard or infrastructure removal	# of structures	NA	Identify target species and habitat type(s)	Removal of hazards or infrastructure to benefit fish, wildlife, their habitats and/or recreational users. Includes road decommissioning. Excludes aquatic barriers covered above.

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
	Water management structures	# of structures	NA	Identify target species and habitat type(s)	Structures for the management of water to benefit fish, wildlife, their habitats and/or recreational users. Excludes acquisition of water rights, which is addressed under the "Real Property Acquisition" strategy.
Directly restore, enhance, create or manage XX acres by XXXX.					Creation, restoration, enhancement or management of habitat for the benefit of fish, wildlife and/or recreational users.
	Prescribed Fire	# of acres	NA	Identify target species and habitat type(s) and on back end enter # of acres by habitat type(s)	Prescribed fire (acres burned) to benefit fish, wildlife, their habitats and/or recreational users. Note: Fire prevention, such as fire lines, should be reported in "# of Feet" under the strategy "Facilities/Areas O&M".
	Grazing/farm management	# of acres	NA	Identify target species and habitat type(s) and on back end enter # of acres by habitat type(s)	Agricultural practices to benefit fish, wildlife, their habitats and/or recreational users.
	Planting/seeding	# of acres	NA	Identify target species and habitat type(s) and on back end enter # of acres by habitat type(s)	Propagating, planting or seeding to benefit fish, wildlife, their habitats and/or recreational users.
	Other vegetation management practices	# of acres	NA	Identify target species and habitat type(s) and on back end enter # of acres by habitat type(s)	Biological, chemical or physical manipulation of terrestrial/aquatic vegetation (other than invasives) to benefit fish, wildlife, their habitats and/or recreational users.
	Forest Stand management	# of acres	NA	Identify target species and habitat type(s) and on back end enter # of acres by habitat type(s)	Forest stand management to benefit fish, wildlife, their habitats and/or recreational users.
	Wetland creation/management	# of acres	NA	Identify target species and habitat type(s) and on back end enter # of acres by habitat type(s)	Wetland creation/management to benefit fish, wildlife, their habitats and/or recreational users.
	Wildlife damage management	# of acres	NA	Identify target species and habitat type(s) and on back end enter # of acres by habitat type(s)	Management of nuisance fish and wildlife. Note: Limited eligibility for funding through WSFR grant programs.
	Lake/Pond creation, management	# of acres	NA	Identify target species and habitat type(s) and on back end enter # of acres by habitat type(s)	Lake/Pond creation and/or management to benefit fish, wildlife, their habitats and/or recreational users, including but not limited to liming, fertilization, use of rotenone, and aeration.

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
	Marine/Estuary management	# of acres	NA	Identify target species and habitat type(s) and on back end enter # of acres by habitat type(s)	Marine/Estuary habitat management to benefit fish, wildlife, their habitats and/or recreational users. Reintroduction of coral reported under Reintroduction objective.
	Invasive species control - plants	# of acres	NA	Identify target species and habitat type(s) and on back end enter # of acres by habitat type(s)	Assessment and biological, chemical and physical control of invasive plant species to benefit fish, wildlife, their habitats and/or recreational users, including invasive algae and seaweed. Note: Invasive animal species should be entered under Activity Tag 1 for "Invasive species control - Animals".
Directly restore, enhance, create or manage XX miles by XXXX.					Restoration, enhancement, creation, or management of rivers and streams for the benefit of fish and wildlife and/or recreational users.
	Stream modification	# of stream miles	NA	Identify target species and habitat type(s)	River/stream/springs improvements to benefit fish, wildlife, their habitats and/or recreational users; includes streambank stabilization, channel modification.
	River/Stream management	# of stream miles	NA	Identify target species and habitat type(s)	River/stream management, including liming, to benefit fish, wildlife, their habitats and/or recreational users; includes springs.
Directly restore, enhance, create or manage XX feet by XXXX.					Physical manipulation of shoreline areas to benefit fish, wildlife, their habitats and/or recreational users.
	Living Shorelines	# of feet	NA	Identify target species and habitat type(s)	Physical manipulation of shoreline areas to benefit fish, wildlife, their habitats and/or recreational users.
	Other Shorelines	# of feet	NA	Identify target species and habitat type(s)	Physical manipulation of shoreline areas to benefit fish, wildlife, their habitats and/or recreational users, other than "Living Shorelines".
Directly manage XX species by XXXX.					Assessments and biological, chemical, and physical control of invasive species, nuisance species to benefit fish, wildlife, their habitats and/or recreational users. Note: Invasive PLANTS are addressed under "Directly restore, enhance, create or manage XX acres by XXXX".
	Invasive species control - Animals	# of species	NA	Identify target species and habitat type(s)	Assessment and biological, chemical and physical control of invasive animal species to benefit fish, wildlife, their habitats and/or recreational users.
	Fish and Wildlife Predation Management	# of species	NA	Identify target species on back end	Assessment and management response to alleviating predation impacts to benefit fish, wildlife, and/or recreational users. Excludes Invasive species. Invasive species are reported under the Activity Tag #1 "Invasive Species Control".
	Wildlife feeding	# of species	NA	Identify target species on back end	Feeding of wildlife to benefit wildlife, their habitat and/or recreational users; e.g., winter feeding of elk, emergency feeding of deer due to natural disaster.
Directly manage restoration and recovery of XX individuals by XXXX					Production, rehabilitation, introduction, re-introduction, supplementation, and relocation of species in suitable habitats for restoration and recovery purposes.
	Species restoration/recovery	# of individuals	NA	Identify # of individuals by target species	Production, rehabilitation, introduction, re-introduction, supplementation, and relocation of species in suitable habitats for restoration and recovery purposes.

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
Directly manage XX incidents by XXXX					Assessments and management responses to alleviate fish and wildlife depredation or disease; or alleviate damage actions resulting from nuisance fish and wildlife species.
	Fish and Wildlife depredation management	# of incidents	NA	Identify target species	Assessment and management response to alleviating wildlife damage to private property and nuisance species.
	Fish and Wildlife disease management	# of Incidents	NA	Identify target species	Management responses to disease in order to benefit fish, wildlife, their habitats and/or recreational users.
	Wildlife damage management	# of incidents	NA	Identify target species and habitat type(s)	Assessment and management response to alleviate damage from nuisance fish and wildlife. Note: Limited eligibility for funding through WSFR grant programs.
<b>ENVIRONMENTAL REVIEW</b>					<b>Inter-agency, intra-agency, and non-governmental review of agency and private sector policies, projects and plans (primarily related to development and adverse impacts to natural resources, NEPA documents, Permits, etc.) 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).</b>
Review XX projects/plans by XXXX.					Review of 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/plans	# of projects/plans reviewed	NA	NA	Review of 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).
<b>FACILITIES/AREAS CONSTRUCTION, RENOVATION OR ACQUISITION</b>					<b>New construction, renovation or acquisition of facilities in support of programs/projects (e.g., office buildings, garages, equipment sheds, access sites, ranges, hatcheries, or education centers). Note: Real Property Acquisition is a different strategy.</b>
Construct, renovate or acquire XX facilities by XXXX.					Construction, renovation or acquisition of facilities in support of programs/projects (e.g., office buildings, garages, equipment sheds).
	Firearm and archery ranges	# of facilities		Link to facilities record(s)	Construction, renovation or acquisition of facilities that provide recreational shooting.
			Archery ranges		Archery ranges for hunter education and other recreational purposes.
			Shooting ranges		Shooting ranges for hunter education and other recreational purposes Note: Could be funded through Wildlife Restoration basic or Section 10 enhanced hunter education.
	Fish passage facilities	# of facilities	NA	Identify target species and link to facilities record(s)	Facilities, including each structure that is 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, which is entered under "Direct Habitat and Species Management" strategy.
	Fish screening and related facilities	# of facilities	NA	Identify target species and link to facilities record(s)	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.
	Fish Hatcheries	# of facilities		Identify target species and link to facilities record(s)	Facilities to propagate fish species for recreational and/or restoration purposes.

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
	Education centers	# of facilities		Link to facilities record(s)	Facilities used in support of education.
			Aquatic resource education		Classrooms for aquatic resource education purposes.
			Hunter education		Classrooms for hunter education purposes. Note: Could be funded through Wildlife Restoration basic or Section 10 enhanced hunter education.
	Wildlife passage facilities	# of facilities	NA	Identify target species and link to facilities record(s)	Facilities, including structures that are designed to allow wildlife to move past barriers (e.g., roads, fences, etc.).
	Wildlife propagation facilities	# of facilities	NA	Identify target species and link to facilities record(s)	Facilities used in support of wildlife propagation, including aquatic species (e.g., freshwater mussels).
	Program Support facilities	# of facilities	NA	Link to facilities record(s)	Facilities used in support of programs/projects (e.g., office buildings, garages, equipment sheds).
	Recreational boating facilities	# of facilities		Link to facilities record(s)	Boating-related facilities for the handling, launching, mooring, tie-up, or parking of public watercraft, trailers or transport vehicles, including ancillary features commonly associated with such facilities.
			Access roadways		Roadways to access public Boating Facilities.
			Carry-down access		Access facilities for hand-launched watercraft (i.e., kayak or non-motorized boat access).
			Docks	Enter # slips and/or # linear feet	Docks at boat launch sites.
			Fish cleaning stations		Fish cleaning stations at boat launch sites.
			Fuel stations		Fuel Stations.
			Gangways		Gangways.
			Hoist launching systems		Systems marinas or docks designed to launch watercraft via a hoist.
			Launch ramps	Enter #launching lanes	Boat ramp lanes at boat launch sites.
			Laundry facilities		Laundry facilities.
			Moorings	Enter # physical tie-ups	Moorings.
			Parking areas		Parking areas at boat launch sites.
			Restrooms		Restrooms at boat launch sites.
			Secondary improvements		Secondary improvements (e.g., utilities, buoys, lights, etc.).
			Shelters		Shelters at boat launch sites.
			Wave attenuation / Breakwater		Wave attenuation / Breakwater.
	Boat Pump Out/Dump Stations	# of facilities		Link to facilities record(s)	Waste removal options for use by the boating public.
			Dump stations		Dump stations.
			Floating restrooms		Floating restrooms.
			Pump out boats		Pump out boats.

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
			Pump out stations		Pump out stations.
Construct, renovate or acquire XX areas by XXXX.					Construction, renovation or acquisition activities in areas in support of programs/projects (e.g., non-boating access public fishing areas such as fishing piers). Note: Activities primarily for restoration and management of species and habitats should be entered under the strategy "Direct Habitat and Species Management".
	Public access areas	# of areas	NA	Link to facilities record(s)	Construction, renovation or acquisition activities in areas in support of programs/projects (e.g., non-boating access public fishing areas such as fishing piers, wildlife watching areas, etc.). Note: Activities primarily for restoration and management of species and habitats should be entered under the strategy "Direct Habitat and Species Management".
<b>FACILITIES/AREAS O&amp;M</b>					
Operate and Maintain XX facilities by XXXX.					Operation and Maintenance of facilities in support of programs/projects (e.g., office buildings, garages, equipment sheds, dams).
	Firearm and archery ranges	# of facilities			Operations and maintenance of facilities that provide recreational shooting.
			Archery ranges		Archery ranges for hunter education and other recreational purposes.
			Shooting ranges		Shooting ranges for hunter education and other recreational purposes. Note: Could be funded through Wildlife Restoration basic or Section 10 enhanced hunter education.
	Fish passage facilities	# of facilities	NA	Identify target species	Facilities, including each structure that is 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, which is entered under "Direct Habitat and Species Management" strategy.
	Fish screening and related facilities	# of facilities	NA	Identify target species	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.
	Fish Hatcheries	# of facilities		Identify target species	Facilities to propagate fish species for recreational and/or restoration purposes.
	Education centers	# of facilities			Facilities used in support of education.
			Aquatic resource education		Classrooms for aquatic resource education purposes.
			Hunter education		Classrooms for hunter education purposes. Note: Could be funded through Wildlife Restoration basic or Section 10 enhanced hunter education.
	Wildlife passage facilities	# of facilities	NA	Identify target species	Facilities, including structures that are designed to allow wildlife to move past barriers (e.g., roads, fences, etc.)
	Wildlife propagation facilities	# of facilities	NA	Identify target species	Facilities used in support of wildlife propagation, including aquatic species (e.g., freshwater mussels).
	Program Support facilities	# of facilities	NA		Facilities used in-support of programs/projects (e.g., office buildings, garages, equipment sheds) that meet the definition of a capital improvement in the Federal program that provided funding.
	Recreational boating facilities	# of facilities			Boating-related facilities for the handling, launching, mooring, tie-up, or parking of public watercraft, trailers or transport vehicles, including ancillary features commonly associated with such facilities.
			Access roadways		Roadways to access public boating facilities.

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
			Carry-down access		Access facilities for hand-launched watercraft (i.e., kayak or non-motorized boat access).
			Docks		Docks at boat launch sites.
			Fish cleaning stations		Fish cleaning stations at boat launch sites.
			Fuel Stations		Fuel Stations.
			Gangways		Gangways.
			Hoist launching systems		Systems marinas or docks designed to launch watercraft via a hoist.
			Launch ramps		Boat ramp lanes at boat launch sites.
			Laundry Facilities		Laundry Facilities.
			Moorings		Moorings.
			Parking areas		Parking areas at boat launch sites.
			Restrooms		Restrooms at boat launch sites, including portable latrines.
			Secondary improvements		Secondary improvements (e.g., utilities, buoys, lights, etc.).
			Shelters		Shelters at boat launch sites.
			Wave attenuation / Breakwater		Wave attenuation / Breakwater.
	Boat Pumpout / Dump Stations	# of facilities			A boating facility that pumps or receives sewage from a type III marine sanitation device that the U.S. Coast Guard requires on some vessels or a waste reception facility designed to receive waste from portable toilets on vessels.
			Dump stations		Dump stations.
			Floating restrooms		Floating restrooms.
			Pump out boats		Pump out boats.
			Pump out stations		Pump out stations.
Operate and maintain XX areas by XXXX.					Operation and Maintenance of areas in support of programs/projects (e.g., Wildlife Management Areas, Public Access Areas, etc.).
	Cooperatively managed areas for hunting	# of areas	NA		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).
	Cooperatively managed areas for fishing	# of areas	NA		Waters not owned by the State fish and wildlife agency that are cooperatively managed for fishing purposes (e.g., this includes community-based marine management areas).
	Cooperatively managed areas for conservation and other purposes	# of areas	NA		Lands not owned by the State fish and wildlife agency that are cooperatively managed for conservation and other purposes (e.g., US Forest Service lands, State parks, private lands).
	Public access areas	# of areas	NA		Operations and Maintenance in areas in support of programs/projects (e.g., non- boating access public fishing areas such as fishing piers, wildlife watching areas, etc.). Note: Activities primarily for restoration and management of species and habitats should be entered under the objective "Create, Restore or Enhance Habitat and Natural Processes".

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
	Wildlife management areas	# of areas	NA		State Fish and Wildlife Agency owned Wildlife Management Areas Note: Activities primarily for restoration and management of species and habitats should be entered under the strategy of "Direct Habitat & Species Management".
Operate and maintain XX feet by XXXX.					Fire lines maintained for the purpose of fire prevention. Note: Controlled burns should be entered in Acres under the strategy of "Direct Management of Habitat and Species".
	Fire lines	# of feet	NA		Fire lines maintained for the purpose of fire prevention. Note: Controlled burns should be entered in Acres under the strategy of "Direct Management of Habitat and Species".
<b>INCENTIVES</b>					<b>Development and delivery of economic incentives to private landowners to secure public access in areas otherwise not accessible by the public; or stewardship of species and habitats (e.g., short-term lease, etc. Leases over 10- years should be reported under Real Property Acquisitions).</b>
Provide or secure XX stream miles of access by XXXX.					Economic incentives to private landowners for public access to rivers/streams by anglers.
	Angler access	# of stream miles	NA	NA	Economic incentives to private landowners for public access to rivers/streams by anglers.
Provide or secure XX landowner acres by XXXX.					Economic incentives to private landowners to conserve habitat or to provide public access areas for hunting, angling and/or other outdoor recreation.
	Hunter access	# of acres	NA	NA	Economic incentives to private landowners for public access for hunting.
	Angler access	# of acres		NA	Economic incentives to private landowners for public access to a pond, lake, etc. for angling.
	Other recreation	# of acres		NA	Economic incentives to private landowners for public access for other outdoor recreation (e.g., wildlife viewing, hiking access, canoe/kayak trail).
	Conservation	# of acres		Identify target species and habitat type(s), on back end enter # of acres by habitat type(s)	Economic incentives to private landowners to influence responsible stewardship of habitats and specific species (e.g., protect bat caves, manage early successional habitat, restore/enhance wetlands).
Provide or secure XX access points by XXXX					Economic incentives to private landowners to provide public access points for hunting, fishing and/or other recreation. Note: These are access points rather than large areas measured in acres.
	Hunter access	# of points	NA	NA	Economic incentives to private landowners to provide public access points for hunting.
	Angler access	# of points	NA	NA	Economic incentives to private landowners to provide public access points for angling.
	Other recreation	# of points	NA	NA	Economic incentives to private landowners to provide public access points for other outdoor recreation (e.g., kayak/canoe launches, trailheads, surf fishing parking, beach access parking).
Provide or secure XX landowner Agreements by XXXX.					Agreements with private landowners to conserve habitat or provide public access. This is the number of landowner agreements entered into or maintained with grant funds.
	Landowner agreements	# of agreements	NA	NA	Agreements with private landowners to conserve habitat or provide public access. This is the number of landowner agreements entered into or maintained with grant funds.

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
<b>OUTREACH/ COMMUNICATION</b>					<b>Provide information to increase awareness of agency programs and activities funded by WSFR Grants through a variety of means, including, but not limited to, displays at agency facilities; participation/attendance at events to inform potential stakeholders (trade shows, county fairs, workshops, etc.); development of digital and social media and publications to disseminate research results.</b>
Inform/communicate with XX individuals by XXXX.					Individuals refer to the number of "unique" participants, attendees, visitors to websites, followers on Facebook, etc. Note: The subgroup agreed that it should be clarified that the number of individuals be represented as unique individuals to avoid double-counting (e.g., one individual visits your agency's website 4 times per day or watches a video multiple times in a day).
	Outreach to individuals	# of individuals	NA	NA	Individuals refer to the number of "unique" participants, attendees, visitors to websites, followers on Facebook, etc. Note: The subgroup agreed that it should be clarified that the number of individuals be represented as unique individuals to avoid double-counting (e.g., one individual visits your agency's website 4 times per day or watches a video multiple times in a day).
Participate in or sponsor XX events by XXXX.					Events may include, but are not limited to: conferences, trade shows, informational meetings, county fairs, open houses, facility tours, webinars, migratory bird days, salmon steelhead days, community fishing events, etc.
	Outreach events	# of events	NA	NA	Events may include, but are not limited to: conferences, trade shows, informational meetings, county fairs, open houses, facility tours, webinars, migratory bird days, salmon steelhead days, community fishing events, etc.
Produce XX products by XXXX.					Products may include, but are not limited to: kiosks, pamphlets, posters, print media, online media, social media posts, publications, books, articles etc.
	Print products	# of products	NA	NA	Total number of print products produced (e.g., 10,000 brochures). Products may include, but are not limited to: pamphlets, posters, print media, publications, books, magazine articles etc.
	Digital Products	# of products	NA	NA	Total number of digital products (e.g., 500 Tweets). Products may include, but are not limited to: online media, social media posts, audio/visual, articles etc.
	Functional Products	# of products	NA	NA	Total number of functional products. Functional products include CVA pump-out fitting, deep-water release mechanisms, fishing poles, etc.
	Installed products	# of products	NA	NA	Total number of products (e.g., 5 kiosks). Products may include, but are not limited to: kiosks, signs, etc.
<b>PLANNING</b>					<b>Development and revision of agency strategic and operational plans and fish and wildlife comprehensive management systems. Note: Does not include actions to implement plans.</b>
Develop/Revise XX plans by XXXX.					Development or revision of agency strategic and operational plans and fish and wildlife comprehensive management systems. Note: Does not include actions to implement plans.
	CMS planning	# of plans	NA	NA	Development or revision of fish and wildlife comprehensive management systems. Note: Does not include actions to implement comprehensive management systems.
	Land use planning	# of plans	NA	NA	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 operational planning	# of plans	NA	NA	Development or revision of agency strategic and operational plans. Note: Does not include actions to implement plans.

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
	Species and habitat management planning	# of plans	NA	Identify target species and habitat type(s)	Development or revision of management plans for fish and wildlife species and habitats, including WMA planning.
	Species management planning	# plans	NA	Identify target species	Development or revision of management plans for fish and wildlife species.
	Habitat management planning	# plans	NA	Identify target habitat type(s)	Development or revision of management plans for fish and wildlife habitats, including WMA planning.
	WSFR program/subprogram planning	# of plans	NA	NA	Conduct planning activities for a specific WSFR program or subprogram (e.g., CVA planning, hunter education planning).
<b>REAL PROPERTY ACQUISITION</b>					Acquisition of real property or an interest in real property that is limited to acquisition using WSFR funding. Projects not requiring Notice of Federal Participation (NOFP) are captured under other strategies such as Direct Habitat and Species Management or Incentives.
Acquire real property interest in XX acres by XXXX.					Limited to acquisition of real property interest using WSFR funding. Projects not requiring NOFP are captured under other strategies such as Direct Habitat and Species Management or Incentives.
	Land acquisition	# of acres		Identify target species and link to real property record(s)	Acres of land expected to be acquired for a particular purpose, plus identification of any species and/or habitat it is specifically purchased to benefit. Acre numbers used should be the most accurate available (e.g. from deed or assessor parcel survey).
<b>RESEARCH, SURVEY, DATA COLLECTION AND ANALYSIS</b>					<b>Research, survey, collection and analysis of data.</b>
Create or manage XX databases by XXXX.					Information technology development and maintenance to support project objectives (e.g., database development). For the purpose of this measure, "Database" refers to a structured compilation of data.
	Information Technology and Management	# of databases	NA	NA	Information technology development and maintenance to support project objectives (e.g., database development). For the purpose of this measure, "Database" refers to structured compilation of data.
Create or manage XX applications by XXXX.					Information technology development and maintenance to support project objectives (e.g., web application development). For the purpose of this measure, "application" refers to an IT system that includes a user interface to provide data (including web based and spatial data).
	Information Technology and Management	# of applications	NA	NA	Information technology development and maintenance to support project objectives (e.g., web application development). For the purpose of this measure, "application" refers to an IT system that includes a user interface to provide data (including web based and spatial data).
Conduct XX investigations by XXXXX.					Investigations means the collection and analysis of data as part of research, survey or monitoring. Note: Includes compilation, management, synthesis, analysis and reporting of spatial and non-spatial data.
	Fish and wildlife species data acquisition and analysis	# of Investigations	NA	Identify target species	Collection and analysis of data as part of research, survey or monitoring primarily focused on fish and wildlife populations and movements. Note: Includes compilation, management, synthesis, analysis and reporting of spatial and non-spatial data.

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
	Habitat data acquisition and analysis	# of Investigations	NA	Identify target species and habitat type(s) and on back end enter # of acres by habitat type(s)	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.
	Utilization data acquisition and analysis	# of Investigations	NA	Identify target species	Collection and analysis of data as part of research, survey or monitoring primarily focused on utilization of fish or wildlife resources, demographics of users, and economics. Note: includes compilation, management, synthesis, analysis and reporting of data.
	Fish/Wildlife Disease Assessment data acquisition and analysis	# of Investigations	NA	Identify target species	Collection and analysis of data as part of research, survey or monitoring primarily focused on fish and wildlife disease. Note: Includes compilation, management, synthesis, analysis and reporting of data.
	Recruitment, Retention, and Reactivation data acquisition and analysis	# of Investigations	NA	NA	Collection and analysis of data as part of research, survey or monitoring primarily focused on the recruitment, retention, and reactivation of recreational hunters and anglers. Note: Includes compilation, management, synthesis, analysis and reporting of data.
	Human Dimensions related data acquisition and analysis	# of Investigations	NA	NA	Collection and analysis of data as part of research, survey or monitoring primarily focused on human dimensions. Note: includes compilation, management, synthesis, analysis and reporting of data. Note: Harvest and Creel information should be reported under the Activity Tag 1 for "Utilization data acquisition and analysis".
Develop XX techniques by XXXX.					Research and development of techniques important for the conservation and management of fish and wildlife.
	Conservation Techniques development	# of techniques developed	NA		Research and development of techniques important for the conservation and management of fish and wildlife.
<b>SPECIES STOCKING</b>					<b>Production and stocking of animals for recreational, educational and subsistence purposes.</b>
Stock XX of fish or wildlife by XXXX.					Production and stocking of animals for recreational, educational and subsistence purposes. This activity is ineligible using PR funds unless there is a population restoration focus.
	Production and stocking for recreational or subsistence purposes	# of individuals	NA	Identify target species and enter # individuals by species type(s)	Production and stocking of animals for recreational, educational and subsistence purposes. This activity is ineligible using PR funds unless there is a population restoration focus.
<b>STAKEHOLDER INVOLVEMENT</b>					<b>Engagement of partners to achieve shared objectives and broad coordination on program/project funded activities across geographic areas and/or subject matters of shared interest.</b>
Engage XX organizations by XXXX.					Engagement of partners to achieve shared objectives and broader coordination on program/project funded activities across overlapping areas (e.g., intra-agency work groups for planning efforts, CMS strategic plan revisions, SWAP development, species management plans, WMA management plans). Organizations include, but are not limited to: other state agencies, federal agencies, municipalities, conservation organizations, land trusts, stakeholder groups, tribes, universities, and associations. Note: Engagement with organizations on projects/activities that are developed by other entities should be reported under Technical Assistance.

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
	Organizational engagement	# of organizations	NA	NA	Engagement of partners to achieve shared objectives and broader coordination on program/project funded activities across overlapping areas (e.g., intra-agency work groups for planning efforts, CMS strategic plan revisions, SWAP development, species management plans, WMA management plans). Organizations include, but are not limited to: other state agencies, federal agencies, municipalities, conservation organizations, land trusts, stakeholder groups, tribes, universities, and associations. Note: Engagement with organizations on projects/activities that are developed by other entities should be reported under Technical Assistance.
Engage XX individuals by XXXX.					Engagement of individuals to achieve shared objectives and broader coordination across overlapping areas (e.g., intra-agency work groups for planning efforts, CMS strategic plan revisions, SWAP development, species management plans, WMA management plans). Note: Individuals specifically refers to a single person for this category. Engagement of individuals on projects/activities that are developed by other entities should be reported under Technical Assistance.
	Partner engagement	# of individuals	NA	NA	Engagement of individuals to achieve shared objectives and broader coordination across overlapping areas (e.g., intra-agency work groups for planning efforts, CMS strategic plan revisions, SWAP development, species management plans, WMA management plans). Note: Individuals specifically refers to a single person for this category. Engagement of individuals on projects/activities that are developed by other entities should be reported under Technical Assistance.
<b>TECHNICAL ASSISTANCE</b>					<b>Provide professional training and technical assistance on fish and wildlife assessment and management.</b>
Provide technical assistance to XX individuals by XXXX.					Expert advice/training on fish and wildlife assessments, species and/or habitat management to private landowners.
	Assistance to private landowners	# of individuals	NA	NA	Expert advice/training on fish and wildlife assessments, species and/or habitat management to private landowners.
Provide technical assistance to XX organizations by XXXX.					Expert advice/training on fish and wildlife assessments, research techniques, species and/or habitat management to organizations (e.g., prescribed burning, electrofishing). Organizations may include staff (professional training), government agencies, public entities, land managers, and non-governmental organizations among others.
	Assistance to other organizations	# of organizations	NA	NA	Expert advice/training on fish and wildlife assessments, research techniques, species and/or habitat management to organizations (e.g., prescribed burning, electrofishing). Organizations may include staff (professional training), government agencies, public entities, land managers, and non-governmental organizations among others.
Participate on XX technical committees by XXXX					Participation on technical committees as subject matter experts providing technical advice on species management decisions, regional habitat and research priorities. This includes participation on technical committees of organizations like AFWA, Mississippi Interstate Cooperative Resource Association, Great Lakes Fisheries Commission, etc.
	Participation on technical committees	# of technical committees	NA	NA	Participation on technical committees as subject matter experts providing technical advice on species management decisions, regional habitat and research priorities. This includes participation on technical committees of organizations like AFWA, Mississippi Interstate Cooperative Resource Association, Great Lakes Fisheries Commission, etc.

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
<b>TRAINING/EDUCATION</b>					<b>Provide training and/or education activities for a wide variety of audiences. Note: These activities are specific to providing structured curricula through a variety of formats. This category should not be confused with Outreach/Communication (See above Strategy/Standard Objective). When considering where a given WSFR funded grant activity is most appropriate, please reference the units of measure to consider where the activity is most appropriate.</b>
Conduct XX training events by XXXX.					Events, including classes, held to train instructors, teachers, mentors, and students that are at least 30 minutes in duration.
	Aquatic education	# of events		NA	Education events to enhance the public's understanding of water resources, aquatic life forms, and sport fishing, and develop responsible attitudes and ethics toward the aquatic environment.
			Aquatic Ecology Education		Education events to enhance the public's understanding of aquatic life forms and the relationship to their aquatic environment, and developing responsible attitudes and ethics toward the aquatic environment.
			Fishing Skills		Education events to enhance the public's understanding of sport fishing and the technical and physical skills associated with it.
			Advanced Education Activities		Optional supplementary education events to enhance the public's understanding of water resources, aquatic life forms, and sport fishing, and develop responsible attitudes and ethics toward the aquatic environment, beyond a state's basic aquatic resource education opportunities and/or training (e.g. certification) requirements.
	Hunter education	# of events		NA	Education events to teach the skills, knowledge, and attitudes necessary to be a responsible hunter. An event held to train a group of students where one "event" would be a group of instructors, teachers, mentors, and students in hunting, shooting, and trapping that may meet one time or meet during a number of sessions over a period of time, but they would meet at least once and for a minimum of 30 minutes total.
			Archery - Hunting		Education events for teaching archery skills, knowledge, and attitudes, tailored for hunting. Includes events that may satisfy a state's basic hunter education training (e.g. certification) requirements.
			Archery - Shooting		Education events for teaching archery skills, knowledge, and attitudes, tailored for shooting sports. Includes events that may satisfy a state's basic hunter education training (e.g. certification) requirements.
			Firearms - Hunting		Education events for teaching firearm skills, knowledge, and attitudes, tailored for hunting. Includes events that may satisfy a state's basic hunter education training (e.g. certification) requirements.
			Firearms - Shooting		Education events for teaching firearm skills, knowledge, and attitudes, tailored for shooting sports. Includes events that may satisfy a state's basic hunter education training (e.g. certification) requirements.
			Trapping		Education events for teaching hunter skills, knowledge, and attitudes, tailored for trapping methods. Includes events that may satisfy a state's basic hunter education training (e.g. certification) requirements.
			Advanced Education Activities		Optional supplementary education events for teaching hunter skills, knowledge, and attitudes, beyond a state's basic hunter education opportunities and/or training (e.g. certification) requirements.
	Fish and wildlife technical training	# of events		NA	Training of agency staff, instructors, teachers, mentors, and students in topics related to wildlife species and their habitats in an educational setting. Note: This activity has a limited eligibility for reimbursement through WSFR grant programs.

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
			Advanced Education Activities		Optional supplementary education events beyond a state's basic aquatic or hunter education program and/or training (e.g. certification) requirements related to fish and wildlife technical topics (i.e. fish health, wildlife diseases, etc.).
Train XX instructors/mentors by XXXX.					Training of instructors, teachers, and/or mentors (i.e. "train the trainer").
	Aquatic education	# of instructors/mentors		NA	Training of instructors, teachers, and/or mentors in aquatic resource education (i.e. "train the trainer"). Note: This includes angler education volunteer instructors, teachers, nature center staff and camp counselors who attend aquatic resource education workshops, teachers who help the agency write curricula, etc.
			Aquatic Ecology Education		Training of instructors, teachers, and/or mentors to enhance the public's understanding of water resources, aquatic life forms, and sport fishing, and develop responsible attitudes and ethics toward the aquatic environment.
			Fishing Skills		Training of instructors, teachers, and/or mentors to enhance the public's understanding of sport fishing and the technical and physical skills associated with it.
			Advanced Education Activities		Training of instructors, teachers, and/or mentors to enhance the public's understanding of water resources, aquatic life forms, and sport fishing, and develop responsible attitudes and ethics toward the aquatic environment, beyond a state's basic aquatic resource education opportunities and/or training (e.g. certification) requirements.
	Hunter education	# of instructors/mentors		NA	Training of instructors, teachers, and/or mentors in hunting, shooting, and trapping education.
			Archery - Hunting		Training instructors/mentors (i.e. "train the trainer") for teaching archery safety and skills tailored for hunting.
			Archery - Shooting		Training instructors/mentors (i.e. "train the trainer") for teaching archery safety and skills tailored for shooting sports.
			Firearms - Hunting		Training instructors/mentors (i.e. "train the trainer") for teaching firearm safety and skills tailored for hunting.
			Firearms - Shooting		Training instructors/mentors (i.e. "train the trainer") for teaching firearm safety and skills tailored for shooting sports.
			Trapping		Training instructors/mentors (i.e. "train the trainer") for teaching hunter safety and skills related to trapping methods.
			Advanced Education Activities		Training instructors/mentors (i.e. "train the trainer") for teaching hunter safety and skills beyond those required for a state's basic hunter education and/or certification requirements.
	Fish and wildlife technical training	# of instructors/mentors		NA	Training of instructors, teachers, and mentors on topics related to wildlife species and their habitats in an educational setting. Note: This activity has a limited eligibility for reimbursement through WSFR grant programs.
			Advanced Education Activities		Optional supplementary training of instructors/mentors beyond a state's basic aquatic or hunter education program and/or training (e.g. certification) requirements related to fish and wildlife technical topics.
XX students complete training by XXXX.					Students completing training and/or attending aquatic education or hunter ed classes that are at least 30 minutes in duration.
	Aquatic education	# of students		NA	Training students in topics related to water resources, aquatic life forms, and sport fishing, and developing responsible attitudes and ethics toward the aquatic environment.

STRATEGY/Standard Objectives	Activity Tag 1 (Required)	Unit of Measurement	Activity Tag 2 (Required)	Additional Info - species, habitat, facilities and/or real property (Required)	Descriptions and Examples
			Aquatic Ecology Education		Training students in topics related to aquatic life forms and the relationship to their aquatic environment, and developing responsible attitudes and ethics toward the aquatic environment.
			Fishing Skills		Training students in topics related to sport fishing and the technical and physical skills associated with it.
			Advanced Education Activities		Training students in advanced topics related to water resources, aquatic life forms, sport fishing, and developing responsible attitudes and ethics toward the aquatic environment, beyond a state's basic aquatic resource education opportunities and/or training (e.g. certification) requirements.
	Hunter education	# of students		NA	Completion of training in basic and advanced hunter education.
			Archery - Hunting		Training students in archery skills, knowledge, and attitudes, tailored for hunting. Includes the satisfactory completion of a state's basic hunter education training (e.g. certification) requirements.
			Archery - Shooting		Training students in archery skills, knowledge, and attitudes, tailored for shooting sports. Includes the satisfactory completion of a state's basic hunter education training (e.g. certification) requirements.
			Firearms - Hunting		Training students in firearm skills, knowledge, and attitudes, tailored for hunting. Includes the satisfactory completion of a state's basic hunter education training (e.g. certification) requirements.
			Firearms - Shooting		Training students in firearm skills, knowledge, and attitudes, tailored for shooting sports. Includes events that may satisfy a state's basic hunter education training (e.g. certification) requirements.
			Trapping		Training students in hunter skills, knowledge, and attitudes, tailored for trapping methods. Includes the satisfactory completion of a state's basic hunter education training (e.g. certification) requirements.
			Advanced Education Activities		Training students advanced hunter skills, knowledge, and attitudes, beyond a state's basic hunter education opportunities and/or training (e.g. certification) requirements.
	Hunter Education Certificates earned	# of students		NA	Completion of training of students in basic and advanced hunter education that results in issuance of a certification. Note: This may be a different number than # of students completing Hunter Education Training above.
	Fish and wildlife technical training	# of students		NA	Training of students on topics related to fish and wildlife species and their habitats in an educational setting. Note: This activity has a limited eligibility for reimbursement through WSFR grant programs.
			Advanced Education Activities		Optional supplementary training of students beyond a state's basic aquatic or hunter education program and/or training (e.g. certification) requirements related to fish and wildlife technical topics.

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## STATEWIDE LAND ACQUISITIONS FOR WILDLIFE ORIENTED RECREATION IN OHIO

### Need

*There is a need to increase access and opportunity to wildlife oriented recreation in Ohio.*

Hunting, trapping, fishing and wildlife viewing are popular pastimes for Ohioans. Many of these activities occur on public wildlife areas. The demand for places to pursue wildlife-dependent recreation increases annually as Ohio's population grows and land is developed. A 2014 survey conducted by Grace State University revealed that Ohio ranked 47th in the United States in the amount of public lands available for recreation per capita. 95% of land in Ohio is privately owned and therefore inaccessible to the public. The deficit in public wildlife areas in Ohio results in overcrowded conditions and conflicts among user groups. It will become increasingly more difficult for the Ohio Division of Wildlife (ODW) to provide safe and enjoyable wildlife recreation experiences unless more land is secured for public use in Ohio.

### Purpose

The purpose of this grant is to secure sufficient public wildlife acreage to meet the demand for wildlife oriented recreation in Ohio.

### Objective

1. Acquire real property interest in 8,000 acres by June 30, 2020.  
*(Note: TRACS strategy – Real Property Acquisition)*

### Results and Benefits Expected

- Reduction in conflicts among user groups due to human population pressures.
- Increased access and opportunity to grassland, wetland and forest game recreation.
- Improved safety conditions on Ohio's public wildlife areas.
- Enjoyable wildlife oriented recreational experiences that exceed expectations

### Approach

*Objective 1 - Acquire real property interest in 8,000 acres by June 30, 2020*

It is the intent of the Division of Wildlife (DOW) to acquire 8,000 acres in Ohio to increase access and opportunity to wildlife dependent recreation for species dependent on forestland, wetland and grassland habitat. Acquisitions will use Wildlife Restoration (WR) funds and the required non- federal match. The DOW will obligate funds through a WR land acquisition grant to enable the DOW to acquire tracts of real property as they become available from willing sellers. The DOW has established focus areas in the state where acquisitions will be within reasonable driving distance from Ohio's population centers. As parcels become available within the established focus areas the DOW will initiate acquisition procedures. A key strategy will be to acquire in-holdings at existing wildlife areas.

Acquisition priority will be given to tracts of land with a 250-acre minimum within the established focus areas. Acquisitions will be through fee title, conservation easements, cooperative agreements, leases or contracts. The DOW will follow state acquisition procedures and the federal acquisition procedures described in 49 CFR Part 24 of the UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

The Ohio Department of Natural Resources, Division of Real Estate and Land Management (REALM) will facilitate real property appraisals and review appraisals using USPAP or UASFLA standards as each acquisition dictates. REALM will procure the services of state certified general appraisers who have the established federal credentials. An appraisal will be submitted to the USFWS, WSFR grants specialist for approval prior to closing on properties. REALM will facilitate boundary surveys, title searches and recording of deeds.

At the time of settlement, a Notice of Federal Participation will be recorded on deeds or other legal recording documents. The appraisal, deed, title-vesting certificate, statement of just compensation, and land summary statement will be submitted with annual performance reports after the transaction is completed. Staff will add the newly acquired lands to the DOW Lands Inventory Database and TRACS.

The project leader will perform an Ohio Environmental Assessment Review (OEAR) so that the proper NEPA, SHPO and Section 7 recommendation can be made. Results of the OEAR will be forwarded to the USFWS grant administrator for concurrence.

Grants will be amended when a parcel of land is proposed for acquisition. These amendments will include the need for the purchase, the purposes for which the parcel will be used and all planned activities, the public benefits to be realized and expected costs for the entire project. The amendment will include maps identifying property boundaries and a physical description of the land.

*(NOTE: TRACS activity tags for reporting purposes).*  
**TRACS Activity Tag 1: Land Acquisition (# of acres)**

#### **Useful Life**

If the acquisition will be via a lease or other temporary ownership agreement the term of the agreement will be recorded in the amended project.

#### **Geographic Location**

Statewide

#### **Principal Investigator(s), for Research Projects**

Not applicable

#### **Program Income**

None anticipated

#### **Budget Narrative**

Funding for this project shall be provided by the Wildlife Restoration Grant program (5222 subprogram).

Total project cost is estimated at **\$800,000**

Federal Share shall be **\$600,000** (75%)

State Share shall be **\$200,000** (25%). The State Share shall be provided by non-federal funds from the state wildlife diversity fund.

**NOTE:** Applicants may provide the budget information using the SF 424A (Budget Information for Non-Construction Programs), SF 424C (Budget Information for Construction Programs), or using the applicant's created budget displaying an equivalent or greater level of detail.

<b>Budget Category</b>	<b>Cost</b>
Administrative & Legal Expenses	\$45,000
Land, Structures, ROW, Appraisals, etc.	\$745,000
Relocation Expenses & Payments	\$0
Architectural & Engineering Fees	\$0
Other Architectural & Engineering Fees	\$0
Project Inspection Fees	\$10,000
Site Work	\$0
Demolition & Removal	\$0
Construction	\$0
Equipment	\$0
Miscellaneous	\$0
Subtotal	\$800,000
Contingencies	\$0
Subtotal	\$800,000
Program Income	\$0
<b>TOTAL</b>	<b>\$800,000</b>

Administrative & Legal Expenses - budget estimate for potential administrative or legal fees that may arise during the land acquisition process of this project.

Land, Structures, ROW, Appraisals, etc. - budget estimate for costs associated with title opinion, appraisals, appraisal reviews, closing costs, deed preparation, and title insurance.

Project Inspection Fees - budget estimate for costs associated with site inspection (environmental inspections, etc.) fees prior to closing.

***In-Kind Match:*** No in-kind match will be utilized for this grant.

***Pre-Award Costs:*** \$12,000 for appraisals, surveys, title and legal costs.

***Indirect Cost Statement:*** We are (1) a U.S. state government entity receiving more than \$35 million in direct Federal funding each year with an indirect cost rate of 19.00%. We submit our indirect cost rate proposals to our cognizant agency. A copy of our most recently approved rate agreement/certification is on file in the WSFR Region 3 Office.

**Single Audit Reporting Statement:** The state of Ohio was required to submit a Statewide Single Audit report for its most recently closed fiscal year and that report is available on the Federal Audit Clearinghouse Single Audit Database website. The report is filed under the state of Ohio's EIN (99-9999999).

**Conflict of Interest Statement:** ODW, at the time of this application, is not aware of any actual or potential conflicts of interest that may arise during the life of this award which may affect the ODW, its employees, or its subrecipients. Should an actual or potential conflict of interest arise during the period of performance, then ODW will notify the WSFR Regional Office.

### **Multipurpose Projects**

Not applicable.

### **Relationship with Other Grants**

Not applicable.

### **Timeline**

Period of performance is July 1, 2017 - June 30, 2020.

- July 2017 - September 2017: Focus area boundaries established.
- September 2017 - November 2017: Desirable parcels identified.
- December 2017 - June 2020; Acquire real property parcels within focus areas as they become available from willing sellers.

### **General**

NOTE: 50 CFR 80.82 (c) requires that a project statement must include information pertaining to 13 data elements. Element 13 (General) requires that information be included in the project statement that (a) shows that the proposed activities are eligible for funding and substantial in character and design and (b) enables the Service to comply with applicable requirements under NEPA, ESA, and NHPA, and other laws, regulations, and policies.

Please see the attached NEPA, ESA, and NHPA documentation for additional information.

\*As individual parcels are identified for acquisition, the compliance process for NEPA, Sec 7 of the ESA and NHPA will be required for each individual parcel to be acquired through this project.

**Disclaimer: This project statement is meant to be used as a training aid. This project statement is not based on actual, true project statement drafted by the Tennessee Wildlife Resources Agency (TWRA).**

## **TN – Otter Creek Boat Ramp Construction at Beaver Lake**

### **Need**

*There is currently a lack of adequate boating access facilities at Beaver Lake.* Beaver Lake is the fourth largest reservoir (20,000 acres) in the state and is located approximately 20 minutes from Allentown (the state's third most populous city). The lake provides an outstanding recreational fishery for largemouth bass, crappie, hybrid striped bass, and channel catfish.

There are a total of six boat ramps presently in operation at Beaver Lake. Four of these are privately-owned marina ramps that charge user fees to launch boats. The remaining two boat ramps are owned by the Tennessee Wildlife Resources Agency (TWRA) and are free to the public. During the prime boating season, these two ramps quickly reach full capacity, which forces users to seek alternative facilities or forces users to not be able to launch their boats. Collectively, the six ramps at Beaver Lake do not meet the current demand for anglers and boaters seeking access to Beaver Lake. The TWRA is the state agency charged with managing and developing recreational boating access facilities for the public. It is our statutory responsibility to improve boating opportunities throughout the state. Without the development of new boat ramp facilities, recreational anglers and boaters will be forced to travel elsewhere.

### **Purpose**

The purpose of this project is to increase opportunities for sport fishing and recreational boating at Beaver Lake in Tennessee.

### **Objective**

Construct one (1) facility by June 30, 2019. *(NOTE: TRACS strategy – Facilities/Area Construction, Renovation, or Acquisition)*

### **Results and Benefits Expected**

This grant will help to satisfy the current and anticipated future (15-20 year) demand for recreational fishing and boating access at Beaver Lake. Based upon best available data, the TWRA estimates that this ramp will provide for approximately 320 boating days/month of use during the peak boating season of May – September.

This grant will also benefit nearby, local economies as anglers and boaters are willing to travel considerable distances to enjoy these activities. Local economies will derive benefits from increased sales of gasoline, food, equipment, supplies, and lodging.

### **Approach**

*Objective 1 – Construct one (1) facility by June 30, 2019.*

The TWRA will construct a public boat launching facility (Otter Creek Boat Ramp) at Beaver Lake that will be comprised of a 2-lane, paved, launching ramp, a boat courtesy dock, and single parking area that will accommodate parking for 50 vehicles and trailers. The facility will be constructed on land under the control (fee title) of the TWRA. The facility will be constructed following state procurement policies and procedures. All applicable permits have been obtained and will be kept on file for future audit/compliance purposes.

The facility will be constructed as designed (see attached design plans) following the plans developed by Knight & King Environmental Consultants, LLC. The boat launching ramps will be poured concrete, with each lane being 12 feet wide and the slab extending approximately 35 feet into the water to ensure a year-round minimum water depth of 8 feet at the end of the ramp.

The boat courtesy dock will consist of a fixed-style dock with composite decking to enhance the useful life and minimize annual maintenance requirements. The dock will accommodate for the ability to tie up a minimum of 2-4 boats at a time and allow for individuals to safely dock their vessels while they park/retrieve their vehicles and trailers. The approach and gangways will be constructed to meet all ADA-compliance requirements to ensure maximum usability to the public, following the best management practices provided by the States Organization for Boating Access (SOBA) manual "Design Handbook for Recreational Boating and Fishing Facilities."

The parking area will be constructed to accommodate parking spaces for 50 vehicles and trailers. This includes four parking spaces that will be constructed and designated handicapped accessible. An additional five parking spaces will be designed for single vehicle parking to accommodate individuals driving separately from their boating/angling partners. The parking area will be paved and individually striped. Additional areas will be designed for vessel unloading/loading. The walkway leading from the parking area to the boat ramp/courtesy dock will meet ADA specifications.

Once completed, the facility will be designated with signage identifying that funding was provided in part through the Sport Fish Restoration program and TWRA. No user fees will be charged to the public at this facility. The facility will remain open to the public 24-hours/day. Also, once completed, this facility will be included in the TWRA annual "Operations and Maintenance of Boating Access Facilities" Sport Fish Restoration grant. Costs associated with the annual, ongoing maintenance of this facility will be charged to that grant.

(NOTE: TRACS activity tags shown below for reporting purposes)

TRACS Activity Tag 1: Recreational boating facilities (# of facilities)

TRACS Activity Tag 2: Docks (# of slips and/or # of linear feet)

TRACS Activity Tag 2: Launch ramps (# of launching lanes)

TRACS Activity Tag 2: Parking areas

### **Useful Life**

The useful life of the Otter Creek Boat Ramp facility is expected to be 25 years. This determination is based upon the architectural engineering firm that was contracted to develop the design for the project. Their determination is based upon a variety of factors including: (1) size of project; (2) geographic location; (3) quality of construction materials; (4) anticipated volume of use; (5) anticipated type of

vehicles/boats using the site; (6) prevailing geographic weather; (7) wave erosion; and (8) previous knowledge of useful life of similar size/scope projects.

### Geographic Location

Ramp	County	Latitude	Longitude
Otter Creek Boat Ramp	Monroe	36.871594	-84.070703

### Principal Investigator(s), for Research Projects

Not applicable.

### Program Income

None.

### Budget Narrative

Federal Share: \$71,250 (75%) - Boating Access subprogram (9520)  
 State Share: \$23,750 (25%) - TWRA restricted license revenue fund  
**Total Project: \$95,000**

**NOTE: Applicants may provide the budget information using the SF 424A (Budget Information for Non-Construction Programs), SF 424C (Budget Information for Construction Programs), or using the applicant's created budget displaying an equivalent or greater level of detail.**

Budget Category	Cost
Administrative / Legal Expenses	\$4,000
Land, Structures, Appraisals	\$0
Relocation Expenses and Payments	\$0
Architectural and Engineering Fees	\$0
Other Architectural and Engineering Fees	\$0
Project Inspection Fees	\$3,500
Site Work	\$7,500
Demolition and Removal	\$0
Construction	\$80,000
Equipment	\$0

Miscellaneous	\$0
Subtotal (Construction)	\$95,000
Contingencies	\$0
Subtotal (Construction + Contingencies)	\$95,000
Program Income	\$0
<b>Total</b>	<b>\$95,000</b>

Administrative/Legal Expenses - budget estimate for potential administrative or legal fees that may arise during the construction of the project.

Project Inspection Fees - budget estimate for TWRA engineering staff to conduct routine project inspection site visits and regular construction update meetings with the contractor.

Site Work - budget estimate for initial site work preparation and mobilization of construction heavy equipment and supplies.

Construction - budget estimate for construction contract with Knight & Associates Construction Company. This contract will be bid competitively according to state procurement policies and procedures.

In-Kind Match: No in-kind match will be utilized for this grant.

Pre-Award Costs: No pre-award costs are requested for this grant.

Indirect Cost Statement: "We are (1) a U.S. state government entity receiving more than \$35 million in direct Federal funding each year with an indirect cost rate of 29.8%. We submit our indirect cost rate proposals to our cognizant agency. A copy of our most recently approved rate agreement/certification is attached."

Single Audit Reporting Statement: The TWRA was required to submit a Single Audit report for the agencies most recently closed fiscal year and that report is available on the Federal Audit Clearinghouse Single Audit Database website. The report is filed under the TWRA's EIN (99-9999999).

Conflict of Interest Statement: TWRA, at the time of this application, is not aware of any actual or potential conflicts of interest that may arise during the life of this award which may affect the TWRA, its employees, or its subrecipients. Should an actual or potential conflict of interest arise during the period of performance, then the TWRA will notify the WSFR Regional Office.

### **Multipurpose Projects**

None.

## Relationship with other Grants

Once completed, this facility will be included in the TWRA annual “Operations and Maintenance of Boating Access Facilities” Sport Fish Restoration grant.

## Timeline

Period of performance is July 1, 2018 - June 30, 2019.

### *July 1, 2018 – September 30, 2018:*

- Issue bid request package.
- Review bid proposals and work with Finance Department to issue state contract.

### *October 1, 2018 – December 31, 2018:*

- On-site meeting with contractor to discuss any questions/concerns prior to mobilization.
- Coordinate mobilization of construction equipment and begin construction.
- Conduct routine site visits to ensure compliance.
- Attend regularly scheduled construction update meetings and review progress to-date reports.
- Process contractor payment requests.

### *January 1, 2019 – March 31, 2019:*

- Monitor construction activities.
- Conduct routine site visits to ensure compliance.
- Attend regularly scheduled construction update meetings and review progress to-date reports.
- Process contractor payment requests.
- Complete final completion site inspections.

### *April 1, 2019 – June 30, 2019:*

- Complete final completion site inspections.
- Verify that contractor has met all compliance requirements.
- Process final contractor payment requests.
- Develop final completion reports (financial/performance).
- Officially open site for public use.
- Close out award.

## General

NOTE: 50 CFR 80.82 (c) requires that a project statement must include information pertaining to 13 data elements. Element 13 requires that information be included in the project statement that (a) shows that the proposed activities are eligible for funding and substantial in character and design and (b) enables the Service to comply with applicable requirements under NEPA, ESA, and NHPA, and other laws, regulations, and policies. If information is not provided in the project statement, please attach additional documentation regarding NEPA, ESA, and NHPA compliance.



## SC – Tier 1: Seaside Marina Transient Recreational Boating Facility Construction Project Statement

### Need

*There is a need to construct additional facilities for transient, recreational boaters due to a growing demand for waterfront access in the Town of Seaside, SC.* Since 2008, the Town of Seaside has supported the revitalization of the historic downtown waterfront and reestablishment of the town as a tourist destination along the Atlantic Intracoastal Waterway (AIWW). The town acquired waterfront property in 2010 to provide public water access and recreational opportunities. The town constructed a 100-ft long floating dock for tie-ups, kayak/canoe launch, ½-mile boardwalk, and picnic shelter along the waterfront park in 2012. Music, arts and cultural events are now supported at the waterfront park and throughout the downtown business district, such as the annual Shrimp Festival, Plein Air Art competition, and the First Friday's concert series which runs April through October.

Through daily logs maintained by the town's parks and recreation staff, average annual visits by vessels greater than 26 feet in length increased from 20% in 2013 to 75% in 2017. During town events and due to local tourism promotion, the dock reaches capacity more frequently, causing boaters to anchor off the main channel or continue cruising to the next destination, oftentimes bypassing the town altogether. With new events planned for 2018 and an aggressive tourism campaign being undertaken by Palmetto County, transient boater traffic and occupancy is only expected to increase.

Dedicated slips for transient vessels over 26 feet in length are greatly needed to support the growing boater community in Seaside, ensure safe overnight dockage for all visitors, and provide boaters convenient access to shore-side amenities. The existing dock is only able to support a few smaller vessels, and larger transient vessels cannot be easily accommodated. At present, a boater bath house is unavailable, and public restrooms are located at Town Hall, roughly a half mile from the waterfront. The docks also currently do not provide water, electric, or sewage pumpout utilities. Better boater amenities and utilities are needed to fully establish Seaside as a first-class boater destination. Without a transient docking facility, the Town of Seaside will not be able to meet the needs and expectations of its rapidly increasing transient boater population.

In the proposed project area, transient dockage is also available at the Anchorage Marina, located about 2 miles west of the downtown waterfront. The marina currently offers a 60-ft 'T' dock and un-leased slips as transient tie-up space at a rate of \$1.50 per foot per night plus utilities. Restrooms, showers, and fuel pumps are also available for transient guests. Transient dockage is limited at this marina and reaches capacity quickly during peak seasons. The addition of a downtown transient facility will provide boaters easy access to downtown shops and restaurants and ensure all visitors can be accommodated. The next nearest marinas are located approximately 20 miles to the south and 30 miles to the north. This is an area which has been identified in the SC Transient Boater Needs Assessment report (2009) as needing additional boating infrastructure to support demand.

## Purpose

The purpose of this project is to increase the number transient boating facilities in South Carolina by establishing a needed waypoint destination along the AIWW. The South Carolina Department of Natural Resources will partner with the Town of Seaside to construct a 10-slip docking facility and bath house for transient boaters to better accommodate the growing boating community, provide public waterfront access, and generate local tourism.

## Objectives

Construct 1 facility by March 31, 2020. *(NOTE: TRACS strategy - Facilities/Area Construction, Renovation, or Acquisition)*

## Results and Benefits Expected

The Seaside Marina will be an ADA-compliant transient docking facility with ten (10) slips located on town property, and owned and managed by the Town of Seaside. Water, electric, and sewage pumpout services will be available. The Seaside Marina will also offer an ADA-compliant boater bath house of men's and women's restrooms, unisex bathroom with shower, and a laundry room.

The new docks and bath house will provide safe overnight dockage and land-based comforts for transient boaters cruising the AIWW where only limited accommodations were previously available. Boaters will no longer have to anchor off the main channel and dinghy to shore. This will improve waterway navigation and decrease the potential for boating accidents. The addition of a downtown transient facility will also support other marina overflows and provide boaters easy access to downtown shops and restaurants.

The Palmetto County Economic Development Center estimates the transient docks will generate an additional 1,000 overnight stays per year. Boaters are estimated to contribute about \$150/day into the local economy for an annual economic impact of \$150,000. An enhanced revenue stream will continue to support the growth of local downtown businesses and job opportunities. Separately, revenues generated from user fees will enable the town to manage, repair, and/or improve the facility for boaters throughout its useful life.

## Approach

### Engineering and Permitting

The Town of Seaside will issue a request for bids for engineering and permitting services in accordance with the town's procurement policies following submittal of this application. The services will include facility design for the docks and bath house to ADA-compliant standards, completion of construction plans and site plats, preparation and submission of federal, state and local development permit applications, and preparation of construction bid packages for the docks and bath house. All engineering and permitting will be conducted prior to the award. The selected engineering firm will also provide construction oversight and general project administration services.

The Town will give a presentation and receive public comments on preliminary facility plans during an upcoming Town Council meeting in October 2017. All comments received will be considered in developing the final project designs and included with the submitted permit application.

The Town of Seaside will submit a Joint Federal and State Application Form by February 2018 to the U.S. Army Corps of Engineers Charleston District Office (USACE) to initiate the permit process with the USACE and South Carolina Department of Health and Environmental Control (SCDHEC). An environmental assessment will be prepared as part of this application in accordance with Section 404(b)(1) guidelines, and the USACE will issue a public notice seeking comments and conduct an evaluation in compliance with NEPA. Concurrently, the SCDHEC will review the project application and issue Section 401, Coastal Zone Management, and Critical Areas permits. If the project is not contrary to public interest and all state permits are received, a Finding of No Significant Impacts (FONSI) will be issued, and all project requirements and conditions will be documented and issued in a permit from the USACE. No construction activities will begin until all necessary permits are received.

This proposal will also be submitted the South Carolina State Historic Preservation Office (SHPO) for review under Section 106 of the National Historic Preservation Act. There are no known historic, cultural, or archaeological resources that may be impacted by this project. The project site is located, however, about five miles from the Seaside Plantation, which is designated on the national register of historic sites.

#### Dock and Bath House Construction

The Town's preliminary design for the 10-slip transient docking facility is a 100' x 6' floating 'T'-dock with two 4' x 30' finger piers and two 4' by 40' finger piers (Figure 1). Four interior slips will be 16' x 36' and the other four interior slips will be 20' x 46' (8 slips new construction). The existing 100' floating dock will become the head of the 'T' to accommodate very large vessels (2 slips). The existing gangway will serve the entire facility. Five utility pedestals (with both 50 amp and 100 amp connections) will be purchased from a commercial marine electronics supplier. All electrical and plumbing installation work will be undertaken by a certified/licensed electrician and plumber. A pumpout station and connections to the town's sewage system will also be installed on the dock using anticipated CVA grant funds.

The current depth at the proposed project site ranges from 3-6 feet (Figure 2 shows current bathymetry). Dredging will occur within the basin to provide at least a 6-ft depth at mean low water, to best ensure accessibility for larger vessels. Figure 3 shows the area anticipated to be dredged. The total area and volume to be dredged is unknown at the time of this application, and will be determined by the contracted engineers in consultation with state/federal permitting authorities.

The public restrooms and boater bath house facility will be located about 50 feet from the entrance to the docks. The town's preliminary design for the bath house include men's and women's restrooms with three stalls each, unisex bathroom with shower stall, and a laundry room (one washer and dryer) (Figure 4). The restrooms will be open to all users; the shower

and laundry rooms will be restricted to transient boaters only (see the Budget Narrative section for a description of the cost proration).

Requests for construction, electric, and plumbing services will be put out for bid in accordance with the town's procurement policies once all necessary permits are in hand and the Seaside Town Council has approved of the final engineered transient docking facility and bath house designs produced by the contracted engineering firm. The selected contractors will be responsible for the procurement of all building materials, with the exception of utility pedestals, sewage pumpout, and laundry appliances, which will be purchased directly by the Town.

Once all required permits have been issued to the Town, these will be submitted to the U.S. Fish and Wildlife Service (USFWS) with a copy of the subrecipient/third-party agreement. The agreement between the SCDNR and Town of Seaside will ensure the BIG-funded facilities will be used for their authorized purposes for their useful life.

Once approval is received from the USFWS, construction will begin within one month of contractor selection and award, or during the next in-water work period as authorized by permitting agencies. Dredging and in-water construction activities are planned during the late fall and winter months (October to January) to reduce the likelihood of impacts to protected species (see the attached "Intra-Service Section 7 Biological Evaluation Form" for additional information). Construction is expected to be completed no later than March 31, 2019.

Both the docks and bath house will be inspected and certified prior to their opening to the public. Signage with the Sport Fish Restoration logo and credit to the BIG Program will be placed at both the docks and the bath house.

#### Facility Management

The Town expects to charge a user fee of \$1.50 per foot per night stay, plus a \$10/day utility service fee, upon opening of the facility after the close of the award. These rates are comparable to area facilities at the time of this application and are expected to remain constant. A rate schedule, facility use rules, and town maintenance and management plan will be written for incorporation into the Town's overarching public facilities management plan to be approved by the Town Council. A draft will be provided to the SCDNR for review prior to grant closure. A marketing plan will be developed and implemented in partnership with the Palmetto County Tourism Authority through a Palmetto County Tourism Grant. A kiosk in front of the bath house will house facility management information, hours of operation, facility use rules, and local area tourism brochures/flyers.

A Notice of Federal Participation in the transient dock and bath house facilities will be recorded into the Town's property deed.

**(NOTE: 50 CFR 86.43(e)(1) and the BIG Notice of Funding Opportunity requires applicants to provide enough information on the status of required permits or other compliance requirements (National Environmental Policy Act, Section 7 of the Endangered Species Act, and Section 106 of the National Historic Preservation Act) for the Service to make a preliminary assessment. The**

compliance information in the above Approach section is intended to provide an example, not a prescription of format or the level of detail that needs to be provided. If information is not provided in the project statement, please attach additional documentation regarding NEPA, ESA, and NHPA compliance.)

### Timeline

Period of Performance: July 1, 2018 - March 31, 2019

October 2017 – June 2018: engineering and permitting

July 2018: Award issued by USFWS to SCDNR, and subaward issued by SCDNR to the Town of Seaside

August – September 2018: Bid solicitation and selection of contractors

October 2018 – March 2019: Construction of docks and bath house facilities

### Key Personnel

#### SC Project Officer

Ms. Jane Williams  
 SC BIG Coordinator  
 SC Dept. of Natural Resources  
 Charleston, SC  
 (555) 555-1234  
 J\_Williams@dnr.sc.gov

#### Town Project Officer

Mr. John Smith  
 Town Parks and Recreation Manager  
 Town of Seaside  
 Seaside, SC  
 (555) 555-9876  
 John.Smith@seaside.sc.gov

*(NOTE: TRACS Activity Tags for reporting purposes.)*

TRACS Activity Tag 1: Recreational boating facilities

TRACS Activity Tag 2: Docks (enter # of slips and/or linear feet)

TRACS Activity Tag 2: Gangways

TRACS Activity Tag 2: Restrooms

TRACS Activity Tag 2: Laundry facilities

TRACS Activity Tag 2: Secondary improvements

### **Relationship with Other Grants**

The Town intends to apply for a grant from the state for Clean Vessel Act funds for the installation of sewage connections and a stationary pumpout to serve the marina. The Town has applied for and will receive a State Parks and Recreation grant to support costs for the public restrooms at the waterfront park. A county tourism grant is anticipated to support the costs of marketing the town's waterfront and downtown business district.

### **Single Audit Reporting Statement**

The State of South Carolina was required to submit a Statewide Single Audit report for its most recently closed fiscal year and that report is available on the Federal Audit Clearinghouse Single Audit Database website. The report is filed under South Carolina's EIN (99-9999999). An independent financial audit of the Town of Seaside's most recently closed fiscal year was conducted and is on file with the state. There were no reported findings.

**Conflict of Interest Disclosure**

The South Carolina Department of Natural Resources, at the time of this application, is not aware of any actual or potential conflicts of interest that may arise during the life of this award which may affect the SCDNR, its employees, or its subrecipients. Should an actual or potential conflict of interest arise during the period of performance, the SCDNR will notify the WSFR Regional Office.

**Overlap or Duplication of Effort Statement**

There are no overlaps or duplication between this application and any of our other Federal applications or funded projects in regards to activities, costs, or time commitment of key personnel. All non-Federal and Federal grant requests described in the Budget Narrative are supplemental to this Federal funding request.

**Attachments**

(NOTE: These attachments are not included as part of this example project statement.)

1. Map of project location
2. Preliminary site designs (Figures 1-4)
3. Letter of commitment of local funds
4. State Parks and Recreation Grant Award Letter

### SC – Tier 1: Seaside Marina Transient Recreational Boating Facility Construction Budget Narrative

Total Requested Federal Share:     \$199,500 (75%)  
Total Non-Federal Share:           \$66,500 (25%)  
 Total BIG Project Cost:                \$266,000

All funds awarded to the South Carolina Department of Natural Resources will be subawarded to the Town of Seaside. The following budget was provided for the Seaside Marina project:

<b>Total Project Cost</b>	<b>Description</b>	<b>Total Eligible BIG Cost</b>
\$15,000	Engineering & permitting services – docks	\$15,000
\$20,000	Engineering & permitting services – bath house (50%)	\$10,000
\$10,000	Mobilization/Demobilization	\$10,000
\$30,000	Dredging	\$30,000
\$98,000	Dock materials and construction	\$98,000
\$15,000	5 Water/electric pedestals (\$3,000 ea)	\$15,000
\$10,000	Dock electric installation & service connections	\$10,000
\$10,000	Dock water installation & service connections	\$10,000
\$120,000	Bath house construction (50%)	\$60,000
\$30,000	Sewage pumpout and utility connections (CVA grant)	\$0
\$10,000	Marketing (County tourism grant)	\$0
\$10,000	Construction oversight and project administration (75%)	\$7,500
\$500	Signage and kiosk	\$500
\$378,000	TOTAL	\$266,000

(NOTE: You may also use the SF 424C or SF 424A Budget Information forms to submit budget information.)

#### Pre-award Costs

Engineering and permitting service costs incurred by the Town of Seaside are requested pre-award costs (\$18,750 total Federal share). All remaining compliance requirements will be satisfied during this time.

### Match and Other Partner Contributions

The required cost share (25%) will be contributed as cash from local funds and a state parks and recreation grant (\$22,500 of the total grant). The state parks and recreation grant is funded through a state trust fund (non-Federal source). There will be no in-kind contributions.

<b>Funding Source</b>	<b>Total Project Contribution</b>	<b>Total Eligible BIG Contribution</b>
CVA Sewage Pumpout Grant	\$30,000	\$0
State Parks and Recreation Grant (non-Federal)	\$95,000	\$22,500
County Tourism Grant (non-Federal)	\$10,000	\$0
BIG Grant	\$199,500	\$199,500
Town Cash (non-Federal)	\$44,000	\$44,000
<b>Total Cost</b>	<b>\$378,500</b>	<b>\$266,000</b>

### Contingency Costs

No contingency costs are requested. Cost overruns will be paid for by the Town of Seaside.

### Cost Proration

The bath house will include restrooms that will be open to the general public as well as boaters. Only registered transient boaters having paid the appropriate user fees will be allowed access to the shower and laundry facilities. Requested BIG funds for the bath house are prorated by 50% based on the preliminary square footage of the building that will be used in whole, or in part, by eligible users (Figure 4). Construction oversight and project administration costs that will be contracted to the engineering firm are prorated at 75%, reflective of both the dock and bath house projects. Electric and water service connections to the sewage pumpout have been prorated and removed from the cost estimates shown.

### Program Income

Program income will not be generated, as the Town of Seaside will not begin to collect user fees from the BIG-funded docking facility until after grant closure.

### Equipment

No equipment will be purchased through this BIG award.

### Useful Life

Docks – 20 years

The docks will be constructed with the same materials and to the same standards as the existing 100-ft dock. Specifications provided from the engineers and contractors for that project estimated a useful life of 20 years based on experience with deterioration caused by water, wind, temperature, and anticipated volume of use for projects of similar size and scope.

### Bath House – 35 years

The bath house will be constructed to meet state and local building codes, which provide assurances that the structural integrity should persist for a minimum of 35 years. Fixtures and appliances will be replaced as needed. Estimated useful life was determined by the Town Public Works and Planning Department staffs familiarity with state and local building codes and standards.

### Indirect Cost Statement

We are a U.S. state agency that will charge all costs directly.





Review the sources listed below to answer the following questions.

- Exercise Scenario from module #4
- Handout #12-1 “**Project Statement SWG Conservation Easement: Harmony Road Wetlands – Cattail Property**” found in Tab #12
- Handout #5-2 **TRACS Enhancement Matrix** found in Tab #5

1. In one sentence, write the Need, or the issue, problem or opportunity described in the Exercise Scenario from module #4.

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2. Are the objectives in the sample project statement consistent for a land acquisition according to the TRACS Enhancement Matrix?

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3. Does the approach from the sample project statement properly identify TRACS activity tags?

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

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# TAB 6

## Module 6

### Compliance, Negotiation, and Acquisition

#### Learning Objectives:

1. Understand the National Environmental Policy Act (NEPA) compliance process and how to properly document decisions.
2. Define what a categorical exclusion is under NEPA. Become familiar with the eligible categorical exclusions under the Department of Interior.
3. Understand the Endangered Species Act compliance process and to properly document decisions.
4. Understand the difference between a “No Effect”, “Not Likely to Adversely Affect”, and “Likely to Adversely Affect” determination.
5. Understand the National Historic Preservation Act compliance process and how to properly document decisions. Define an “undertaking” as it relates to the National Historic Preservation Act.
6. Recognize the requirements of the Uniform Relocation Assistance and Real Property Act for WSFR assisted real property acquisitions.
7. Explain the five (5) different options for the acquisition of real property under a financial assistance award.

#### Handouts:

- 6-1 National Environmental Policy Act process flowchart
- 6-2 516 DM 8 Managing the NEPA process
- 6-3 NEPA Extraordinary Circumstances
- 6-4 Endangered Species Act – Section 7 process flowchart
- 6-5 National Register Criteria for Evaluation – National Park Service
- 6-6 National Historic Preservation Act process flowchart
- 6-7 Delegation of Authority - Example
- 6-8 Basic Acquisition Procedures with No Exemptions
- 6-9 Basic Acquisition Procedure with Limited Exemptions
- 6-10 Basic Acquisition Procedures flowchart

## National Environmental Policy Act (1969)

The National Environmental Policy Act (NEPA) was one of the first laws ever written that established the broad national framework for protecting the U.S. environment. It established the President’s Council on Environmental Quality (CEQ) and currently, more than 100 nations around the world have enacted national environmental policies that are modeled after NEPA. Some States have enacted their own State versions of NEPA.

NEPA requires that all Federal agencies give proper consideration to the environment prior to undertaking a Federal action that significantly affect the “human environment”. Federal agencies comply by preparing, when necessary, environmental assessments (EAs) and environmental impact statements (EISs) stating the potential environmental effects of proposed Federal agency actions. Additionally, NEPA ensures that the public plays a role in both the decision making process and the implementation of that decision.

Human Environment means the natural and physical environment and the relationship of people to the environment.

The approval of a WSFR-funded grant application constitutes a “Federal action”. Under NEPA, all Federal actions must be reviewed for their compliance with NEPA. Therefore, all projects, activities, or jobs included in a grant application, must be reviewed prior to the grants approval. These reviews must be documented.

Compliance with NEPA is often relatively simple and unimposing for the majority of work proposed under grant programs administered by WSFR. However, the process does require that a specific set of logical steps be followed and documented to support determinations about the affects of the proposed work on the human environment.

The general process for documenting the NEPA determination is depicted in **Handout 6-1**. Working through the NEPA decision making process requires evaluating several factors before approving Federally-funded work projects.

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## NEPA Responsibilities

WSFR (acting as the Federal awarding agency) is responsible for preparing the administrative record for complying with NEPA and, if necessary, requiring the preparation of EAs or EISs. WSFR has the ultimate responsibility to make the final NEPA determination.

State's (acting as the applicant and eventual grant recipient) play a critical role in providing detailed project information to the WSFR grants management specialist and making a NEPA "recommendation" based on a thorough review of proposed project actions and their potential significant effect on the human environment.

## NEPA Review Factors

A NEPA recommendation (State) and determination (WSFR) can be made, by documenting a detailed review of the proposed Federal action(s). Decisions may sometimes seem subjective, but we can make the determination more objective by looking at the WSFR programs history and the nature of the work that is typically being funded. A detailed review should include:

- A review of the project scope;
- The potential for significant impact on the human environment; and
- The public's interest and/or controversy.

## Documenting the NEPA Review Process

There are three (3) levels of analysis that a Federal agency must undertake to comply with NEPA. These levels include:

- Preparation of a Categorical Exclusion;
- Preparation of an Environmental Assessment; or
- Preparation of an Environmental Impact Statement.

### Categorical Exclusions (CatEx)

A CatEx is a list (classes) of actions which an agency has determined do not individually or cumulatively have a significant affect on the human environment (see **Handout 6-2; 516 DM 8; Section 8.5**).

If a proposed action is listed in an agency's CatEx, the agency must ensure that no extraordinary circumstances may cause the proposed action to affect the human environment. Extraordinary circumstances are listed in **Handout 6-3**. The State and WSFR must be able to answer "no" to the list of extraordinary circumstances in order to apply a CatEx to a proposed action.

If a proposed action is not listed as a CatEx, then an EA or EIS must be done.



## Endangered Species Act (1973)

Section 7(a)(1) of the Endangered Species Act (ESA) mandates that all Federal agencies must determine how to use their existing authorities (i.e. developing a conservation program for listed species) to further the purposes of the ESA.

Section 7(a)(2) also mandates that all Federal agencies must insure that any action they authorize, fund, or carry out is not likely to: (a) jeopardize the existence of a listed species; or (b) adversely modify designated critical habitat.

The ESA is administered (consultation) by two Federal agencies, the U.S. Fish and Wildlife Service (Service) and the National Oceanic and Atmospheric Administration (NOAA, sometimes also referred to as NMFS). Depending on the species/habitat involved, will determine who your consulting partner is during the ESA review process. NOAA has jurisdiction over marine species and anadromous fish. The Service has jurisdiction over terrestrial and freshwater species. The purpose of the consulting partner is to reduce the Federal agencies legal risk.

In some cases, both the Service and NOAA jointly consult (i.e. sea turtles)

Interagency consultation occurs when any Federal action agency consults with either the Service or NOAA. Intra-agency (or Intra-service) consultation occurs when the Service (acting as the Federal action agency) consults with itself through Ecological Services (ES). The purpose of the Service or NOAA acting as a consulting partner is to help the Federal action agency reduce its “legal risk” by:

- Providing regulatory, policy, and biological information.
- Discussing potential effects of proposed Federal actions.
- Discuss measures to reduce and avoid effects.

Intra-service consultation requires that candidate and proposed species be reviewed, as well as threatened and endangered species. This process is called going to “conference” rather than “consultation”.

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## ESA – Section 7 Review Process

The approval of a WSFR-funded grant application constitutes a “Federal action” (see **Handout 6-4**). Under Section 7(a)(2), all Federal agencies must insure that any action they authorize, fund, or carry out is not likely to: (a) jeopardize the existence of a listed species; or (b) adversely modify designated critical habitat.

For all WSFR-funded grant applications, the Service is considered the Federal Action agency. State and territory fish and wildlife agencies are considered the applicant. The States assist the Service in making a review and recommendation on the effects of the proposed actions. This review, recommendation, and determination ultimately determines the appropriate level of consultation required under ESA.

Three levels of consultation under ESA:

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

- A “no effect” determination results in “No Consultation” required.
- A “may effect, but not likely to adversely affect” determination results in “Informal consultation”.
- A “may effect, and is likely to adversely affect” determination results in “Formal consultation”.

## Conducting a Proper Analysis of Effects

A good analysis of effects of proposed actions, first involves the identification of all potential stressors (physical, chemical, biotic) caused by the actions being taken. Examples of stressors include noise, turbidity, increases temperature or sunlight, compaction, and exposure to contaminants.

Next, you should determine if the species or habitat will be exposed to the stressors.

Finally, if exposure will occur, determine the likely response (alarm, avoidance, displacement, reduced fecundity, reproductive failure) of the species or habitat once exposed to the stressor. This will determine the ultimate effect on the species or habitat.

**Exposure + Response = Effects**

## Making an ESA Recommendation to WSFR

After you have conducted your analysis of effects, you should make a recommendation to the WSFR Regional office grants management specialist. If your analysis results in:

(1) **No Effect Determination**. If a “No Effect” determination is made, then no consultation is required. This is the most sensible determination to make when species or habitat are not present in the project area. A “no effect” determination should be based on actual knowledge of biological staff who are experts in the location and life history of species and habitat.

As a Best Management Practice, the Training Branch recommends that if proposed actions are on-the-ground and destructive, consider adding language in your recommendation that work will stop if species or habitat are discovered in the project area.

(2) **May Effect, But Not Likely to Adversely Affect**. This type of determination results in “Informal Consultation” with the consulting party. This determination is made when species or habitat are present within or near the project area, and the proposed activities will not have any affect on the species or habitat. In selecting this determination, the Federal action agency has a high confidence that “take” is not likely to occur. The effects of the proposed actions are perhaps discountable, insignificant, or beneficial to species or habitat.

Take is defined as: “*To hunt, harass, harm, pursue, shoot, wound, trap, capture, collect, kill, or attempt to engage in any of the above.*”

Under this determination, the Federal action agency submits a biological assessment to the consulting party and requests their concurrence. ES and NOAA have 30 days to provide their concurrence or a reasoning why need additional time. Some WSFR regions have agreements with ES to allow informal consultation to be completed by the WSFR grants management staff.

(3) **May Effect, and Is Likely to Adversely Affect**. This type of determination results in “Formal Consultation” with the consulting party. This determination is made when take is likely to occur with species.

Under this determination, the consulting party has 30 days to concur with the determination. Then they offer their assistance (consultation) for 90 days during the development of the biological assessment which is submitted to the consulting party. Once submitted, they have 45 days to summarize their review in a biological opinion.

## National Historic Preservation Act (1966)

The National Historic Preservation Act (NHPA) was passed to preserve historical, cultural, and archaeological sites throughout the U.S. Section 106 of the NHPA requires Federal agencies to take into account the effects of their “undertakings” on historic properties (both listed and those eligible for listing on the National Historic Register). (see **Handout 6-5**).

### Historic Property Examples

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

An undertaking (**36 CFR 800.16(y)**) is any project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including:

- Those carried out by or on behalf of a Federal agency;
- Those carried out with Federal financial assistance; and
- Those requiring a Federal permit, license, or approval.

## Section 106 Review Process

The review process for NHPA requires the Federal action agency to consult with the State Historic Preservation Officer (SHPO) and all other interested parties, including Tribes (Federally recognized or not) for those Federal undertakings that have the potential to effect historic properties (see **Handout 6-6**). If the Federal action agency determines that an undertaking has no potential to cause effects on historic properties, and the SHPO concurs, then the agency has no further obligations.

It is the statutory obligation of the Federal action agency to fulfill the requirements of the Section 106 review process and to ensure that an agency official with jurisdiction over an undertaking takes legal and financial responsibility for the review process.

An official Delegation of Authority must be established if the State wants to accept the Section 106 review process on behalf of the Service. (see **Handout 6-7**)

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## Section 106 Review Process (continued)

States assist the Service in completing the Section 106 review process by following these steps:

Step 1: Is the action(s) considered a Federal undertaking?

- If the State is submitting a grant application to use WSFR funding, then the answer to this question is always “yes”. It meets the definition of a Federal undertaking.

Step 2: Determine if the undertaking has the potential to affect historic properties and features if they are present? If the answer to this question is no, SHPO’s concurrence should be documented in the official grant paperwork files.

Step 3: Determine the Area of Potential Effect (APE).

Step 4: Determine if historic properties or features are present in the APE. This is typically accomplished by doing a Phase I archaeological survey.

Step 5: Evaluate for the effect of the undertaking on historic features. SHPO will provide their concurrence on whether or not the effects will be adverse. SHPO’s role is to help avoid, minimize, or mitigated for adverse effects.

- By law, SHPO has 30 days from the receipt of a letter for consultation or concurrence to response. A no response within 30 days is equivalent to concurrence (but this is not considered a Best Management Practice).
- If a disagreement between the Federal action agency / State and SHP occurs, the National Advisory Council on Historic Preservation may intervene.

Oftentimes, Tribal Historic Preservation Officers (THPO) may not communicate directly with States. As such, the Service will do all consultation with THPOs.

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## **Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs (USC 4651, 4652)**

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.

**49 CFR 24.1** promulgates the administrative rules that implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The purpose is to:

- (1) Ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently;
- (2) Encourage and expedite acquisition by agreement with such owners;
- (3) Minimize litigation and relieve congestion in the courts;
- (4) Promote public confidence in Federal and federally-assisted land acquisition programs; and
- (5) Ensure that person displaced as a direct result of Federal or federally-assisted projects are treated fairly, consistently, and equitably so that such displace persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole.

49 CFR 24 is laid out in the following format:

- Subpart A – General
- Subpart B – Real Property Acquisition
- Subpart C – General Relocation Requirements
- Subpart D – Payments for Moving and Related Expenses
- Subpart E – Replacement Housing Payments
- Subpart F – Mobile Homes
- Subpart G - Certification

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## Options for Acquisition of Real Property in a Financially-Assisted Project

FWS Service Manual **520 FW 7.14** describes the five (5) options for the acquisition of real property in a Service-administered financial assistance award.

Option 1 – Basic acquisition policies with no exemption or exception.

Option 2 – Basic acquisition policies with limited exemptions.

Option 3 – Basic acquisition policies with an exception based on a state law.

Option 4 – Acquisition under state laws and regulations.

Option 5 – *In-Kind* contribution of real property.

### Option 1 – Basic Acquisition Policies with no Exemption or Exception

The buyer must follow the procedures in **49 CFR 24.102-503**. The procedures include (see **520 FW 7.14(A)** / **Handout 6-8**):

(1) The buyer must obtain:

- (a) An appraisal report recommended by an appraisal review report, or
- (b) A waiver valuation if the valuation problem qualifies for its use.

The appraisal and the appraisal review report must conform to both the Uniform Appraisal Standards of Professional Appraisal Practice (USPAP) and the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA).

(2) The buyer must offer to buy the real property for an amount not less than the opinion of market value included in the appraisal report. If the valuation problem qualifies for the use of a waiver valuation, the buyer must offer to buy the real property for an amount not less than the opinion of market value in the waiver valuation. For a partial acquisition, the buyer must offer to buy any uneconomic remnant of the real property, regardless of whether an appraisal or waiver valuation is used.

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(3) The buyer must:

- (a) Offer to buy tenant-owned improvements according to **49 CFR 24.105**;
- (b) Provide relocation payments and other assistance to a qualifying landowner and tenant(s) according to **49 CFR 24, Subparts C-F**;
- (c) Pay the landowner's expenses incidental to transfer to title according to **49 CFR 24.106**; and
- (d) For any matching in-kind contribution of real property, obtain:
  - (i) An appraisal recommended by a qualified review appraiser, or
  - (ii) A waiver valuation, if the valuation problem qualifies for its use, unless the owner releases the recipient from this obligation (see **49 CFR 24.108**).

The buyer's final commitments to a tenant must occur simultaneously with or after the seller's transfer of the real property to the buyer or the seller's contractual commitment to do so.

(4) Sellers that are governments or governmental agencies are not eligible for either relocation-assistance advisory services or relocation-assistance payments under 49 CFR 24, Subparts C-F.

### **Option 2 – Basic Acquisition Policies with Limited Exemption.**

Qualified buyers may buy real property by complying with **49 CFR 24, Subpart B, with limited exceptions**. The regulation exempts the buyer from relocation-assistance obligations to landowners (but not tenants) in **49 CFR 24, Subparts C-F** (see **520 FW 7.14(B) / Handout 6-9**).

(1) A buyer may qualify a proposed acquisition for exemption from specific requirements of 49 CFR 24, Subparts B-F, as authorized in 49 CFR 24.101(b)(1-3), by following the procedures in 520 FW 7.14(B)(2-3). These procedures require the buyer to affirm that it will not (or legally cannot) use eminent-domain authority to acquire the property if the buyer and seller don't agree on a purchase price. This affirmation assures the seller that the sale will be completely voluntary. The buyer must also share its estimate of the property's market value with the seller.

The purpose of this exemption is to allow the buyer to negotiate freely with the seller to reach agreement on a purchase price and to avoid imposing costs on buyers that should be determined by mutual agreements

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(2) Buyers who do **not** have eminent-domain authority and want to qualify for the exemption **must** take the following actions:

(a) The buyer gives the seller a written notice that the buyer will not acquire the property if negotiations fail to result in an amicable agreement. The buyer must give this written notice to the seller at least 3 business days before the date that the seller transfers or contractually commits to transfer ownership for a specific and final price, whichever comes first. When a buyer does not have eminent-authority, a written notice is not required if the seller is a Federal agency, a state, or a state agency.

(b) The buyer obtains an appraisal report that includes an opinion of market value for the real property. The buyer must also obtain an appraisal review report that recommends the appraisal report. If the valuation problem qualifies for its use, the buyer may obtain a written valuation that includes an opinion of value for the real property.

This exemption does not affect the appraisal standard requirements for valuation.

(c) The buyer gives the seller a written statement of the amount the buyer believes is the value of the real property, which must equal the opinion of market value in the recommended appraisal report or the opinion of value in a waiver valuation.

(3) For those buyers that have eminent-domain authority and want to qualify their proposed acquisition for the exemption must meet the following conditions, in addition to the actions described in **520 FW 7.14(B)(2)**.

(a) No specific site or property needs to be acquired, although the buyer may limit search for alternative sites to a general geographic area.

(b) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area will be acquired within specific time limits.

**Handout 6-10** provides a visual representation of when buyers should utilize the Basic Acquisition Policies Option 1 vs Option 2.

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### Option 3 – Basic Acquisition Policies with an Exception based on State Law

A state agency may apply for financial assistance to acquire real property following the requirements of a state law that the agency believes would provide an exception to 42 U.S.C. sections 4651 or 4652 (see **49 CFR 24.4(a)**). (see **520 FW 7.14(C)**)

(1) An applicant may include in its application for financial assistance a specific reference to any state law that it believes provides an exception to 42 U.S.C. 4651 or 4652. The applicant must show that the state law would be consistent with the purpose stated in 42 U.S.C. 4651, which reads:

“To encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to ensure consistent treatment for owners in the many Federal programs, and to promote public confidence in Federal land acquisition practices...”

(2) The Regional Director who region includes the state with the law in question must be able to concur with the justification for use of the exception before approving the application. If the state law will affect valuation of the real property, the Regional Director must also request the concurrence of the Chief Appraiser of the Appraisal Services and Valuation Services Office (AVSO) of the Department of the Interior before approving the application. Unless the Chief Appraiser approves otherwise, the appraisal and appraisal review must conform to the requirements of both USPAP and UASFLA.

(3) Despite any exception to the Uniform Act based on a state law, a financially-assisted acquisition of real property must still conform to any of the following that are applicable to the acquisition of the subject property:

- (a) Other requirements of **49 CFR 24** unaffected by the exception,
- (b) Policies in **520 FW 7** unaffected by the exception, and
- (c) Requirements of **2 CFR 200** and **2 CFR 1402.329**.

(4) The Regional Director must notify the WSFR Assistant Director when they approve an application for financial assistance that qualifies for an exception to the Uniform Act based on a state law. The purpose of this notification is to determine the need for future policy changes to ensure a national consistency.

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**Option 4 – Acquisition under State Laws and Regulations**

The U.S. Department of Transportation, acting through the Federal Highway Administration (FHWA), is the lead agency for implementation of regulations governing real property with Federal funding. A state agency may submit an application to the FHWA certifying that it will operate under state laws and regulations that will accomplish the purpose and effect of the Uniform Act (see 49 CFR 24.602). The governor of the state or their designee must approve the application. The state agency must coordinate the application with the Service’s Regional WSFR Office. As soon as WSFR becomes aware that a state has submitted this application, the Regional Director must notify the WSFR Assistant Director and the Chief Appraiser of AVSO so that the Service and the Chief Appraiser have an opportunity to advise the FHWA as to whether it should approve the application. (see **520 FW 7.14(D)**)

**Option 5 – In-Kind Contribution of Real Property (520 FW 7.14(E))**

(1) The recipient or subrecipient may commit its own real property as a cost-sharing or matching contribution for the purposes of a financially-assisted project. The value is determined by the opinion of market value in an appraisal report recommended by an appraisal review report, or the opinion of value in a waiver valuation. The opinion of market value must be valid for:

- (a) The date of the application (i.e. date the applicant commits the real property as match),
- (b) The date that the recipient requests WSFR’s administrative approval of the information and documentation required in **520 FW 7.34**, or
- (c) Any date between (a) and (b).

**2 CFR 200.306(d)** provides guidance on how to value non-Federal entity contributions of property.

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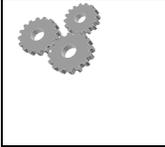
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**Exercise: Acquisition Options for Federally-Assisted Projects**

Based on the following scenarios, which acquisition option would be the most appropriate for the recipient to utilize when using Federal financial assistance funding. Refer to **520 FW 7.14(A-E)**.

Scenario	Acquisition Option
A buyer possess' eminent-domain authority and plans to use it in order to acquire a parcel of real property, if necessary.	
A buyer is a state agency applying for financial assistance to acquire a parcel of real property following the requirements of a state law that the agency believes would provide multiple exceptions to 49 CFR 24.	
A buyer has no eminent-domain authority and gives the seller a written statement of the amount they believe is the value of the real property, which is less than the opinion of market value in the recommended appraisal report.	
A buyer has eminent-domain authority but does not intend to use it and is willing to acquire other parcels than the specific parcel the buyer is interested in acquiring.	
A recipient of a financially-assisted project wants to commit their own land, which has no existing Federal nexus, as match to the project.	
A buyer has eminent-domain authority and has a specific parcel they intend to acquire which is part of an intended, planned, or designated project area.	
A state recipient wants to accept a parcel of land contributed as an in-kind donation by a third-party entity. This contribution is necessary and reasonable for the accomplishment of the Federally-funded project.	



**Exercise: Review of Sample Award Compliance Documentation**

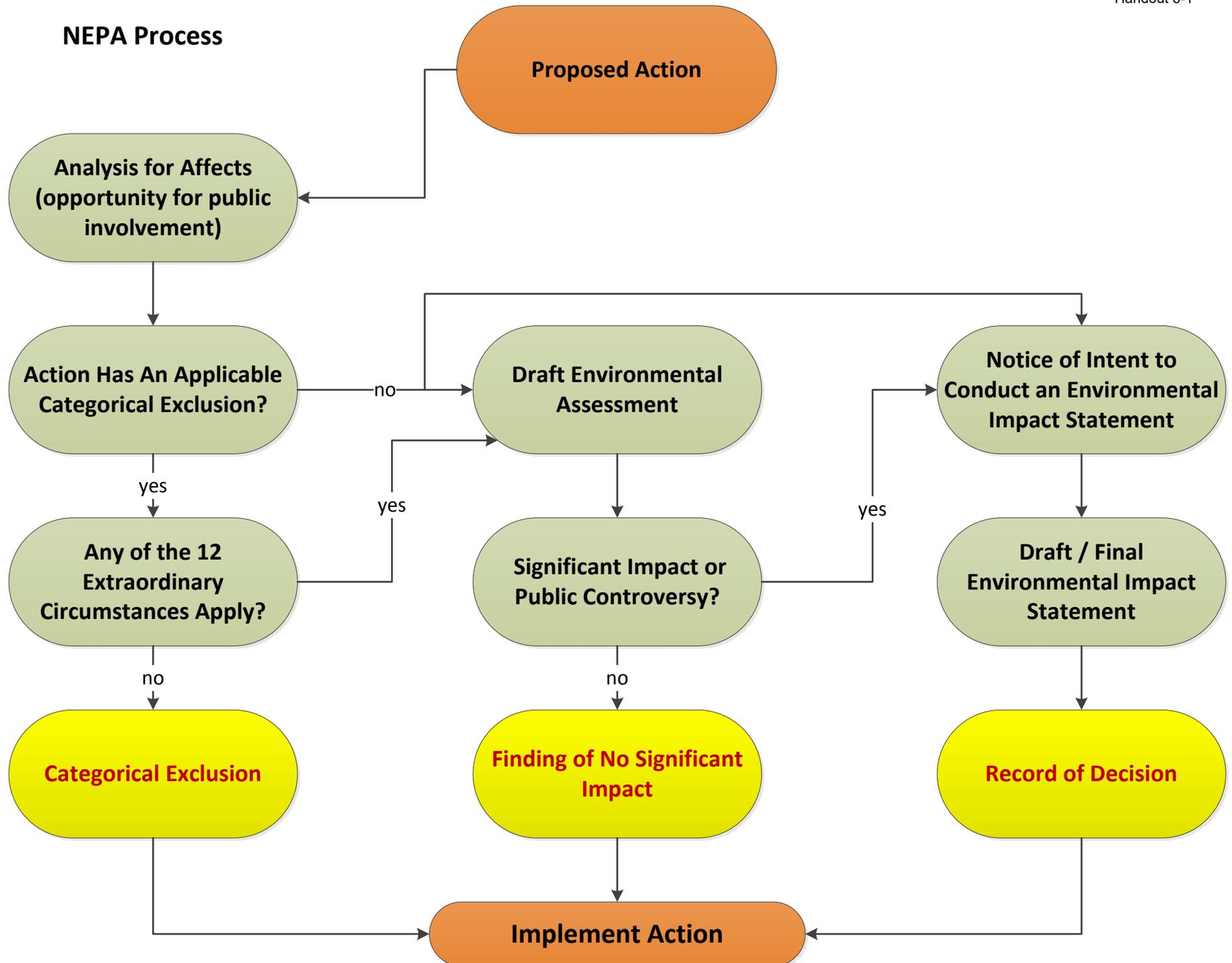
Use the State of Grace exercise handout for module #6 provided in your workbook to complete a review of the State of Grace award documentation for compliance.



## Learning Points

- ✓ The NEPA process requires that all Federal agencies give proper consideration to the environment prior to undertaking a Federal action that significantly affects the “human environment.” Additionally, NEPA ensures that the public plays a role in both the decision making process and the implementation of that decision.
- ✓ The ESA is administered (consultation) by two Federal agencies, the U.S. Fish and Wildlife Service (Service) and the National Oceanic and Atmospheric Administration (NOAA, sometimes also referred to as NMFS). Depending on the species/habitat involved, will determine who your consulting partner is during the ESA review process. NOAA has jurisdiction over marine species and anadromous fish. The Service has jurisdiction over terrestrial and freshwater species.
- ✓ Section 106 of the NHPA requires Federal agencies to take into account the effects of their “undertakings” on historic properties (both listed and those eligible for listing on the National Historic Register.
- ✓ The review process for NHPA requires the Federal action agency to consult with the State Historic Preservation Officer (SHPO) and all other interested parties, including Tribes (Federally recognized or not) for those Federal undertakings that have the potential to effect historic properties.
- ✓ The Uniform Act protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects.
- ✓ FWS Service Manual 520 FW 7.14(A-E) describes the five (5) options for the acquisition of real property in a Service-administered financial assistance award.
  - Option 1 – Basic acquisition policies with no exemption or exception.
  - Option 2 – Basic acquisition policies with limited exemptions.
  - Option 3 – Basic acquisition policies with an exception based on a state law.
  - Option 4 – Acquisition under state laws and regulations.
  - Option 5 – *In-Kind* contribution of real property.

# NEPA Process



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# Department of the Interior

## Departmental Manual

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**Effective Date:** 5/27/04

**Series:** Environmental Quality Programs

**Part 516:** National Environmental Policy Act of 1969

**Chapter 8:** Managing the NEPA Process--U.S. Fish and Wildlife Service

**Originating Office:** U.S. Fish and Wildlife Service

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### 516 DM 8

**8.1 Purpose.** This Chapter provides supplementary requirements for implementing provisions of 516 DM 1 through 6 within the Department's U.S. Fish and Wildlife Service. This Chapter is referenced in 516 DM 6.5.

#### 8.2 NEPA Responsibility.

A. The Director is responsible for NEPA compliance for U.S. Fish and Wildlife Service (Service) activities, including approving recommendations to the Assistant Secretary (FW) for proposed referrals to the Council on Environmental Quality (CEQ) of other agency actions under 40 CFR 1504.

B. Each Assistant Director (Refuges and Wildlife, Fisheries, International Affairs, External Affairs, and Ecological Services) is responsible for general guidance and compliance in their respective areas of responsibility.

C. The Assistant Director for Ecological Services has been delegated oversight responsibility for Service NEPA compliance.

D. The Division of Habitat Conservation (DHC--Washington), which reports to the Assistant Director for Ecological Services, is responsible for internal control of the environmental review and analysis of documents prepared by other agencies and environmental statements prepared by the various Service Divisions. This office is also responsible for preparing Service NEPA procedures, guidelines, and instructions, and for supplying technical assistance and specialized training in NEPA compliance, in cooperation with the Service Office of Training and Education, to Service entities. The Washington Office Environmental Coordinator, who reports to DHC, provides staff assistance on NEPA matters to the Director, Assistant Directors, and their divisions and offices, and serves as the Service NEPA liaison to the CEQ, the Department's Office of Environmental Policy and Compliance (OEPC), and NEPA liaisons in other Federal agencies, in accordance with 516 DM 6.2.

E. Each Regional Director is responsible for NEPA compliance in his/her area of responsibility. The Regional Director should ensure that Service decisionmakers in his/her area of responsibility contact affected Federal agencies and State, tribal and local governments when initiating an action subject to an EA or EIS. An individual in each Regional Office, named by title and reporting to the Assistant Regional Director for Ecological Services, other appropriate Assistant Regional Director, or the Regional Director, will have NEPA coordination duties with all program areas at the Regional level similar to those of the Washington Office Environmental Coordinator, in accordance with 516 DM 6.2.

**8.3 General Service Guidance.** Service guidance on internal NEPA matters is found in 30 AM 2-3 (organizational structure and internal NEPA compliance), 550 FW 1-3 (in preparation), 550 FW 3 (documenting and implementing Service decisions on Service actions), and 550 FW 1-2 (replacement to 30 AM 2-3 in preparation). These guidance documents encourage Service participation as a cooperating agency with other Federal agencies, encourage early coordination with other agencies and the public to resolve issues in a timely manner, and provide techniques for

streamlining the NEPA process and integrating the NEPA process with other Service programs, environmental laws, and Executive orders. Some Service programs have additional NEPA compliance information related to specific program planning and decision making activities. Service program guidance on NEPA matters must be consistent with the Service Manual on NEPA guidance and Departmental NEPA procedures. For example, additional NEPA guidance is found in the Federal Aid Handbook (521-523 FW), refuge planning guidance (602 FW 1-3), Handbook for Habitat Conservation Planning and Incidental Take Processing, and North American Wetlands Conservation Act Grant Application Instructions.

#### 8.4 Guidance to Applicants.

A. Service Permits. The Service has responsibility for issuing permits to Federal and State agencies and private parties for actions which would involve certain wildlife species and/or use of Service-administered lands. When applicable, the Service may require permit applicants to provide additional information on the proposal and on its environmental effects as may be necessary to satisfy the Service's requirements to comply with NEPA, other Federal laws, and Executive orders.

(1) Permits for the Taking, Possession, Transportation, Sale, Purchase, Barter, Exportation, or Importation of Certain Wildlife Species. The Code of Federal Regulations, Part 13, Title 50 (50 CFR 13) contains regulations for General Permit Procedures. Section 13.3 lists types of permits and the pertinent Parts of 50 CFR. These include: Importation, Exportation, and Transportation of Wildlife (Part 14); Exotic Wild Bird Conservation (Part 15); Injurious Wildlife (Part 16); Endangered and Threatened Wildlife and Plants (Part 17); Marine Mammals (Part 18); Migratory Bird Hunting (Part 20); Migratory Bird Permits (Part 21); Eagle Permits (Part 22); Endangered Species Convention (Part 23); and Importation and Exportation of Plants (Part 24). Potential permit applicants should request information from the appropriate Regional Director, or the Office of Management Authority, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, as outlined in the applicable regulation.

(2) Federal Lands Managed by the Service. Service lands are administered under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee), the Refuge Recreation Act of 1962 (16 U.S.C. 460k-460k-4), and the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 410hh-3233, 43 U.S.C. 1602-1784). Inherent in these acts is the requirement that only those uses that are compatible with the purposes of the refuge system unit may be allowed on Service lands. The Service also complies with Executive Order 12996, signed March 25, 1996, entitled "Management and General Public Use of the National Wildlife Refuge System." This Executive Order identifies general public uses that will be given priority consideration in refuge planning and management, subject to meeting the compatibility requirement and if adequate funding is available to administer the use. Detailed procedures regarding comprehensive management planning and integration with NEPA are found in the Service Manual (602 FW 1-3). Reference to this and other National Wildlife Refuge System requirements are found in the Code of Federal Regulations, Title 50 parts 25-29, 31-36, 60, and 70-71. Under these regulations, these protections are extended to all Service-administered lands, including the National Fish Hatchery System.

#### B. Federal Assistance to States, Local or Private Entities.

(1) Federal Assistance Programs. The Service administers financial assistance (grants and/or cooperative agreements) to State, local, and private entities under the Anadromous Fish Conservation Act (CFDA #15.600); North American Wetlands Conservation Act; Fish and Wildlife Act of 1956; Migratory Bird Conservation Act; Food Security Act of 1985; Food, Agriculture, Conservation and Trade Act of 1990; Partnerships for Wildlife Act of 1992; and Consolidated Farm and Rural Development Act. The Service administers financial assistance to States under the Sport Fish Restoration Act (CFDA #15.605), Wildlife Restoration Act (CFDA #15.611), Endangered Species Act (CFDA #15.612 and 15.615), Coastal Wetlands Planning Protection and Restoration Act (CFDA #15.614), and Clean Vessel Act of 1992 (CFDA #15.616).

(2) Program Information and NEPA Compliance. Information on how State, local, and private entities may request funds and assist the Service in NEPA compliance relative to the Anadromous Fish Conservation Act may be obtained through the Division of Fish and Wildlife Management Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Arlington Square Building, Room 840, Washington, D.C. 20240. Similar information

regarding the North American Wetlands Conservation Act may be obtained through the North American Waterfowl and Wetlands Office, U.S. Fish and Wildlife Service, Department of the Interior, Arlington Square Building, Room 110, Washington, D.C. 20240. All other requests for information on how funds may be obtained and guidance on how to assist the Service in NEPA compliance may be obtained through the Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Department of the Interior, Arlington Square Building, Room 140, Washington, D.C. 20240.

**8.5 Categorical Exclusions.** Categorical exclusions are classes of actions which do not individually or cumulatively have a significant effect on the human environment. Categorical exclusions are not the equivalent of statutory exemptions. If exceptions to categorical exclusions apply, under 516 DM 2, Appendix 2 of the Departmental Manual, the Departmental categorical exclusions cannot be used. In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, the following Service actions are designated categorical exclusions unless the action is an exception to the categorical exclusion.

A. General.

(1) Changes or amendments to an approved action when such changes have no or minor potential environmental impact.

(2) Personnel training, environmental interpretation, public safety efforts, and other educational activities, which do not involve new construction or major additions to existing facilities.

(3) The issuance and modification of procedures, including manuals, orders, guidelines, and field instructions, when the impacts are limited to administrative effects.

(4) The acquisition of real property obtained either through discretionary acts or when acquired by law, whether by way of condemnation, donation, escheat, right-of-entry, escrow, exchange, lapses, purchase, or transfer and that will be under the jurisdiction or control of the United States. Such acquisition of real property shall be in accordance with 602 DM 2 and the Service's procedures, when the acquisition is from a willing seller, continuance of or minor modification to the existing land use is planned, and the acquisition planning process has been performed in coordination with the affected public.

B. Resource Management. Prior to carrying out these actions, the Service should coordinate with affected Federal agencies and State, tribal, and local governments.

(1) Research, inventory, and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, no introduction of contaminants, or no introduction of organisms not indigenous to the affected ecosystem.

(2) The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site.

(3) The construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland, riparian, instream, or native habitats, which result in no or only minor changes in the use of the affected local area. The following are examples of activities that may be included.

(a) The installation of fences.

(b) The construction of small water control structures.

(c) The planting of seeds or seedlings and other minor revegetation actions.

(d) The construction of small berms or dikes.

(e) The development of limited access for routine maintenance and management purposes.

(4) The use of prescribed burning for habitat improvement purposes, when conducted in accordance with local and State ordinances and laws.

(5) Fire management activities, including prevention and restoration measures, when conducted in accordance with Departmental and Service procedures.

(6) The reintroduction or supplementation (e.g., stocking) of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbances are anticipated.

(7) Minor changes in the amounts or types of public use on Service or State-managed lands, in accordance with existing regulations, management plans, and procedures.

(8) Consultation and technical assistance activities directly related to the conservation of fish and wildlife resources.

(9) Minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated. Examples could include minor changes in the type and location of compatible public use activities and land management practices.

(10) The issuance of new or revised site, unit, or activity-specific management plans for public use, land use, or other management activities when only minor changes are planned. Examples could include an amended public use plan or fire management plan.

(11) Natural resource damage assessment restoration plans, prepared under sections 107, 111, and 122(j) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA); section 311(f)(4) of the Clean Water Act; and the Oil Pollution Act; when only minor or negligible change in the use of the affected areas is planned.

### C. Permit and Regulatory Functions.

(1) The issuance, denial, suspension, and revocation of permits for activities involving fish, wildlife, or plants regulated under 50 CFR Chapter 1, Subsection B, when such permits cause no or negligible environmental disturbance. These permits involve endangered and threatened species, species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), marine mammals, exotic birds, migratory birds, eagles, and injurious wildlife.

(2) The issuance of ESA section 10(a)(1)(B) "low-effect" incidental take permits that, individually or cumulatively, have a minor or negligible effect on the species covered in the habitat conservation plan.

(3) The issuance of special regulations for public use of Service-managed land, which maintain essentially the permitted level of use and do not continue a level of use that has resulted in adverse environmental effects.

(4) The issuance or reissuance of permits for limited additional use of an existing right-of-way for underground or above ground power, telephone, or pipelines, where no new structures (i.e., facilities) or major improvement to those facilities are required; and for permitting a new right-of-way, where no or negligible environmental disturbances are anticipated.

(5) The issuance or reissuance of special use permits for the administration of specialized uses, including agricultural uses, or other economic uses for management purposes, when such uses are compatible, contribute to the

purposes of the refuge system unit, and result in no or negligible environmental effects.

(6) The denial of special use permit applications, either initially or when permits are reviewed for renewal, when the proposed action is determined not compatible with the purposes of the refuge system unit.

(7) Activities directly related to the enforcement of fish and wildlife laws, not included in 516 DM 2, Appendix 1.4. These activities include:

(a) Assessment of civil penalties.

(b) Forfeiture of property seized or subject to forfeiture.

(c) The issuance or reissuance of rules, procedures, standards, and permits for the designation of ports, inspection, clearance, marking, and license requirements pertaining to wildlife and wildlife products, and for the humane and healthful transportation of wildlife.

(8) Actions where the Service has concurrence or coapproval with another agency and the action is a categorical exclusion for that agency. This would normally involve one Federal action or connected actions where the Service is a cooperating agency.

D. Recovery Plans. Issuance of recovery plans under section 4(f) of the ESA.

E. Financial Assistance.

(1) State, local, or private financial assistance (grants and/or cooperative agreements), including State planning grants and private land restorations, where the environmental effects are minor or negligible.

(2) Grants for categorically excluded actions in paragraphs A, B, and C, above; and categorically excluded actions in Appendix 1 of 516 DM 2.

## 8.6 Actions Normally Requiring an EA.

A. Proposals to establish most new refuges and fish hatcheries; and most additions and rehabilitations to existing installations.

B. Any habitat conservation plan that does not meet the definition of "low-effect" in the Section 10(a)(1)(B) Handbook.

C. If, for any of the above proposals, the EA determines that the proposal is a major Federal action significantly affecting the quality of the human environment, an EIS will be prepared. The determination to prepare an EIS will be made by a notice of intent in the Federal Register and by other appropriate means to notify the affected public.

## 8.7 Major Actions Normally Requiring an EIS.

A. The following Service proposals, when determined to be a major Federal action significantly affecting the quality of the human environment, will normally require the preparation of an EIS.

(1) Major proposals establishing new refuge system units, fish hatcheries, or major additions to existing installations, which involve substantive conflicts over existing State and local land use, significant controversy over the environmental effects of the proposal, or the remediation of major on-site sources of contamination.

(2) Master or comprehensive conservation plans for major new installations, or for established installations, where major new developments or substantial changes in management practices are proposed.

B. If, for any of the above proposals it is initially determined that the proposal is not a major Federal action significantly affecting the quality of the human environment, an EA will be prepared and handled in accordance with 40 CFR 1501.4(e)(2). If the EA subsequently indicates the proposed action will cause significant impacts, an EIS will be prepared.

5/27/04 #3618

Replaces 3/18/80 #3511

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## **APPENDIX 2**

### **Categorical Exclusions: Extraordinary Circumstances**

Extraordinary circumstances exist for individual actions within CXs which may:

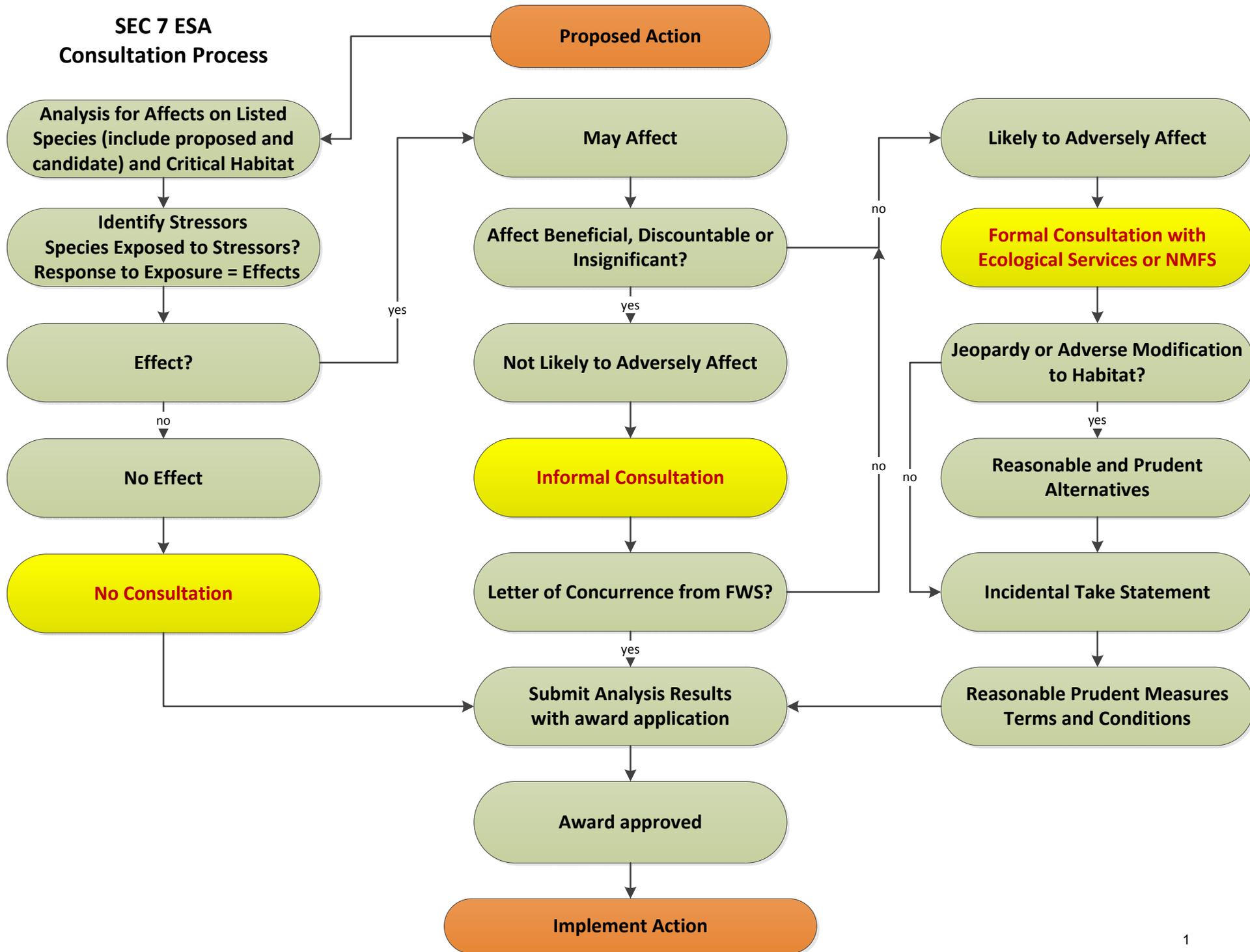
- 2.1 Have significant impacts on public health or safety.
- 2.2 Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal 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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**SEC 7 ESA  
Consultation Process**



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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

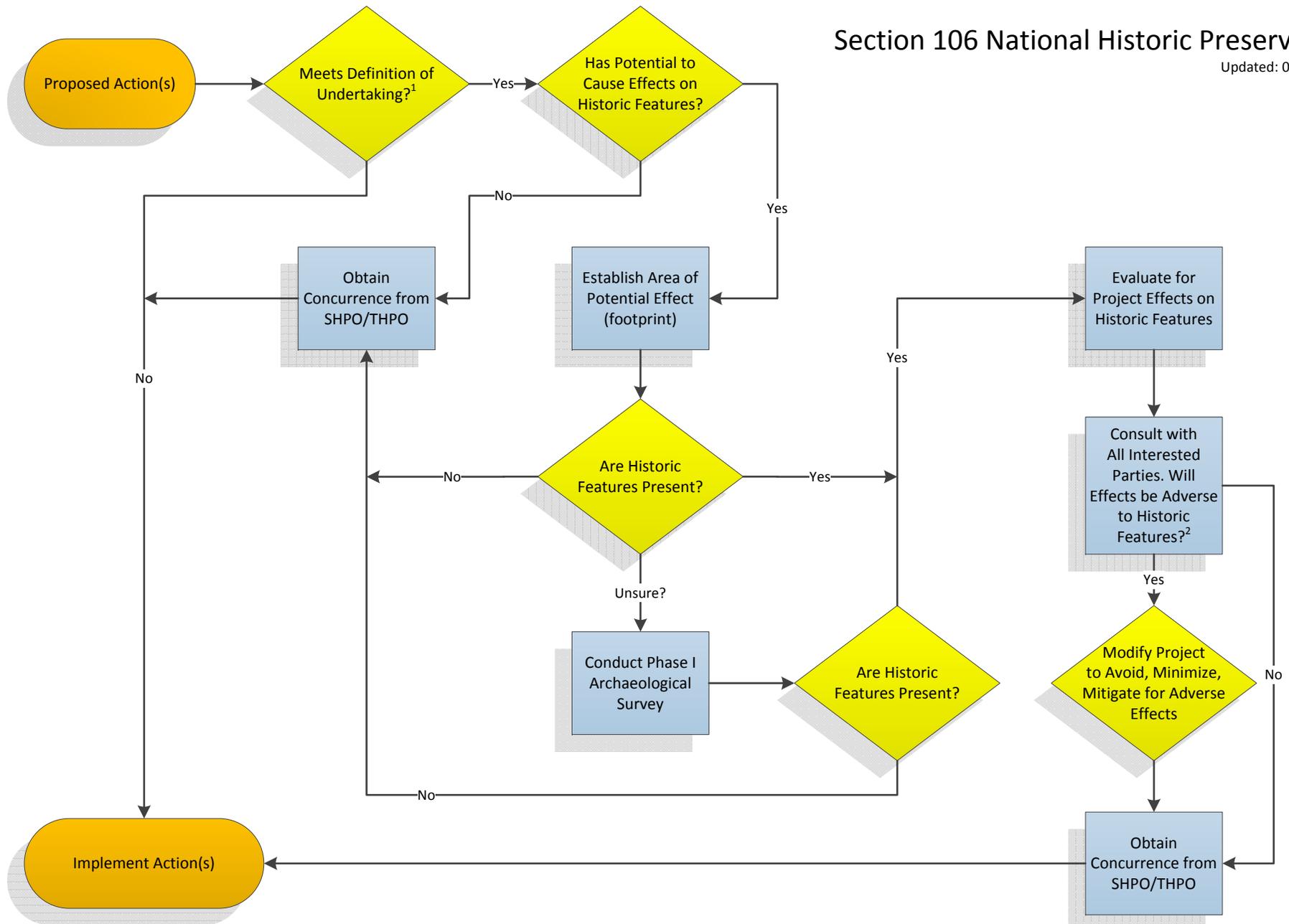
f. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or

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 National Historic Preservation

Updated: 01/06/2016



<sup>1</sup> Undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license, or approval. **36 CFR 800.16(y)**

<sup>2</sup> Examples of Adverse Effects include: (1) Physical destruction or damage; (2) Alteration of a property; (3) Removal of a property from its location; (4) Change of the character of the property's use or physical features; (5) Introduction of visual, atmospheric, or audible elements; (6) Neglect of a property; and (7) Transfer, lease, or sale of property. **36 CFR 800.5(a)(2)**

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# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

P.O. Box 1306

Albuquerque, New Mexico 87103

December 12, 2012

In Reply Refer To:  
FWS/R2/RD-WSFR

Dr. Jeff Pappas  
State Historic Preservation Officer  
New Mexico Historic Preservation Division  
Department of Cultural Affairs  
407 Galisteo Street, Suite 236  
Santa Fe, New Mexico 87501

Dear Dr. Pappas:

The U.S. Fish and Wildlife Service (Service) with this letter is providing notification that we are formalizing the role of the New Mexico Department of Game and Fish (NMGF) to assist the Service in carrying out our Section 106 compliance responsibilities. The Service provides financial assistance to the NMGF through the Wildlife Restoration Act (WR), Sport Fish Restoration Act (SFR), State Wildlife Grants (SWG), Boating Infrastructure Grants (BIG), Clean Vessel Act (CVA), and Endangered Species Act (ESA). Attached is a summary of the grant programs. Additional grant program information is available at the following link:  
[http://www.fws.gov/southwest/federal\\_assistance/index.html](http://www.fws.gov/southwest/federal_assistance/index.html)

In order to streamline the Service's compliance with Section 106 and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800), the Service is authorizing NMGF under the WR, SFR, LIP, SWG, BIG, CVA and ESA grant programs to initiate consultation pursuant to 36 CFR § 800.2(c) (4). Effective immediately, NMGF may consult with the State Historic Preservation Officer (SHPO) to initiate the review process established under 36 CFR Part 800 and to carry out some steps. Specifically, NMGF is authorized to identify consulting parties, identify historic properties, assess potential effects and make determinations/recommendations. The Service remains responsible for all findings and determinations, provided that we are properly notified by NMGF, in advance, of measures taken by NMGF to comply with granting requirements, including any and all special arrangements NMGF intends to make with third party cooperators. This is an interim measure until the Programmatic Agreement can be executed under 36 CFR 800.14 which will account for other jurisdictions and further streamline the Section 106 compliance process.

This delegation does not extend to projects being carried out on Federal lands. The Service also remains responsible for initiating government-to-government consultation with federally recognized Indian Tribes. The Service's responsibility to consult on a government-to-government basis with Indian Tribes as sovereign nations is established through specific authorities and is explicitly stated in 36 CFR Part 800.

## Grant Program Summary

### Wildlife Restoration Act (WR)

- Restoration, conservation, management, and enhancement of wild birds and wild mammals, and providing for public use and benefit from these resources
- Educating responsible hunters and archers in skills, knowledge, and attitudes

### Sport Fish Restoration Act (SFR)

- Restoring, conserving, managing, and enhancing sport fish, and providing for public use and benefit from these resources. Sport fish are limited to aquatic, gill breathing, vertebrate animals, bearing paired fins, and having material value for sport or recreation
- Enhancing the public's understanding of water resources and aquatic life forms, and assisting them in developing responsible attitudes toward the aquatic environment.

### Endangered Species Act (ESA)

- Conserving species of fish, wildlife, or plants included on Federal or State lists of endangered or threatened species, or those that are candidates for listing status. Activities may include:
  - a) Acquisition of endangered or threatened species habitat.
  - b) Introduction of species into suitable habitats within their historic range.
  - c) Enhancement of habitat.
  - d) Surveys and inventories of habitats or populations.
  - e) Research on endangered species.
  - f) Propagation of animals and plants for introduction or protection of the species.
  - g) Protection of listed or candidate species, or their habitat (e.g., mitigation of threats).

### Boating Access Program (BA)

- The purpose of this program provides is to provide access to America's waterways by developing new access facilities or renovation and/or improvement of existing facilities.

### Boating Infrastructure Grant Program (BIG)

- The purpose of this program is to construct, renovate, and maintain tie-up facilities with features for transient boaters in vessels 26 feet or more in length, and to produce and distribute information and educational materials about the program.

### Clean Vessel Act (CVA)

- The purpose of this program is to construct, renovate, operate, and maintain pumpout stations and waste reception facilities for recreational boaters and also for educational programs that inform boaters of the importance of proper disposal of their sewage.

### State Wildlife Grants (SWG)

- Targets species and their habitats identified in State Wildlife Action Plans (SWAP) to address conservation needs, such as research, surveys, species and habitat management, and monitoring, identified within the SWAP.

## Basic (No Exemptions) Acquisition Procedures

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

- Fee Simple
- Fee with exception(s) 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.

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

**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)).

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## Basic (With Limited Exemptions) Acquisition Procedures

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

- Fee Simple
- Fee with exception(s) 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.

**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

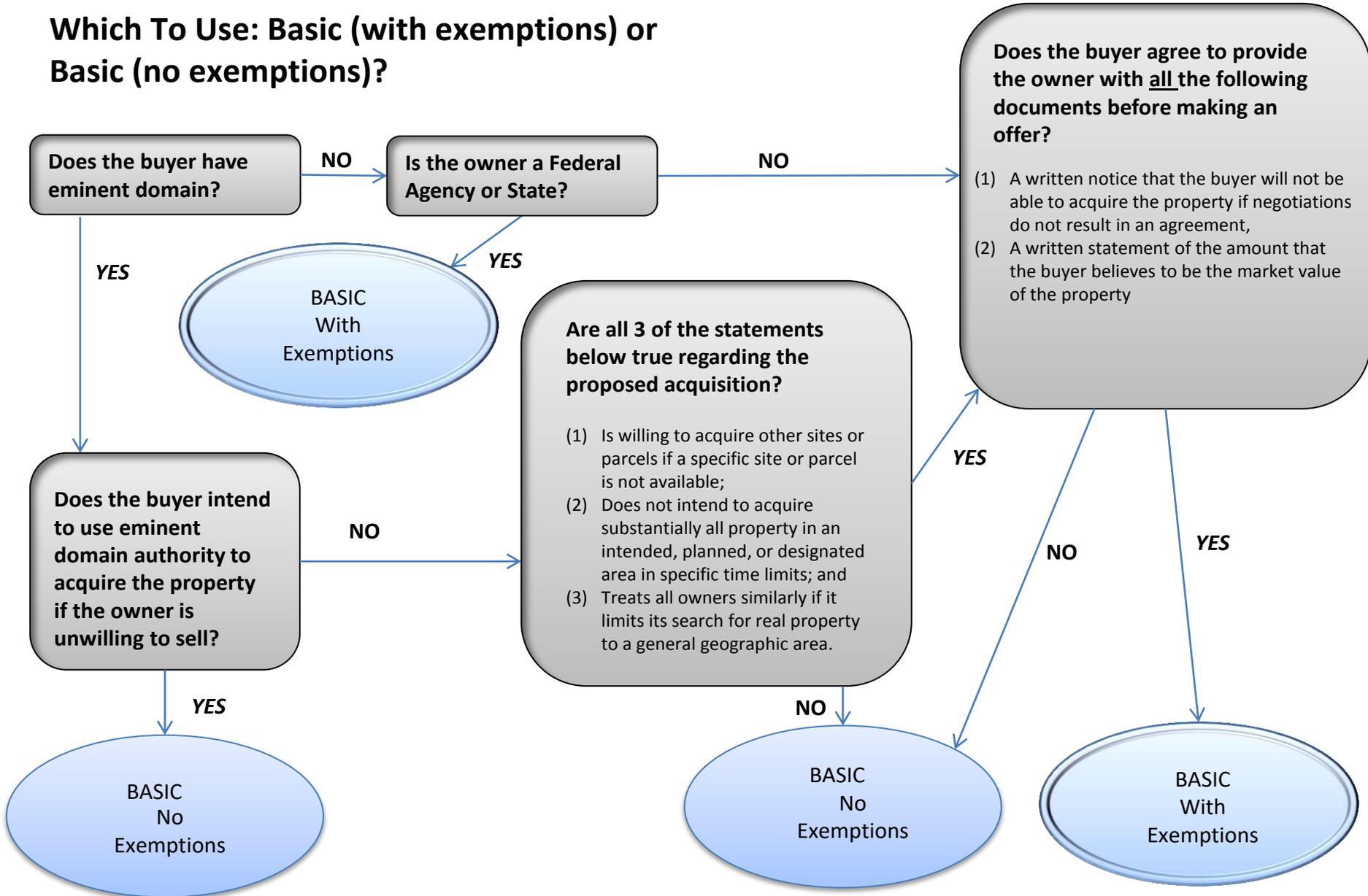
**Step 8** - Buyer records the deed or other instrument transferring title or other real property interest, and a Notice of Federal Participation.

**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

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# Which To Use: Basic (with exemptions) or Basic (no exemptions)?



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

- Handout #12-1 “**Project Narrative SWG Conservation Easement: Harmony Road Wetlands – Cattail Property**” found in Tab #12 in the workbook
- Handout #6-2: 516 DM8 Managing the NEPA Process
- Lands Chapter SM Part 520 FW 7 Toolkit

1. Does the project statement (handout 12-1) provide documentation that the project actions were reviewed for compliance with NEPA, Sec 7 and the Historic Preservation Act?

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

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3. 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?

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**TAB 7**

## Module 7

### Grant Application and Award

#### Learning Objectives:

1. Understand the role that the Notice of Funding Opportunity (NOFO) plays in both announcing Federal funding opportunities and describing how applicants apply for funding.
2. Understand which Federal financial assistance programs are required to have NOFOs posted and available to the public.
3. Define preaward costs. What are the requirements for obtaining approval for preaward costs and what criteria does the Federal awarding agency use to determine whether or not to approve requests for preaward costs.
4. Explain the Federal awarding agency's written prior approval requirements for direct charges of capital expenditures for land and buildings, as well as improvements to land and buildings.
5. Identify the types of documentation that may be required by the Federal awarding agency in order to obtain prior written approval for the acquisition of real property.
6. Explain how the Federal awarding agency informs applicants that their application has been approved for funding. Describe the required components of the Notice of Award.

#### Handouts:

- 7-1 – Notice of Funding Opportunity (State Wildlife Grants)
- 7-2 – SF-429B Real Property Status Report (Request to Acquire, Improve, or Furnish)
- 7-3 – Notice of Award (State Wildlife Grant award)

## Submission of a Complete Application

Prior to submitting an application for financial assistance funding, applicants should verify that they have included all required forms and documents. If an incomplete application is received by the Regional Office, WSFR staff must return the application or contact the applicant to request the missing information. This may delay the approval of the award period of performance.

For those States applying for Wildlife or Sport Fish Restoration program funding on a project-by-project grant, **50 CFR 80.82** provides information as to what constitutes a complete application. Applicants should also review the most current Notice of Funding Opportunity (NOFO) for any additional requirements that must be included in a complete application package (see **Handout 5-1**).

For those Comprehensive Management System (CMS) States, **50 CFR 80.81** provides guidance as to the required documents necessary when applying for awards.

## Notice of Funding Opportunity

For competitive grants and cooperative agreements, the Federal awarding agency must announce specific funding opportunities by providing a NOFO in the form of a public notice (**2 CFR 200.203**). The WSFR program also chooses to post NOFOs for its mandatory programs as well.

The individual sections of the NOFO are described in detail in **2 CFR 200 - Appendix I**:

- A. Program Description
- B. Federal Award Information
- C. Eligibility Information
- D. Application and Submission Information
- E. Application Review Information
- F. Federal Award Administration Information
- G. Federal Awarding Agency Contact(s)
- H. Other Information

NOFOs are posted on Grants.gov. Applicants may search for them using the Federal funding program name.

Notes:

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## Pre-Award Costs

Pre-award costs are those *costs incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work*. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency (**2 CFR 200.458**).

Recipients may begin work prior to the effective date of the Federal award; however, the Service cannot obligate any funds for an award until it is approved. If the recipient chooses to incur costs related to an award prior to the effective date, the recipient is acting with no assurance that any of its expenditures will be eligible for reimbursement. If the Service does not approve the application (and any requested pre-award costs), then no expenditures are eligible for reimbursement (**522 FW 24.7**). Recipients can receive reimbursement for pre-award costs only after the effective date of the Federal award (**50 CFR 80.94(c)**).

Pre-award costs must meet the following requirements (**50 CFR 80.94(b)**):

1. The costs are necessary and reasonable for accomplishing the grant objectives.
2. The Regional Director would have approved the costs if the State fish and wildlife agency incurred them during the grant period.
3. The agency incurs these costs in anticipation of the grant and in conformity with the negotiation of the award with the Regional Director.
4. The activities associated with the pre-award costs comply with all laws, regulations, and policies applicable to a grant-funded project.

Recipients must not complete the project before the effective date of the Federal award unless the Regional Director agrees that doing so is necessary or to meet legal deadlines (**50 CFR 80.94(b)(6)**).

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In the case of real property acquisition projects, the Service may approve an application with costs incurred for the project before the effective date of the award if: **(520 FW 7.8(A))**

1. The applicant obtained our concurrence in writing that buying the real property or incurring the associated costs before the beginning of the period of performance was necessary to take advantage of temporary circumstances favorable to the project or to meet legal deadlines.
2. The applicant gave us or committed to give us the information we needed in time for us to complete the compliance processes that apply to real property acquisition, and we concurred in writing that we expected to be able to complete these compliance processes.
3. The project statement shows:
  - a. The costs are necessary, reasonable, and otherwise allowable for achieving the award objectives.
  - b. The applicant incurred these costs in anticipation of receiving the award and in conformity with the negotiation of the award; and
  - c. The pre-award activities were consistent with all laws, regulations, and policies that apply to an award-funded project.
4. The Service would have approved the costs if the applicant, as a recipient, incurred them during the period of performance.

## **Prior Written Approval Requirement for Real Property Acquisition**

Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or pass-through entity (2 CFR 200.439(b)(1)). Additionally, capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior written approval of the Federal awarding agency or pass-through entity (2 CFR 200.439(b)(3)).

Recipients seeking the Department of Interior's approval to use financial assistance award funds to purchase an interest in real property, must submit a completed SF-429B "*Real Property Status Report (Request to Acquire, Improve, or Furnish)*" (see **Handout 7-2**) or an approved alternate standardized data collection, to the Federal program bureau or office in order to comply the prior written approval requirements of 2 CFR 200.439 (**2 CFR 1402.329(a)**).

The SF-429B can be obtained on Grants.gov or the Service's FA Wiki (<https://fawiki.fws.gov/display/WTK/Forms>)



## Service Approval Requirements before the Recipient Commits to Acquiring Real Property

The Service must approve the purchase of a specific interest in real property for a specific price before the recipient incurs its cost regardless of whether Federal or matching funds will be used for the purchase. The Service must also approve any third-party *in-kind* contribution of real property and the market value attributed to that real property. The Service must receive the following information before giving such approval (**520 FW 7.34(A)**):

1. SF-429B *Real Property Status Report, Attachment B (Request to Acquire, Improve, or Furnish)*.
2. Proposed purchase price of the real property or the value of any third-party *in-kind* contribution of real property, used as match, in the application.
3. An appraisal report on the real property to be purchased or committed as a third-party *in-kind* contribution, and an appraisal review report that recommends the appraisal. For waiver valuations, documentation supporting the opinion of value, including the information described in **520 FW 7.31**.
4. Justifications of the following, if applicable:
  - a. Extension of the life span of the appraisal.
  - b. Administrative settlement or an explanation that the buyer will use non-Federal and non-matching funds to pay the amount of the proposed purchase price above the amount to be offered to the seller (see **520 FW 7.16**).
  - c. State law as an exception to the Uniform Act or state laws and regulations that achieve the purpose and effect of the Uniform Act.
  - d. Increasing the threshold of value for a waiver valuation from \$10,000 up to a maximum of \$25,000, if the buyer offers the owner the option of the buyer obtaining an appraisal recommended by an appraisal reviewer.
5. Other information that the Service may need to ensure compliance with laws, regulations, and policies applicable to the financially-assisted acquisition of real property.

Recipients may request that the Service administratively approve this information at any time before making an irreversible contractual commitment to buy real property for a specific price. However, the recipient must not drawdown or use any Federal or matching funds for the purchase of the property until the Service gives this administrative approval (**520 FW 7.34(B)**).



**Exercise: Examining the Award Application Package**

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

## Notice of Award

After the award application package is approved by the WSFR Regional Office, the recipient is sent a Notice of Award (NOA) (see **Handout 7-3**). Recipients should review the NOA to ensure that they accept the award and are willing to comply with all of the award terms and conditions, as well as any special terms and conditions.

The components of the NOA letter include (see **2 CFR 200.210** for additional details):

(1) General Federal Award Information.

- Recipient name;
- Recipient's unique entity identifier;
- Unique Federal award identification number (FAIN);
- Federal award date;
- Period of performance start and end date;
- Amount of Federal funds obligated by this action;
- Total amount of Federal funds obligated;
- Total amount of the Federal award;
- Budget approved by the Federal awarding agency;
- Total approved cost sharing or matching, where applicable;
- Federal award project description, (to comply with statutory requirements (e.g. FFATA));
- Name of Federal awarding agency and contact information for awarding official;
- CFDA number and name;
- Identification of whether the award is for research and development; and
- Indirect cost rate for the Federal award.

Recipients accept the award by:

- ✓ Starting work on the award;
- ✓ Drawing down or requesting funds; or
- ✓ Accepting the award by electronic means.

(2) General Terms and Conditions.

(3) Special Terms and Conditions.

(4) Federal Award Performance Goals.

(5) Any other information required by the Federal awarding agency.

Notes:

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## Learning Points

- ✓ Applicants should review the Federal program's authorizing legislation, regulations, and the most current Notice of Funding Opportunity (NOFO) in order to determine what elements and documents are required for a complete application package.
- ✓ For competitive grants and cooperative agreements, the Federal awarding agency must announce specific funding opportunities by providing a NOFO in the form of a public notice. The WSFR program also chooses to post NOFOs for its mandatory programs as well. Most NOFOs are displayed on grants.gov.
- ✓ Pre-award costs are those costs incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work (2 CFR 200.458). Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency.
- ✓ Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or pass-through entity (2 CFR 200.439(b)(1)).
- ✓ Recipients seeking the Department of Interior's approval to use financial assistance award funds to purchase an interest in real property, must submit a completed SF-429B "*Real Property Status Report (Request to Acquire, Improve, or Furnish)*" or an approved alternate standardized data collection, to the Federal program bureau or office in order to comply the prior written approval requirements of 2 CFR 200.439 (2 CFR 1402.329(a)).
- ✓ Recipients should review the Notice of Award to ensure that they accept the award and are willing to comply with all of the award terms and conditions, as well as any special terms and conditions. Recipients accept the Federal award by: (1) starting work on the project; (2) drawing down or requesting funds; or (3) accepting the award by electronic means.
- ✓ A non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance and any costs incurred before the Federal awarding agency or pass-through entity made the Federal award that were authorized by the Federal awarding agency or pass-through entity (2 CFR 200.309).

## **State Wildlife Grant Program Fiscal Year 2019 Notice of Funding Opportunity**

### **Notice Overview**

#### **Federal Agency Name**

U.S. Department of the Interior, Fish and Wildlife Service (Service), Wildlife and Sport Fish Restoration Program (WSFR)

#### **Funding Opportunity Title**

State Wildlife Grant (SWG) Program

#### **Catalog of Federal Domestic Assistance (CFDA) Number**

15.634

#### **Announcement Type**

Notice of Funding Opportunity (NOFO) for Federal Fiscal Year (FY) 2019

#### **Funding Opportunity Number**

F19AS00153

#### **Paperwork Reduction Act Statement**

We are collecting this information in accordance with the Consolidated Appropriations Act, Fiscal Year 2019 (Public Law No. 116-6). Your response is required to obtain or retain a benefit. We will use the information you provide to evaluate your application for potential award of Federal funding through this program and, if awarded, to evaluate performance. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. We estimate that it will take you about 40 hours to complete an initial application, three hours to revise the terms of an award, and eight hours to prepare and submit performance reports, including time to maintain records and gather information. You may send comments on the burden estimate or any other aspect of this information collection to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

#### **OMB Control Number**

1018-0100 (expires: 7/31/2021)

#### **Submission Deadline and Other Information**

You must ensure that we receive your application no later than August 31, 2020, at 11:59 p.m. PDT. We recommend that you submit your application early enough to address any unforeseen technical complications and verify that all documents have been received by your WSFR Regional Office before the deadline. We will not consider applications received after the deadline.

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## I. Description of Funding Opportunity

*References to “you” in this NOFO refer to the State, Commonwealth, or Territory agency completing the application and any sub-recipient, if applicable. References to “we,” “our,” or “us” in this NOFO refer to the Service.*

The State Wildlife Grant (SWG) Program provides States, the District of Columbia, Commonwealths, and Territories (States) Federal grant funds for the development and implementation of programs for the benefit of wildlife and their habitats, including species that are not hunted or fished. Eligible activities include both conservation planning and implementation activities. Conservation planning activities must contribute directly to the development or modification of your current Wildlife Action Plan (Plan) approved by the Director of the Service. Implementation activities are those that you intend to carry out to execute your Plan. SWG Program funds must benefit species of greatest conservation need (SGCN) identified in your Plan, and when prioritizing use of these funds you should take into consideration the relative level of funding available for the conservation of those species. As directed by Congress, the Service encourages you to prioritize funding for conservation of species listed or considered for listing under the Endangered Species Act (ESA)—including candidate, threatened, and endangered species—when such species are identified in your Plan and when directing SWG Program funds for their conservation is consistent with your priorities and operations. Ineligible activities include wildlife education and law enforcement activities, unless the activity is minor or incidental and is considered critical to the success of a project. Additional information about the SWG Program is available [here](#).

WSFR’s mission is to work through partnerships to conserve and manage fish and wildlife and their habitats for the use and enjoyment of current and future generations. WSFR’s vision is of healthy, diverse, and accessible fish and wildlife populations that offer recreation, economic activity, and other societal benefits, in addition to sustainable ecological functions. WSFR’s guiding principle is that society benefits from conservation-based management of fish and wildlife and their habitats and opportunities to use and enjoy them. The SWG Program aligns

with WSFR's mission, vision, and guiding principle, and supports three of the Secretary of the Department of the Interior's priorities including:

1. Creating a conservation stewardship legacy second only to Teddy Roosevelt;
2. Utilizing our natural resources; and
3. Restoring trust with our local communities.

## II. Award Information

### Formula

The SWG Program is funded through annual appropriations of Congress and total available funds may vary from year to year. After we deduct funds for Competitive and Tribal subprograms and administrative expenses, the remainder is apportioned as follows: the District of Columbia and the Commonwealth of Puerto Rico each receive a sum equal to not more than one half of one percent; and the Territories of American Samoa, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands each receive a sum equal to not more than one fourth of one percent. The remaining amount is apportioned by formula, one third of which is based on the ratio to which the land area of such State bears to the total land area of all such States, and two thirds of which is based on the ratio to which the population of such State bears to the total population of all such States. No State may be apportioned a sum which is less than one percent of the amount available for apportionment for any fiscal year or more than five percent of the apportionment. The final SWG Program apportionments to States can be found [here](#).

### Funding Restrictions

1. You must have a current Plan that is approved by the Director of the Service or a revised Plan that has been submitted to a Regional Review Team.
2. When submitting an application, you must clearly indicate how the proposed grant objectives address one or more of the conservation needs identified within your Plan.
3. Per House Report 109-080, written to accompany House of Representatives (H.R.) 2361 for FY 2006 appropriations (Public Law No. 109-54), funds made available under this account should be added to revenues from existing State sources and not serve as a substitute for revenues from such sources.
4. Under certain conditions, funds may be used for education and law enforcement activities. In order for education or law enforcement actions to be eligible, they must constitute a minor portion of a project, be critical to the project's success, and specifically address a threat or issue identified within your Plan. "Minor" is considered no more than 10 percent of a project's total cost.
5. Funds may not be used for projects that will specifically initiate, encourage, or enhance wildlife-associated recreation.
6. Funds may not be used to pay for the establishment, publication, or dissemination of regulations that a State issues pertaining to the protection and utilization of fish and wildlife resources. This includes laws, orders, seasonal regulations, bag limits, creel limits, license fees, etc. This does not prohibit the collection of information needed to support management recommendations.

7. Funds may be used to address nuisance wildlife or situations involving damage caused by wildlife only if they will benefit SGCN and/or their habitats identified in your Plan.
8. Funds may be used to conduct environmental reviews, habitat evaluations, permit reviews related to Section 404 of the Clean Water Act, and similar functions necessary to protect wildlife habitat only if they will benefit SGCN and their habitats as identified in your Plan.
9. Generally, only expenses incurred and budgeted during the period of performance are allowable. The period of performance begins with the effective date established at the time the grant is approved. However, you may request reimbursement of pre-award costs for certain necessary expenses detailed in the grant application. Pre-award costs are those incurred prior to the approval of the grant where such costs are necessary to comply with the proposed period of performance. Such costs are allowable only if the grant is awarded, only to the extent that they would have been allowable if incurred after the date of the award, and only with the written approval of the awarding agency ([Title 2 of the Code of Federal Regulations \(CFR\) 200.458](#)).
10. Congress intends the Plans to be adaptive to new information or circumstances. As such, funds may be used to respond to emerging or crisis situations that are not represented within your Plan. Within the grant application or amendment, you must fully describe any emerging crisis situation and indicate if funds must be reallocated from efforts already underway, identify the species or habitats that will benefit from the proposed action, and commit to monitoring the effectiveness of the proposed conservation action so future management activities can be appropriately adapted. Finally, you must commit to incorporating this new priority within the next version of your Plan, if it remains an emerging or critical issue. Grant applications or amendments that include issues not identified within a Plan must be reviewed by the Assistant Regional Director (ARD) for Migratory Birds and State Programs or other designated official for approval. If the ARD or other official finds that the project is not eligible, the decision may be appealed to the Regional Director.
11. Funds may not be used for mitigating fish or wildlife habitat losses, where the obligation to mitigate is incurred by us, another Federal agency, State agency, or private entity, nor may the value of property purchased be used for similar purposes, with only one exception. Only activities to mitigate or compensate for SWG Program-funded activities, or that are necessary to secure permits or approval of those activities, are allowable. Contact your WSFR Regional Office if you have specific questions related to eligibility of mitigation-related costs.

### **III. Basic Eligibility Requirements**

#### **Eligible Applicants**

Participation is limited to State, Commonwealth, or Territorial agencies with lead management responsibility for fish and wildlife resources in each of the 50 States, the District of Columbia, Commonwealths of Puerto Rico and the Northern Mariana Islands, and the Territories of American Samoa, Guam, and the U.S. Virgin Islands. You also must have a Plan that has been

approved by the Director of the Service, or a revised Plan that has been submitted to a Regional Review Team.

Federal law mandates that to apply for Federal financial assistance you must have a valid Dun & Bradstreet Data Universal Number System (DUNS) number and have a current registration in the System for Award Management (SAM). See [2 CFR 25](#) for more information.

### **DUNS Registration**

Request a DUNS number at [Dun & Bradstreet Registration](#). For technical difficulties, contact Dun & Bradstreet by email at: [govt@dnb.com](mailto:govt@dnb.com), or by calling the Government Customer Resource Center at voice phone: 866-705-5711 or TTY line: 877-807-1679 (hearing impaired customers only). Obtaining a DUNS number is free for all entities doing business with the Federal government. Once assigned a DUNS number, entities are responsible for maintaining up-to-date information with Dun & Bradstreet.

### **Registration in SAM**

Register in SAM online at the [SAM website](#). Effective June 2017, you can no longer access SAM using Internet Explorer Versions older than IE11. You either need to upgrade to an Internet Explorer version of IE11 or higher, or access SAM with another supported browser type (Chrome, Firefox, Safari, etc.). Once registered in SAM, you must renew and revalidate your SAM registration at least every 12 months from the date previously registered. You are strongly urged to revalidate your registration as often as needed to ensure that your information is up-to-date and consistent with changes that may have been made to DUNS and Internal Revenue Service information.

Note: The official U.S. government website address for SAM is <https://sam.gov/>. There is no cost to register in or access SAM.gov. Some third-party vendors charge a fee in exchange for registering entities in SAM.gov; please be aware that you can register to do business with the U.S. government for free directly at <https://sam.gov/>.

### **Excluded Entities**

If you or your key project personnel are identified in the SAM.gov Exclusions database as ineligible, prohibited/restricted, or excluded from receiving Federal contracts, certain subcontracts and certain Federal assistance and benefits will not be considered for Federal funding. We conduct a review of the SAM.gov Exclusions database for all applicant entities and their key project personnel prior to award.

### **Cost Sharing or Matching**

For the States, the District of Columbia, and the Commonwealth of Puerto Rico, the Federal share of planning grants shall not exceed 75 percent of the total project cost, and the Federal share of implementation grants shall not exceed 65 percent of the total project cost. In accordance with Title 48 of the United States Code (U.S.C.), Part 1469(a), the Regional Director will waive the first \$200,000 of match for each grant from the Commonwealth of the Northern Mariana Islands and the Territories of American Samoa, Guam, and the U.S. Virgin Islands. The non-Federal share may come from license fees. Matching and cost-share requirements are

discussed in [2 CFR 200.306](#). The maximum Federal share varies based on the types of conservation actions proposed, including:

### **Planning Grants**

For the purposes of the SWG Program, three types of activities qualify as planning actions and are eligible for the planning match ratio (75% Federal/25% State). These include:

1. Efforts to update, modify, or revise your Plan. This category of planning activity includes the writing, printing, production, and distribution of either the complete Plan or portions of the Plan such as online documents, excerpts, or summary publications;
2. Efforts to collect public opinion information or input, via surveys, polling, public meetings, focus groups, or other methodologies that will be used to guide your efforts to update, modify, or revise your Plan; and
3. Processes, such as coordination meetings that build or strengthen collaboration between you and partners (Federal, State, tribal, industry, private, and others) as you work to update, modify, or revise your Plan.

### **Implementation Grants**

All other activities eligible for funding, such as species monitoring, habitat evaluations, conducting and evaluating the effectiveness of conservation actions, program administration, and developing and maintaining systems to record, store, or disseminate information are considered implementation activities. For implementation grants, the Federal share shall not exceed 65 percent of the total project cost.

### **Combination Grants**

An individual grant application may contain both planning and implementation activities. In these cases, you must estimate the proportion of costs allocated to planning activities and implementation activities in the grant application. You must utilize a cost accounting system that is capable of accounting for costs incurred and match ratios for each type of activity (i.e., planning versus implementation) separately.

## **IV. Application Requirements**

You can download the application package for the SWG Program [here](#), by entering Funding Opportunity Number [[insert FON here](#)]. You can also download application forms through the [WSFR toolkit](#) under “Forms.” If you have trouble accessing the online forms, you can contact your WSFR Regional Office (see Section VII, Agency Contacts). To be considered for funding under this opportunity, an application must contain:

### **Application for Federal Assistance Form**

A completed, signed and dated Application for Federal Assistance form ([Standard Form \(SF\)-424](#)). Do not include other Federal sources of funding, requested or approved, in the total entered in the “Federal” funding box on the SF-424. Enter only the amount being requested under the SWG Program in the “Federal” funding box. Include any other Federal sources of funding in the total funding entered in the “Other” box.

## Project Summary

Briefly summarize the project in one page or less. Include the title of the project, geographic location, and a brief overview of the need for the project. Goals, objectives, specific project activities, anticipated outputs and outcomes can also be included in this section.

## Project Statement

You are required to provide a narrative project statement containing the following elements. Any images should be appended rather than included within the project statement.

1. Describe the need for the proposed project(s). Explain why the project is necessary and how it fulfills the purpose of the Program.
2. Identify discrete, quantifiable, and verifiable objectives to be accomplished during a specific time period. The project objectives should be specific, measurable, attainable within the period of performance, realistic and relevant, and time-bound.
3. Describe the expected results or benefits from accomplishing the objectives.
4. Describe in detail the approach or activities to be used in meeting the objectives, including specific procedures, methods, schedules, key personnel, and cooperators. Describe how your activities use a planned approach, appropriate procedures, and accepted principles of fish and wildlife conservation and management, research, and monitoring. Do not attach resumes or curriculum vitae in addressing this element.
5. Provide information on project location. Maps or other geographic aids may be attached. Please include GPS coordinates in degrees, minutes, and seconds, if available.
6. Identify the principal investigator (PI) for research projects. Record the PI's name, work address, and work telephone number. To prevent unnecessary transmission of Personally Identifiable Information, do not include Social Security numbers, the names of family members, or any other personal or sensitive information including marital status, religion, or physical characteristics on the description of key personnel qualifications. Do not attach resumes or curriculum vitae in addressing this element.
7. Describe any relationship between this project and other work funded by Federal grants that is planned, anticipated, or underway.
8. Provide a timeline of activities. Describe significant milestones in completing the project and any accomplishments to date.
9. For projects conducted in the United States, a description of the activity in sufficient detail so WSFR staff are able to evaluate compliance with the National Environmental Policy Act (NEPA), Section 7 of the ESA, and Section 106 of the National Historic Preservation Act (NHPA).

We require all applicants to provide a description of activities in sufficient detail to allow WSFR staff to evaluate: 1) the 25 items in [2 CFR 200.407](#) requiring prior written approval; and 2) compliance with NEPA, Section 7 of the ESA, and Section 106 of the NHPA. This applies to all States including those utilizing a Comprehensive Management System (CMS). If you are considering submitting an application under a CMS and are unsure of these application requirements, contact your WSFR Regional Office for more information (see Section VII, Agency Contacts).

## Budget Form

Complete the Budget Information for Non-Construction Programs (SF-424A) form, Budget Information for Construction Programs (SF-424C) form, or submit the equivalent or greater level of information in your own budget format. You may use the SF-424A if your project does not include construction and the SF-424C if your project includes construction or land acquisition. The budget forms are available [here](#). When developing your budget, keep in mind that financial assistance awards and sub-awards are subject to the Federal cost principles in [2 CFR 200, Subpart E](#). If the project budget includes multiple Federal funding sources, you must show the funds being requested from the SWG Program separately from any other requested/secured Federal sources of funding on the budget form. For example, enter the funds being requested from the SWG Program in the first row of the Budget Summary section of the form and then enter funding related to other Federal programs in the subsequent row(s). Be sure to enter each Federal program's CFDA number in the corresponding fields on the form. The CFDA number for the SWG Program is 15.634.

## Budget Narrative

In a separate narrative titled "Budget Narrative," explain and justify all requested budget items. Detail how the SF-424 Budget Object Class Category totals were determined and demonstrate a clear connection between costs and the proposed project activities. The justification for each budget category should be a brief general description of the costs that make up that category, yet provide enough detail to demonstrate that the applicant has a financial plan for implementation of the proposed objectives. For example, under personnel costs include the total number of staff and the various job titles anticipated to be charging to the project. Describe any item of the applicable Federal cost principles in [2 CFR 200.407](#) that requires our approval and estimate its cost (e.g., equipment and other capital expenditures, pre-award costs, etc.). Also include:

1. In-Kind Match – Include the source, amount, and valuation methodology used to arrive at the total.
2. Program Income, if any – Estimate the amount of program income that the project is likely to generate. Indicate the method of applying and disposing of the program income.
3. When applicable, for any recipient charging indirectly, attach a copy of a current Negotiated Indirect Cost Rate Agreement (NICRA). If you submit a copy of your NICRA annually to your Regional WSFR Office, please do not attach a copy to your proposal.
4. Describe the method for allocating costs in multi-purpose projects and facilities.

## Required Indirect Cost Statement

If you do not have an approved indirect cost rate you cannot charge indirect costs to your Federal award. You must include in the budget justification narrative one of the following statements and attach to your application any required documentation identified in the applicable statement. Prior to attaching a NICRA to your proposal as required in option (1) below, please check with your Federal Aid Coordinator or other designee to determine whether your current NICRA is already on file with the Regional WSFR Office. If your current NICRA is already on file, please do not attach a copy to your proposal. "We are:

1. A U.S. State agency receiving more than \$35 million in direct Federal funding each year with an indirect cost rate of [insert rate]. We submit our indirect cost rate proposals to our cognizant agency. A copy of our most recently approved rate agreement/certification is on file with the Regional WSFR Office (or is attached if it is not on file);
2. A U.S. State agency receiving less than \$35 million in direct Federal funding with an indirect cost rate of [insert rate]. We are required to prepare and retain for audit an indirect cost rate proposal and related documentation to support those costs;
3. A U.S. State agency that has never submitted an indirect cost rate proposal to our cognizant agency. Our indirect cost rate is [insert rate]. In the event an award is made, we will submit an indirect cost rate proposal to our cognizant agency within 90 calendar days after the award is made;
4. A U.S. State agency that has never submitted an indirect cost rate proposal to our cognizant agency and has an indirect cost rate that is lower than 10%. Our indirect cost rate is [insert rate; must be lower than 10%]. However, in the event an award is made, we will not be able to meet the requirement to submit an indirect cost rate proposal to our cognizant agency within 90 calendar days after award. We request as a condition of award to charge a flat indirect cost rate of [insert rate; must be lower than 10%] of [insert a clear description of the direct cost base against which your rate is charged (e.g., salaries; salaries and fringe benefits; or modified total direct costs). However, please note that your organization cannot charge indirect costs in excess of the indirect costs that would be recovered if applied against modified total direct costs as defined in 2 CFR 220.68]. We understand that we must notify the Service in writing immediately if we establish an approved rate with our cognizant agency at any point during the award period;
5. A U.S. State agency that has never submitted an indirect cost rate proposal to our cognizant agency and has an indirect cost rate that is 10% or higher. Our indirect cost rate is [insert your organization's indirect rate; must be 10% or higher]. However, in the event an award is made, we will not be able to meet the requirement to submit an indirect cost rate proposal to our cognizant agency within 90 calendar days after award. We request as a condition of award to charge a flat *de minimis* indirect cost rate of 10% of modified total direct costs as defined in 2 CFR 200.68. We understand that we must notify the Service in writing immediately if we do establish an approved rate with our cognizant agency at any point during the award period. We understand that additional Federal funds may not be available to support an unexpected increase in indirect costs during the project period and such changes are subject to review, negotiation, and prior approval by the Service; or,
6. A U.S. State agency that will charge all costs directly.”

Please take note of the following:

- If you do not have an approved indirect cost rate you are prohibited from charging indirect costs to your Federal award. Accepting a flat *de minimis* rate as a condition of award is an approved rate.

- Failure to establish an approved rate during the award period renders all costs otherwise allocable as indirect costs unallowable under the award.
- You may not charge to your Service award any indirect costs calculated against the portion of total direct costs paid by any other Federal funding source or non-Federal partner.
- You must have prior written approval from us to transfer unallowable indirect costs to amounts budgeted for direct costs or to satisfy cost-sharing or matching requirements under your award.
- You are prohibited from shifting unallowable indirect costs to another Federal award unless specifically authorized to do so by legislation.

For more information on indirect cost rates, see our [Indirect Costs and Negotiated Indirect Cost Rate Agreements guidance document](#).

### **Negotiating an Indirect Cost Rate with the Department of the Interior**

If you do not have a NICRA you must first have an open, active Federal award before you can submit an indirect cost rate proposal to your cognizant agency. The Federal awarding agency providing you the largest amount of direct funding is your cognizant agency, unless otherwise assigned by OMB. If the Department of the Interior is your cognizant agency, your indirect cost rate is negotiated by the Interior Business Center. For more information:

Indirect Cost Services  
 Acquisition Services Directorate, Interior Business Center  
 U.S. Department of the Interior  
 650 Capitol Mall, Suite 7-400  
 Sacramento, CA 95814  
 Phone: 916-930-3803  
 Email: Through [this email web form](#).  
 Internet address: [Link to Indirect Cost Services Webpage](#).

### **Single Audit Reporting Statements**

As required in [2 CFR 200, Subpart F](#), a non-Federal entity expending \$750,000 or more in Federal award funds in a fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System. You must provide a statement regarding whether you were or were not required to submit a Single Audit report for your most recently closed fiscal year and, if so, state if that report is available on the [Federal Audit Clearinghouse Single Audit Database website](#) and provide the EIN under which that report was submitted. Include these statements at the end of the project statement in a section titled "Single Audit Reporting Statements."

### **Assurances**

If not already on file with your Regional WSFR Office, include the appropriate signed and dated Assurances form, which is available [here](#). If a current Assurances form is already on file in your WSFR Regional Office, please do not attach it to your proposal. Use the Assurances for Construction Programs form (SF-424D) for construction and land acquisition projects and use

the Assurances for Non-Construction Programs form (SF-424B) for all other projects. The form includes a statement that some of the assurances may not be applicable to your organization and/or your project or program. Signing this form does not make you or your organization subject to laws that are otherwise not applicable to you. Changing, crossing out, or making notations on the form before signing has no impact on the applicability of law. You are encouraged to submit a copy of the Assurances form annually to your Regional WSFR Office. If you submit the form annually, please do not include an additional copy in your application. Note: Effective February 2, 2019, recipients may now submit and certify their Assurances form when creating, updating, or renewing their SAM registration. If you have submitted the form as part of your SAM registration or renewal, please do not include an additional copy in this application.

### **Certification and Disclosure of Lobbying Activities**

You must not use any federally appropriated funds (both annually appropriated and continuing appropriations) or matching funds under a grant or cooperative agreement award to pay any person for lobbying in connection with your award ([Title 31 U.S.C., Section 1352](#)). Lobbying is defined as influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award. Submission of an application also represents your certification of the statements in [43 CFR 18, Appendix A- Certification Regarding Lobbying](#). If you have made or agree to make any payment using non-appropriated funds for lobbying in connection with this proposal and the Federal share of the award exceeds \$100,000, complete and submit the SF-LLL, Disclosure of Lobbying Activities form available in the [Grants.gov Workspace](#) or [WSFR's Financial Assistance Wiki Forms Page](#). See [43 CFR 18.100](#) for more information on when additional submission of this form may be required.

### **Conflict of Interest Disclosures**

You are responsible for notifying your WSFR Regional Office in writing of any actual or potential conflicts of interest that may arise during the life of this award. Conflicts of interest include any relationship or matter which might place the recipient, the recipient's employees, or the recipient's sub-recipients in a position of conflict, real or apparent, between their responsibilities under the award and any other outside interests. Conflicts of interest may also include, but are not limited to: direct or indirect financial interests, close personal relationships, positions of trust in outside organizations, consideration of future employment arrangements with a different organization, or decision-making affecting the award that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the recipient, the recipient's employees, or the recipient's sub-recipients in the matter. Upon receipt of such a notice, the WSFR Regional Office in consultation with a Service Ethics Counselor will determine if a conflict of interest exists and, if so, if there are any possible actions to be taken by the recipient, the recipient's employees, or the recipient's sub-recipients that could reduce or resolve the conflict. Failure to resolve conflicts of interest in a manner that satisfies the Service may result in any of the remedies described in [2 CFR 200.338](#), Remedies for Noncompliance, including termination of the award.

## Application Checklist

Failure to provide complete information may cause delays, postponement, or rejection of the application.

- SF-424, Application for Federal Assistance: A complete, signed and dated SF-424, or SF-424-Mandatory.
- Project Summary
- Project Statement
- Budget Information or SF 424 budget form: A complete SF 424-A, SF 424-C, or a budget spreadsheet providing a similar, or greater, level of budget detail.
- Budget Narrative
- NICRA: If applicable and if a current NICRA is not on file with your Regional WSFR Office, attach a copy to your proposal.
- Indirect Cost Statement
- Single Audit Reporting statement: Note whether your State was or was not required to submit a Single Audit report for your most recently closed fiscal year and, if so, state if that report is available on the Federal Audit Clearinghouse Single Audit Database website. Please do not attach a copy of your Single Audit report.
- SF-424 Assurances form: If a current signed form is not on file with the Regional WSFR Office, attach a signed and dated SF-424B or SF-424D Assurances form. If you have submitted the form as part of your SAM registration or renewal, please do not include an additional copy in this application.
- SF-LLL form: If applicable, provide a completed SF-LLL Disclosure of Lobbying Activities form.
- Conflict of Interest statement, when applicable.

## V. Submission Instructions

### Submission Deadline

Grant application packages are due to your Regional WSFR Office (see Section VII, Agency Contacts) on or before August 31, 2020, 11:59 p.m. PDT.

### Intergovernmental Review

Before submitting an application, you should visit the [White House State Point of Contact List](#) to determine whether your application is subject to the state intergovernmental review process under Executive Order (E.O.) 12372 “Intergovernmental review of Federal Programs.” Note that this was the most recent State point of contacts list as of the publication date of this NOFO and that updates may have occurred since then. E.O. 12372 was issued to foster intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. The E.O. allows each State to designate an entity to perform this function. Contact your State’s designated entity for more information on the process your State requires

to be followed when applying for assistance. States that do not have a designated entity listed on the website have chosen not to participate in the review process.

### **Submission Instructions**

For electronic submissions, download the Application Package linked to this Funding Opportunity on Grants.gov to begin the application process. Using the “Search Grants” tab, enter Funding Opportunity Number [insert FON here]. Downloading and saving the Application Package to your computer makes the required Government-wide standard forms fillable and printable. The project narrative and budget narrative must be attachments in the following formats: Microsoft Word, Adobe PDF, or Microsoft Excel. To submit the application, follow these steps:

1. Go to [www.grants.gov](http://www.grants.gov).
2. Click the “Apply for Grants” tab and read the instructions provided by Grants.gov.
3. The following are items that need to be done before a grant application package can be submitted electronically through Grants.gov:
  - You must register as an Authorized Organization Representative (AOR) and have a user ID and password. You can register on the web [here](#);
  - You must have Adobe Acrobat Reader to view files on the web. You can download Adobe Acrobat Reader [here](#).
4. Standard forms such as the SF-424, SF-424A, SF-424B, SF-424C, and SF-424D are fillable forms on Grants.gov.
5. All forms and attachments mentioned above must be submitted with the grant application package.
6. Important note on Grants.gov application attachment file names: Please do not assign application attachments file names longer than 20 characters, including spaces. Assigning file names longer than 20 characters may create problems in the automatic interface between Grants.gov and the Service’s financial assistance management system.

### **Mail or Email Submission Instructions**

1. Applicants can obtain forms, in fillable PDF format, from the WSFR Toolkit [here](#).
2. The required SF-424 Application for Federal Assistance and Assurances forms and any other required standard forms must be signed by your organization’s authorized official. The Signature and Date fields on the standard forms downloaded from Grants.gov are pre-populated with the text “Completed by Grants.gov upon submission.” Remove this text (manually or digitally) before signing the forms.
3. The completed grant application package must be mailed or emailed to the appropriate U.S. Fish and Wildlife Service Regional Office (see Section VII, Agency Contacts). We prefer that you submit your proposal electronically as a single document in PDF format. See Section IV, Application Requirements for the recommended order of documents (Application Checklist). To ensure submission in case of problems with Grants.gov, we encourage you to email a single PDF document of your entire proposal even if you also submit the proposal through Grants.gov.

## **VI. Award Administration Information**

### **Notice of Award**

The Service Regional Director or his/her designee approves or disapproves grant proposals. Regional Offices are responsible for sending notification of grant approval to you. Following review, you may be asked to revise the project scope and/or budget before an award is made. Successful applicants will receive written notice in the form of a notice of award. Notices of award are typically sent to recipients by e-mail. If e-mail notification is unsuccessful, the documents will be sent by courier mail (e.g., FedEx, DHL or UPS). Award recipients are not required to sign/return the notice of award. The notice of award will include instructions specific to each recipient on how to request payment. If applicable, the instructions will detail any additional information of forms required and where to submit payment requests.

### **Administrative and National Policy Requirements**

Compliance with all applicable Federal laws, regulations, and policies, including environmental laws such as NEPA, ESA, NHPA, and applicable executive orders must be satisfied before we can approve a grant and make funding available to you. All financial assistance awards are subject to Federal financial administration requirements. Your WSFR Regional Office will work with you as needed to ensure that your application complies with these requirements.

### **Domestic Recipient Payments**

Prior to award, we will contact you to either enroll in the U.S. Treasury's Automated Standard Application for Payments (ASAP) system or, if eligible, you may obtain approval from the Department of the Interior to be waived from using ASAP.

### **Transmittal of Sensitive Data**

You are responsible for ensuring any sensitive data sent to the Service is protected during its transmission/delivery. We strongly recommend that you use the most secure transmission or delivery method available. We recommend the following digital transmission methods: secure digital faxing; encrypted emails; emailing a password-protected zipped or compressed file attachment in one email followed by the password in a second email; or emailing a zipped/compressed file attachment. We strongly encourage you to send sensitive data in paper copy or use a courier mail service. You may also call us (see Section VII, Agency Contacts) and provide any sensitive data over the telephone.

### **Award Terms and Conditions**

Acceptance of a financial assistance award from us carries with it the responsibility to be aware of and comply with the terms and conditions applicable to the award. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. Awards are based on the application submitted to and approved by us and are subject to the terms and conditions incorporated into the notice of award either by direct citation or by reference to the following: Federal regulations; program legislation or regulation; and special award terms and conditions. Our Standard Award Terms and Conditions are available [here](#). If you do not have access to the Internet and require a full text copy of the award terms and conditions, contact your WSFR Regional Office (Section VII, Agency Contacts).

## Recipient Reporting Requirements

1. Final Reports: You are required to submit final financial and performance reports no later than 90 calendar days after the award period of performance end date or termination date, whichever comes first. For awards lasting 12 months or less, the final reports will be the only financial and performance reports required, except in unusual circumstances or if waived.
2. Interim Reports: For awards that last longer than 12 months, you are required to submit interim financial and performance reports no less frequently than annually and no more frequently than quarterly, except in unusual circumstances or if waived. Requiring a higher frequency of reporting will be based on the Service's assessment of higher risk or other unusual circumstance. Quarterly and semiannual interim reports are due within 30 calendar days of the reporting period end date. Annual interim reports are due within 90 calendar days of the reporting period end date.

When reporting on the financial expenditures of a Federal award, you must use the OMB Standard Form 425 "Federal Financial Report" (SF-425). The form is available [here](#) on Grants.gov. The form is also available [here](#) on our Financial Assistance Wiki.

Performance reports must contain a comparison of actual accomplishments with the goals and objectives of the award as detailed in the approved scope of work, a description of reasons why established goals were not met, if appropriate, and any other pertinent information relevant to the project results.

Significant Developments Reports: Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, recipients are required to notify the Service in writing as soon as the following types of conditions become known:

- Problems, delays, or adverse conditions that will materially impair the ability to meet the objective(s) of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation.
- Favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

The Service will specify in the notice of award document the required reporting and reporting frequency applicable to the award. Financial and performance reporting requirements and retention and access requirements are specified in [2 CFR 200 \(Subpart D\)](#). Electronic submission of performance information using the Wildlife TRACS system may be required, as detailed in the terms and conditions of the award.

## Other Mandatory Disclosures

You must disclose, in a timely manner, in writing to us or the pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. If you have received a Federal award including the terms and conditions

outlined in [2 CFR 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters](#), you are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in [2 CFR 200.338](#), Remedies for Noncompliance, including suspension or debarment (See also [2 CFR 180](#), 31 U.S.C. 3321, and 41 U.S.C. 2313). [2 CFR Part 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters](#) is applicable to Federal awards of more than \$500,000, except those awards to individuals and foreign public entities.

## VII. Agency Contacts

The Service administers the SWG Program. For national-level program information contact:

**Paul Van Ryzin**  
 U.S. Fish and Wildlife Service  
 Wildlife and Sport Fish Restoration Program  
 MS: WSFR  
 5275 Leesburg Pike  
 Falls Church, VA 22041-3803  
 703-358-1849  
[Paul\\_VanRyzin@fws.gov](mailto:Paul_VanRyzin@fws.gov)

For project- and Region-specific information and application information, contact your WSFR Regional Office:

### Region 1

American Samoa, Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Idaho, Oregon, and Washington: [r1fa\\_grants@fws.gov](mailto:r1fa_grants@fws.gov), 503-231-6128

### Region 2

Arizona, New Mexico, Oklahoma, and Texas: [fw2fa@fws.gov](mailto:fw2fa@fws.gov), 505-248-7450

### Region 3

Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin: [R3fedaid@fws.gov](mailto:R3fedaid@fws.gov), 612-713-5130

### Region 4

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, the Commonwealth of Puerto Rico, South Carolina, Tennessee, and the U.S. Virgin Islands: [program\\_r4wsfr@fws.gov](mailto:program_r4wsfr@fws.gov), 404-679-4159

### Region 5

Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia: [fw5fareports@fws.gov](mailto:fw5fareports@fws.gov), 413-253-8508

**Region 6**

Colorado, Kansas, Nebraska, Montana, North Dakota, South Dakota, Utah, and Wyoming:  
[fw6\\_fagrants@fws.gov](mailto:fw6_fagrants@fws.gov), 303-236-5420

**Region 7**

Alaska: [AK\\_FA@fws.gov](mailto:AK_FA@fws.gov), 907-786-3631

**Region 8**

California and Nevada: [R8fa\\_grants@fws.gov](mailto:R8fa_grants@fws.gov), 916-414-6525

## Real Property Status Report ATTACHMENT B (Request to Acquire, Improve or Furnish) SF-429-B

OMB Number: 4040-0016  
Expiration Date: 02/28/2022

Federal Grant or Other Identifying Number Assigned by Federal Agency (#2 on cover page)	<input style="width: 95%;" type="text"/>
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**Complete the applicable blocks below for each parcel of real property for which you are requesting to acquire, improve, or furnish (duplicate this page to provide information for each parcel of real property under the Federal financial assistance award identified in section 2):**

13a. Description of Real Property:

13b. Address of Real Property (legal description and complete address including zoning information):

Street1:

Street2:

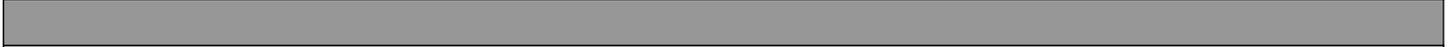
City:  County:

State:  Province:

Country:  ZIP / Postal Code:

Zoning Information:

GPS Location Longitude:  GPS Location Latitude:



14a. Describe the intended use of the real property and how it will benefit the program:

14b. Proposed Real Property Ownership Type(s):

A. Owned   
  B. Co-Owned   
  C. Fee Simple   
  D. Corporate  
 E. Joint Tenancy   
  F. Partnership   
  G. Limited Liability Partnership   
  H. Co-Operative  
 I. Government Furnished Property   
  J. Other (Describe):

14c. Proposed Acquisition Date (MM/DD/YYYY):

14d. Land Acreage or Square Units:

Enter Amount:

Select units:  Acres     Square Feet  
 Square Kilometers     Square Meters

14e. Gross and Usable Square Footage/Meters (i.e., of building, house, etc.):

Enter Amounts:

Gross  Usable

Select units:  Square Feet     Square Meters

14f. Appraised Value (Valuation):	\$	Share Percentage %:	
Federal Share:	\$ <input style="width: 100px;" type="text"/>	[ <input style="width: 50px;" type="text"/> ]	%
Non-Federal Share:	\$ <input style="width: 100px;" type="text"/>	[ <input style="width: 50px;" type="text"/> ]	%
Total (sum of Federal and Non-Federal Share):	\$ <input style="width: 100px;" type="text"/>	[ <input style="width: 50px;" type="text"/> ]	%

14g. Are there any Uniform Relocation Act (URA) requirements applicable to this real property?  Yes  No

14h. Are there any environmental compliance requirements related to the real property?  Yes  No

If yes, describe them:

14i. In accordance with the National Historic Preservation Act (NHPA), does the property possess historic significance, and/or is it listed or eligible for listing in the National Register of Historic Places?  Yes  No

If yes, describe them:

14j. Does the proposed action employ green/sustainable practices (check all that apply)?

- A. Integrated Design Principles?       B. Enhances Indoor Environmental Quality?  
 C. Protects and Conserves Water (anticipated water reduction)?       D. Reduces Environmental Impact of Materials?  
 E. Optimizes Energy Performance (anticipated energy reduction)?

14k. What was the cumulative energy consumption for the facility in the past 12 months?:

A. Electric (kWh)  or (Btu)       B. Petroleum (Gal)   
C. Natural Gas (cu ft)       D. Other  (Specify)

14l. What is the anticipated cumulative energy use for the 12 months following completion of the proposed acquisition/construction/renovation project?

A. Electric (kWh)  or (Btu)       B. Petroleum (Gal)   
C. Natural Gas (cu ft)       D. Other  (Specify)

15. Remarks:

Add Attachment

Delete Attachment

View Attachment



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
 Pacific Southwest Region  
 Wildlife & Sport Fish Restoration Program  
 2800 Cottage Way, W-1729  
 Sacramento, California 95825



In Reply Refer  
 to:  
 FWS/R8/WSFR

August 16, 2016

Mr. Mike Boll, Grant Administrator  
 California Department of Fish and Wildlife  
 Federal Assistance Section  
 1831 Ninth Street  
 Sacramento, California 95811-7011  
**DUNS: 808322358**

Subject: Notice of Grant Award for **FBMS# F16AF01117**

Dear Mr. Boll:

Your organization's application for Federal financial assistance titled "[California Wildlife Restoration Land Acquisition Project](#)" submitted to the U.S. Fish and Wildlife Service (Service)'s CFDA Program 15.611 is approved. This award is made under the authority of: Pittman-Robertson Wildlife Restoration Act of 1937 16 U.S.C. 669-669k. For a complete list of this program's authorizing legislation, go to <https://www.cfda.gov/> and search by the CFDA Program number. This award is made based on Service approval of your organization's proposal, hereby incorporated by reference into this award.

[The performance period of this award is August 1, 2016 through July 31, 2019.](#) Only allowable costs resulting from obligations incurred during the performance period and any authorized pre-award costs may be charged to this award. All obligations incurred under the award must be liquidated no later than 90 calendar days after the end of the performance period, unless the Service approves a final financial reporting period extension (see Reporting Requirements section below). If you need more time to complete project activities, you must submit a written request to [r8fa\\_grants@fws.gov](mailto:r8fa_grants@fws.gov) before the end of the stated performance period (see Project/Program Plan and Budget Revisions section below).

### **Payments:**

Your organization has completed enrollment in U.S. Treasury's Automated Standard Application for Payment (ASAP) system. When requesting payment in ASAP, your Payment Requestor will be required to enter an Account ID. The number assigned to this award is the partial Account ID in ASAP. When entering the Account ID in ASAP, the Payment Requestor

should enter the award number identified in the subject line on letter followed by a percent sign (%). Refer to the ASAP.gov Help menu for detailed instructions on requesting payments in ASAP.

Use the information below to identify your award funds at: <https://www.asap.gov>

ASAP Accounting Information	FY/Funding Title	Federal Share	% of Federal Share	State Share	% of State Share	Total Award
F16AF01117-0001-0000	Wildlife	10,000,000	75%	3,334,000	25%	13,334,000
<b>Totals:</b>		<b>\$10,000,000</b>		<b>\$3,334,000</b>		<b>\$13,334,000</b>

### **Terms of Acceptance:**

Acceptance of a financial assistance award (i.e., grant or cooperative agreement) from the Service carries with it the responsibility to be aware of and comply with the terms and conditions applicable to the award. Acceptance is defined as the start of work, drawing down or requesting funds, or accepting the award via electronic means. Awards are based on the application submitted to and approved by the Service. Awards are subject to the terms and conditions incorporated into the notice of award either by direct citation or by reference to the following: Federal regulations; program legislation or regulation; and special award terms and conditions.

The terms and conditions of Service awards flow down to subrecipients and contractors, unless a particular award term or condition specifically indicates otherwise. The Federal regulations applicable to Service recipients and their subrecipients and contractors are listed by recipient type in the **Service Financial Assistance Award Terms and Conditions** posted on the Internet at <http://www.fws.gov/grants/>. If you do not have access to the Internet and require a printed copy of the award terms and conditions, contact the Service Project Officer identified below.

If Recipient decides to not accept this award, Recipient must notify the Service Project Officer in writing within 30 calendar days of that decision.

### **Special Conditions and Provisions:**

- Cost accounting is required at Grant level
- Grant is eligible for reimbursement of amount obligated, not to exceed 75 percent of total expenditures.
- Your organization's SAM CCR registration is set to expire on June 28, 2017. Under the terms and conditions of this award, your organization is required to maintain an active CCR registration throughout the entire approved award period.
- Recipient needs prior written approval from the USFWS to make a cumulative transfer among direct cost categories which exceed, or are expected to exceed, ten percent of the current total approved budget.
- Prior to the draw of funds for the acquisition of property, property rights or water rights, the Grantee shall amend the grant to specify the exact property, property rights or water rights to be acquired. The amendment must specify the objectives of that acquisition and the species and habitats it is intended to protect and conserve. If desired, the Grantee may provide separate state documents pertaining to the specific acquisition and the resources to be protected or conserved under the grant amendment.
- The deed and/or conservation easement shall be encumbered to ensure that the land will be managed in perpetuity to conserve habitat consistent with the goals and objectives of this grant

and any amendment to this grant. Evidence of such recorded documents shall be included as part of the final performance report. For an acquisition using Wildlife Restoration Act funds, only the California Department of Wildlife may hold title. However, joint title may be considered upon prior approval by the Wildlife and Sport Fish Restoration Program (WSFR).

- Prior to accessing funds for the purchase of property, the following conditions must be completed:

1. Certified licensed appraiser(s) must conduct an appraisal(s) that meet California State land acquisition procurement standards (USPAP). However, a Yellowbook appraisal may be used if the state so desires.

2. Following the appraisal, a review appraisal is required. The review appraisal may be provided by contract or through agreement with another state agency. A certified licensed review appraiser must conduct or cosign the review appraisal. Any additional costs associated with the outside review are eligible for reimbursement under the grant.

3. The grantee must submit the appraisal(s) and appraisal review(s) for review and approval by the WSFR Grant Manager before becoming legally obligated for the purchase. The draw of funds is subject to receipt of acceptable appraisal and appraisal review. The WSFR program will send an acknowledgement (via email) that the appraisal and review are acceptable. Other documents will need to be provided to WSFR upon closeout of the grant (Statement of Just Compensation, settlement statement, title vesting evidence, and agreements related to land purchase or management). If a bargain sale is negotiated, a letter signed by the landowner, or his legal designee, must acknowledge they have knowledge of the appraised fair market value of the property and agree to the bargain sale.

4. For a conservation easement, a draft conservation easement, baseline biological report, and management plan must be submitted to the WSFR Grant Manager for review and approval (via email) prior to drawing funds and depositing them into escrow. If a bargain sale is negotiated for the easement, a letter signed by the landowner, or his legal designee, must acknowledge they have knowledge of the appraised fair market value of the easement and agree to the bargain sale.

- A Notice of Federal Participation must be recorded with the deed to the property. The Grantee should contact the WSFR Office for a list of the information that must be present in the recorded notice.

- A copy of closing documents, deed, recorded deed of conservation easement, title insurance, Notice of Federal Participation, financial transaction summary, legal description, and maps of the acquired property, and any other required documents must be submitted to the WSFR Office with, or prior to, providing the final performance report. For a conservation easement, a copy of the final baseline biological report and the final property management plan must be submitted to the WSFR Office with the final performance report and closing documents, or as soon as reasonably possible thereafter.

- If water rights are acquired with grant funds, the final water rights documents must be submitted to the WSFR office with the final performance report. The water rights documents must demonstrate that the water will be secured by the State of California in perpetuity, or for a specific term, for the purposes of the grant. The grantee shall ensure that once acquired, these water rights shall not be diverted off the originally intended area without the written approval of the WSFR Program.

- Prior to accessing funds for the purchase of the water rights, the following conditions must be completed:

1. A certified appraiser (with background in water rights valuation) must conduct an appraisal to verify the current fair market value of the water rights being sold and transferred. A less than permanent transfer of water may be purchased, as long as a fair market valuation is provided and all other conditions of the grant are met.

2. A review of the water rights valuation/appraisal is required. The review may be provided to your agency by contract or through agreement with another state agency. An individual qualified to conduct the appraisals or knowledgeable of the value of water in the State of California must perform this review and document the findings. The grantee must submit each water rights appraisal and water rights appraisal review for approval before becoming legally obligated for the purchase. Any additional costs associated with this outside review are eligible for reimbursement under the grant.

### **Reporting Requirements:**

Report Title	Report Period:	Due Date
Interim Federal Financial Report (SF-425)	08/01/2016-09/30/2017	12/29/2017
Interim Performance Report	08/01/2016-09/30/2017	12/29/2017
	08/01/2016-09/30/2018	12/29/2018
	08/01/2016-09/30/2018	12/29/2018
Final Federal Financial Report (SF-425)	08/01/2016-07/31/2019	10/29/2019
Final Performance Report	08/01/2016-07/31/2019	10/29/2019

All Reports should be sent to [r8fa\\_grants@fws.gov](mailto:r8fa_grants@fws.gov).

Recipients must use the Standard Form (SF) 425, *Federal Financial Report* form for all financial reporting. This form is available at [http://www.whitehouse.gov/omb/grants\\_forms](http://www.whitehouse.gov/omb/grants_forms) or Wildlife and Sport Fish Restoration Toolkit located at: <http://fawiki.fws.gov/display/WTK/Toolkit+Homepage>.

Performance reports must contain: 1) a comparison of actual accomplishments with the goals and objectives of the award as detailed in the approved scope of work; 2) a description of reasons why established goals were not met, if appropriate; and 3) any other pertinent information relevant to the project results. Please include the Service award number provided in the subject line of this letter on all reports.

Financial and performance reporting due dates may be extended by the Service upon receipt of a written request addressed to the Service at [r8fa\\_grants@fws.gov](mailto:r8fa_grants@fws.gov) identifying the type of report to be extended, the requested revised due date, and a justification for the extension. The Service may approve an additional extension if justified by a catastrophe that significantly impairs the Recipient's operations. Requests for reporting due date extensions must be received by the Service no later than one day before the original reporting due date.

### **Significant Developments Reports** (see 2 CFR 200.328(d)):

Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, notify the Service Project Officer in writing as soon as the following types of conditions become known:

- Problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation.
- Favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

### **Conflict of Interest Disclosures:**

Recipients are responsible for notifying the Service Project Officer in writing of any actual or potential conflicts of interest that may arise during the life of this award. Conflicts of interest include any relationship or matter which might place the Recipient, the Recipient's employees, or the Recipient's subrecipients in a position of conflict, real or apparent, between their

responsibilities under this award and any other outside interests. Conflicts of interest may also include, but are not limited to, direct or indirect financial interests, close personal relationships, positions of trust in outside organizations, consideration of future employment arrangements with a different organization, or decision-making affecting the award that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the Recipient, the Recipient's employees, or the Recipient's subrecipients in the matter. Upon receipt of such a notice, the Service Project Officer in consultation with their Ethics Counselor will determine if a conflict of interest exists and, if so, if there are any possible actions to be taken by the Recipient, the Recipient's employee(s), or the Recipient's subrecipient(s) that could reduce or resolve the conflict. Failure to resolve conflicts of interest in a manner that satisfies the Service may result in any of the remedies described in 2 CFR 200.338, Remedies for Noncompliance, including termination of this award.

### **Other Mandatory Disclosures:**

Recipients and their subrecipients must disclose, in a timely manner, in writing to the Service or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting this award. Non-Federal entities that have received a Federal award including the term and condition outlined in 2 CFR 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.338, Remedies for noncompliance, including suspension or debarment (See 2 CFR 200.113, 2 CFR Part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313).

**Indirect Costs:** Indirect costs under this award are approved on the condition that the Recipient will submit an indirect cost rate proposal to their cognizant agency immediately after the award is made and no later than 90 calendar days past the award performance period start date. The Recipient is not authorized to charge indirect costs under this award until the Recipient has received, and provided a copy to the Service Project Officer, an approved Negotiated Indirect Cost Rate Agreement (NICRA) from the Federal government. In the event the Recipient fails to establish an approved rate before the end of the award performance period, the Service may either: 1) deobligate the Federal amount budgeted for indirect costs and, if not otherwise prohibited by legislation or regulation, allow the Recipient to use costs otherwise allocable as

indirect costs to satisfy cost-sharing or matching requirements; or 2) allow the Recipient to transfer the amount otherwise allocable as indirect costs to direct costs. Service approval of such budget changes will depend on the particular award circumstance. Indirect costs otherwise allocable to this award may not be shifted to another Federal award unless specifically authorized by legislation. The Recipient must comply with the approved NICRA agreement.

**System for Award Management (SAM) Registration:** Under the terms and conditions of this award, your organization must maintain an active SAM registration at <https://www.sam.gov/portal/public/SAM/> until the final financial report is submitted or final payment is received, whichever is later. If your organization's SAM registration expires during the required period, the Service will suspend payment under this and all other Service awards to your organization until you update your organization's SAM registration.

**Project/Program Plan and Budget Revisions:**

Recipients are required to report deviations from budget or project scope or objective, and request prior approvals for budget and program plan revisions in accordance with 2 CFR 200.308 unless otherwise specifically waived in this award.

**Grant Period Extensions:**

If additional time is needed to complete the approved project, you must send an SF-424 and written notice to the Service at [r8fa\\_grants@fws.gov](mailto:r8fa_grants@fws.gov). This notice must be received prior to the authorized performance period end date, and must include supporting reasons and revised end date. Extensions for time cannot be authorized for the sole purpose of spending an unused balance of funds.

**Project Contacts:**

The Service Project Officer for this award is:	The Recipient Project Officer for this award is:
Becky Miller, Grant Management Specialist Phone: (916) 978-6185 Cell: (916) 768-2330 Email: <a href="mailto:becky_miller@fws.gov">becky_miller@fws.gov</a>	Mike Boll, Grant Administrator Phone: (916) 445-9302 Email: <a href="mailto:michael.boll@wildlife.ca.gov">michael.boll@wildlife.ca.gov</a>

Please contact Becky Miller with any questions. Please include the Service award number provided in the subject line of this letter in all written communications.

Thank you for your interest and efforts in supporting conservation for fish and wildlife and their habitats.

Sincerely,



Marie Strassburger  
Chief

Enclosure: SF424, Budget and Narrative



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

- Toolkit: SM Chapter Part 522 FW 6
- Handout 7-1 (SWG NOFO)
- Handouts 12-1, 12-2, 12-3, 12-4, 12-5, 12-6 (the sample grant application package) in tab #12

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

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

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# TAB 8

## Module 8

### Real Property Valuation, Match, and Allowable Costs

#### Learning Objectives:

1. Understand the various valuation methods used to determine reasonable cost for interest in real property acquired with WSFR award funds
2. Recognize the standards for appraisals and appraisal review reports
3. Recognize the required credentials for appraisers and review appraisers
4. Identify the requirements and conditions for using land as match
5. Determine the date the applicant becomes legally obligated for a real property acquisition
6. Identify the requirements to acquire land by using a contingent purchase agreement

#### Handouts:

- 8-1 – Appraisal and Appraisal Review Assignment Statements
- 8-2 – Difference between USPAP and UASFLA
- 8-3 – Sample Land Bank Balance Sheet
- 8-4 – Land as Match NOFP
- 8-5 – Waiver Valuation Sample

## Determining Reasonable Cost

WSFR may determine that the cost of real property acquired by a recipient or subrecipient 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.

## Methods of Valuation

### Appraisal Method

**Financial Institutions Reform, Recovery and Enforcement Act of 1989** established a real estate appraiser regulatory system involving the federal government, the states and the Appraisal Foundation.

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council is a federal agency charged with oversight of the state appraisal regulatory programs for real property appraisers including oversight of the Appraisal Foundation which ensures the minimum qualifying criteria to license and certify real estate appraisers are implemented and that appraisers are held to a professional set of ethical standards.

The Appraisal Foundation serves as an umbrella organization for two independent Boards; the Appraiser Qualifications Board (AQB) and the Appraisal Standards Board (ASB). While these boards are independent, the Board of Trustees of the Foundation is responsible for funding, oversight, and appointing members to the Boards.

The AQB establishes the *Real Property Appraiser Qualification Criteria*, or the minimum education, experience, and examination requirements for real property appraisers to obtain a state certification.

The ASB develops the generally accepted standards of practice for the appraisal profession and is responsible for writing, amending, and interpreting the *Uniform Standards of Professional Appraisal Practice (USPAP)*.

## Two Types of Appraisal Standards

The Uniform Standards of Professional Appraisal Practice (USPAP) is the generally recognized ethical and performance standards for the appraisal profession in the United States. USPAP was adopted by Congress in 1989, and contains standards for all types of appraisal services, including real estate, personal property, business and mass appraisal. Compliance is required for state-licensed and state-certified appraisers involved in federally-related real estate transactions. USPAP is updated every two years so that appraisers have the information they need to deliver unbiased and thoughtful opinions of value.

**USPAP Objective:** "To promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers."

The Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA) "Yellow Book" are appraisal guidelines which were developed and originally published in 1971 by the Interagency Land Acquisition Conference to promote uniformity in the appraisal of real property among the various agencies acquiring property on behalf of the United States. The Yellow Book sets out the policy of the Federal Government in acquiring property. The purpose of the Yellow Book is to promote fairness, uniformity, and efficiency in the appraisal of real property in federal land acquisitions. Now in its sixth edition, the new version of the Yellow Book has been restructured to provide clarity and readability, resulting in practical guidance for appraisers, attorneys, and the public.

**Yellow Book Objective:** "To protect the public interest and ensure fair and equitable treatment of landowners whose property is affected by public projects."

**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.

**Restricted Use Appraisal Report** - 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.

**A.** A buyer must obtain appraisal **and** appraisal review reports that conform to the UASFLA (Yellow book) unless the valuation problem qualifies for a waiver valuation.

**B.** Appraisal and appraisal review reports must also conform to the USPAP. The USPAP has procedures that allow the appraiser and review appraiser to accommodate 49 CFR 24 and the UASFLA, which are required by 2 CFR 1402.329. Buyers must ensure that all assignments to appraisers and review appraisers include the following conditions:

**Assignment Conditions for Appraisals:**

- Provide a legal description of the subject property
- State all general assumptions and limiting conditions.
- State all extraordinary assumptions
- State all hypothetical conditions
- Complete the larger-parcel determination
- Show only one highest and best use for each parcel
- State all as intended users (include USFWS/ WSFR)
- State if a jurisdictional exception will apply

**General assumption** means a typical assumption of an appraisal or appraisal-review assignment. General assumptions apply to many or most assignments. Common examples include: *"there are no hidden defects in the property or in the soil."* Or... *"Property is appraised free and clear of liens."*

General assumptions are based on information the appraiser cannot personally verify but must rely upon in order to produce a credible result. Limiting conditions and general assumptions tend to be lumped together making it difficult to distinguish between them.

**Limiting conditions** are a law, regulation, guideline, or other condition that can affect the scope of work of a valuation or appraisal review assignment.

Extraordinary assumptions convey uncertainty and presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property. Let's say you're doing an appraisal on an acreage property that was formerly used as a farm. If you have no knowledge of contamination, you would employ an extraordinary assumption: *This appraisal was developed using the extraordinary assumption that the acreage being valued is assumed free of any environmental hazards, i.e., pesticides, herbicides, underground storage tanks, etc.*

**Extraordinary assumption** is an assignment-specific assumption, as of the appraisal's effective date of value, about uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions.

With regard to Hypothetical Conditions, if used, make sure that they are not really extraordinary assumptions. Hypothetical Conditions assume a condition that is known to be contrary to fact such as when appraising a *proposed* new dwelling with a current effective date, a hypothetical condition is often employed to appraise the dwelling as if it were 100% complete as of the effective date. However, in reality, the property is known to be a vacant lot as of the effective date of the appraisal.

**Larger Parcel** is a tract or tracts of land under the control of a single individual or entity and have the same or integrated highest and best use (consider, contiguity, use and ownership)

**Highest and Best Use (HBU)** is determined by what is physically possible, legally permissible, financially feasible and maximally productive

**Jurisdictional exception** is an assignment condition applicable by law or regulation which precludes an appraiser from complying with a part of USPAP

**Hypothetical condition** is a condition directly related to a specific assignment, which is contrary to what the appraiser knows to exist on the effective date of value and can only be used if it is clearly required for legal purposes, reasonable analysis, or comparison and you include a copy of the UASFLA-required legal instructions, *which must be from the state Attorney General's Office if the acquisition is funded by a grant to a state or state agency.*

**A. Mass appraisal** – The USPAP describes this type of appraisal under Standards 5 and 6. **We do not accept mass appraisals.**

**B. Project appraisal** –The UASFLA describes a project appraisal report in detail, including its format. A project appraisal report may create efficiencies in the reporting of assignment results, but is not a shortcut in the development of the appraisal. Also, a project appraisal report may be used even if a Federal project does not exist under the scope of the project rule in the UASFLA.

(1) A [project appraisal](#) report is acceptable unless litigation is likely, but it must conform to the UASFLA and satisfy the following conditions:

- (a) All parcels are total acquisitions, OR all are partial acquisitions of a nominal or consistent nature, or both.
- (b) All parcels are vacant OR all have similar improvements.
- (c) All parcels are within a geographical area with a relatively similar land-use pattern.
- (d) All parcels have the same or a similar highest and best use.
- (e) The most relevant approach to value is the same for all parcels, i.e., sales comparison, cost, or income capitalization.
- (f) The appraiser can rely on the same array of market data in the valuation of each parcel.

(2) The [project appraisal](#) report should consist of three major parts:

- (a) Introduction, general factual data, and analysis that apply to all properties in the report;
- (b) Individual parcel reports; and
- (c) General exhibits and addenda relating to all or most properties in the report.

### Technical Appraisal Review

In addition to an appraisal WSFR requires preparation of an appraisal review report that conforms to the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA) and the Uniform Standards of Professional Appraisal Practice (USPAP).

Include one of the following conclusions in the report:

- (a) Recommend the appraisal as the basis of the amount believed to be just compensation;
- (b) Accept the appraisal as meeting all the requirements, but do not recommend it as the basis of the amount believed to be just compensation;
- or
- (c) Do not accept the appraisal because it does not meet all requirements.

### Qualifications for both Appraisers and Review Appraisers:

SM Part 520 FW 7.17

**A.** The Appraiser Qualifications Board (AQB) of The Appraisal Foundation is authorized by Federal law to establish qualification criteria for minimum education, experience, and examination requirements for real property appraisers. States have implemented these criteria in ways that may vary in details, but must be at least as stringent as the AQB criteria.

(1) The appraiser and review appraiser must confirm in their respective reports that they hold one of the state-issued credentials listed below that qualifies them for their respective assignments.

- (a) *Licensed Residential Real Property [or Real Estate] Appraiser* qualifies the holder for a valuation assignment on property that is currently residential or has a residential highest and best use. The residential use must consist of (i) non-complex one-to-four units having a transaction value of less than \$1 million or (ii) complex one-to-four units having a transaction value of less than \$250,000. A complex one-to-four unit residential property appraisal is one in which the property to be appraised, the form of ownership, or the market conditions are atypical

(b) *Certified Residential Real Property [or Real Estate] Appraiser* qualifies the holder for a valuation assignment on property that is either currently residential or has a residential highest and best use without regard to transaction value or complexity. The residential use must be no more than one-to-four units and must not include the appraisal of subdivisions for which a development analysis/appraisal is necessary.

(c) *Certified General Real Property [or Real Estate] Appraiser* qualifies the holder for a valuation assignment on all types of residential or nonresidential property without regard to transaction value or complexity.

(d) A credential with a different name than those in (1)(a-c) but with an equivalent scope of practice and equivalent requirements for education, experience, and examination (see *the most recent version of The Real Property Appraiser Qualification Criteria*).

(2) The appraiser and review appraiser must confirm in their respective reports that the credential that qualifies them for the scope of work in their assignments was issued by:

(a) The state where the subject property is located, or

(b) Another state if the state where the property is located recognizes the professional license or certification or allows them to carry out the assignment based on:

(i) A reciprocity agreement,

(ii) The state's temporary-practice requirements, or

(iii) A provision of state law or regulation [review appraiser only].

**B.** The Service and the Department's Appraisal and Valuation Services Office jointly developed online training to address problems that commonly occur in appraisals developed for the Department and its financial assistance programs. Grant managers in the WSFR Program should make recipients aware of this training opportunity. We recommend that all review appraisers and appraisers take the training before starting work on an appraisal review or appraisal. The course is titled **Fundamentals of Real Property Technical Appraisal Reviews** available in DOI Talent. <https://doitalent.ibc.doi.gov/index.php?redirect=0>

**C.** The Chief Appraiser of the Department's Appraisal and Valuation Services Office is responsible for developing qualification standards for appraisers and review appraisers in conformance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (103 Stat. 183; 12 U.S.C. 1331 *et seq.*).

## Administrative Appraisal Review

A. Service staff person must complete an administrative review of each appraisal. An administrative reviewer does not need to be a professional appraiser, but he or she should be able to recognize the critical components of a real property appraisal and have a general understanding of appraisal methods and techniques.

B. The administrative reviewer:

(1) Confirms the accuracy of the factual data and mathematics used in an appraisal report, and

(2) Determines whether the appraisal complies with applicable requirements of 49 CFR 24 and the appraisal standards.

C. The Service must inform the recipient of any errors or omissions that the administrative reviewer identifies and work with the review appraiser to resolve them before the Service approves the acquisition of the subject property.

D. An administrative reviewer must not form an opinion on the quality of the analysis, judgment, or opinion of market value in the appraisal report. An administrative reviewer also must not approve or disapprove the appraisal.

## Life Span of an Appraisal

An appraisal report becomes outdated and should be replaced when its value estimate no longer reflects the conditions in the local real estate market. This may be the result of:

A. Widely publicized or easily monitored changes in:

(1) National economic indicators or the local economic outlook;

(2) The number of comparable sales in the local market;

(3) The market for marketable commodities from the parcel, such as timber; or

(4) Laws, regulations, or ordinances affecting land use.

B. Extraordinary market conditions caused by unforeseen developments such as:

(1) Catastrophic events;

(2) Announcements of plans for construction of a new highway or interchange adjacent to the parcel or a major commercial or governmental facility near the parcel;

(3) Discovery of oil, gas, or other [minerals](#) on or near the parcel; or

(4) Discovery of contaminants on the parcel or in a location that affects it.

If an appraisal report does not become outdated due to an unforeseen event or a widely publicized or easily monitored change affecting the local real estate market.....

A buyer has up to 12 months from its effective date of value to use an appraisal report to:

- (1) Complete the conveyance (or transfer) of the real property, or
- (2) Agree on a purchase price by entering into an option or purchase agreement, either of which may be contingent on one or more of the following:
  - (a) The Service approves the acquisition of the subject property for a specific price during the period of performance of an existing award.
  - (b) The buyer receives sufficient funds to acquire the subject property during the period of performance of an existing award.
  - (c) The buyer receives sufficient funds to be reimbursed for pre-award costs that it incurred to acquire the subject property, with the Service's prior approval, in anticipation of an award and directly pursuant to its negotiation.

Appraisals need to be updated when value estimate no longer reflects the conditions in the local real estate market  
**\*(Must use within 12 months or within life span designated). An extension may be applied for.**

The Service may approve a recipient's request for one short extension of the appraisal's life span if conditions are met in **Part 520 FW 7.23 B (1) (2) & (3)**.

The Service must not approve a second extension of the appraisal's life span.

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## Waiver Valuation Method

- Recipient or subrecipient estimates the value by preparing a waiver valuation following 49 CFR 24.102(c)(2)(ii)
- WSFR must concur with recipient that valuation is uncomplicated (examples of complicated valuations are encumbrances easements, deed restrictions, permit requirements, rapidly changing local real property market)
- Estimated value is \$10,000 or less based on a review of available data.
- WSFR may approve exceeding the \$10,000 threshold up to maximum of \$25,000 if the buyer offers the owner the option of the buyer obtaining an appraisal and appraisal review.

### Waiver Valuation Reports must include:

- Description of qualifications of person developing the waiver valuation and person who decided to use a waiver
- Description of process used to determine estimate of value
- Opinion of value and supporting data

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

The person who prepares the waiver valuation **cannot** be an appraiser, but he/she must understand the local real estate market and have enough understanding of appraisal principles to review the available data, develop a credible opinion of value, and show the basis for that opinion.

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

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

## Administrative Settlement

The Regional Director, the appropriate Assistant Director for a Headquarters-administered program, or a designee of either official must approve an administrative settlement before the buyer can use Federal or matching funds under a financial assistance award. Approval of an administrative settlement must be an extraordinary event. An approving official may approve it only if:

- Reasonable efforts to negotiate an agreement have failed
- It is reasonable, prudent and in the public interest
- Buyer prepares a written justification

Following are examples of when it may be reasonable, prudent, and in the public interest to exercise the administrative settlement method:

- It would avoid unnecessary litigation
- Comparable properties in the local real estate market are rapidly appreciating in value.
- Irreversible damage is imminent to the resources
- The cost of potentially delaying the project because of not acquiring the property offsets the extra cost.
- The subject parcel is essential to achieve the purpose of the project.
- The savings of managing a consolidated ownership outweighs the extra cost

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 (Acquisition Options 3 or 4)

If acquisition option 3 or 4 (exception to the Uniform Act based on state law) are approved and if the state law will affect valuation of the real property, the Regional Director must also request the concurrence of the Chief Appraiser of the Appraisal Services and Valuation Services Office (AVSO) of the Department of the Interior before approving the application. Unless the Chief Appraiser approves otherwise, the appraisal and appraisal review must conform to the requirements of both the USPAP and the UASFLA.

## 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.

**\* Value Determined at Public Auction (49 CFR 24.101 (b) (1-3) is not an approved WSFR valuation method.**

## Recipient Match Requirements

Most WSFR awards have a recipient 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 an application that includes a contribution of real property as match under the following conditions:

**A.** The applicant must show that the in-kind contribution is necessary and reasonable to achieve the purpose of the award.

**B.** Before submitting a financial assistance application that will include a matching in-kind contribution of real property, the applicant or a prospective subrecipient must have already:

(1) Acquired the real property that the applicant intends to propose as an in-kind contribution;

(2) Entered into a purchase agreement, option agreement, or other contractual obligation to acquire the real property that the applicant intends to propose as an in-kind contribution; or

(3) Received a commitment from a non-Federal third party that it will convey real property that it owns to the applicant or to a prospective subrecipient for use as a matching in-kind contribution.

**C.** The purchase agreement, option agreement, or commitment in subsections B(2) or B(3) may be contingent on:

(1) Receiving the award;

(2) The availability of Federal funds; or

(3) The opinion of market value in an appraisal, as recommended by an appraisal review, or an opinion of value in a waiver valuation. However, the recipient is responsible for providing any shortfall between what was committed as match in the application and the opinion of (market) value.

**D.** The in-kind contribution must be consistent with 2 CFR 200.306.

**E.** The in-kind contribution must meet all other requirements for match and the acquisition of real property in the applicable award program.

**F.** If a non-Federal third party commits to make an in-kind contribution of real property to the applicant or to a prospective subrecipient, it must convey the real property in one of the following time frames:

(1) Before the application is submitted, but in anticipation of it; or

(2) After the application and in consultation with the WSFR awards manager to ensure that the awards manager has enough time to review and administratively approve the information and documentation required in section 7.34 so that the conveyance can be completed by the end of the period of performance. See 50 CFR 80.96 on the proportional use of Federal and matching funds for the Wildlife and Sport Fish Restoration programs and the Enhanced Hunter Education and Safety program.

**G.** The applicant must record a Notice of Federal Participation (see sections 7.37 and 7.38).

## **Remaining Land Value as Match**

If the value of a parcel of land is more than needed for match;

**A.** WSFR may approve the applicant's use of the excess match for a later award if:

(1) The purpose of the later award is consistent with the purpose of the original award,

(2) The excess-match share of the value of the in-kind contribution of real property qualifies as an allowable cost of the later award,

(3) The applicant gives us documentation of the exact amount of excess match available and confirms in writing that the excess match was not used in another award, and

(4) The recipient or subrecipient records a Notice of Federal Participation that references the deed or other conveyance document of the parcel acquired.

**B.** The entire in-kind contribution is subject to the regulations that apply to real property acquired under an award after:

(1) The applicant accepts an award in which part of the value of the real property is committed as match, and

(2) The title or other rights to the real property pass to the recipient or subrecipient, if program regulations or policies allow a subrecipient to hold real property.

### **Valuing Third Party Donated Equipment, Buildings and Land**

If a third party donates equipment, buildings, or land, and title passes to a recipient or subrecipient, the treatment of the donated property will depend upon the purpose of the award or subaward, as follows:

1. If the purpose of the award or subaward is to assist the recipient or subrecipient 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 award or subaward (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.

#### NOTES

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## 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 200 Subpart E - Cost Principles

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 of property ownership boundaries
- 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

## Commitment to Purchase

A buyer incurs the purchase price of real property as soon as any of the following actions occur:

**A.** The buyer gives written notice to the seller that it intends to exercise an option to buy the real property, and the exercise of the option is not contingent on:

(1) Receiving the Federal funds, matching cash, or matching in-kind contributions needed for the project;

(2) The Service's approval of the property for purchase; or

(3) The Service's acknowledgement that a prerequisite for purchase conforms to law, regulation, or policy.

**B.** The buyer and seller sign a purchase agreement for the property and the agreement is not contingent on one or more of the conditions stated in subsection A.

**C.** The buyer and seller entered into an option or purchase agreement that was contingent on one or more of the conditions stated in subsection A, but the conditions have been met.

**D.** The buyer conveys the real property to the seller.

## Contingent Purchase Agreement

To acquire land by using a contingent purchase agreement a buyer takes the following actions:

**A.** The buyer and the seller enter into a purchase agreement in which the seller contractually commits to transfer ownership to the buyer if specified conditions are met. For Federal accounting purposes, following is an example of language that would make a purchase agreement contingent on the stated conditions.

The prospective buyer (buyer) and the prospective seller (seller) of real property proposed for acquisition agree:

(a) The buyer has the right, but not the obligation, to end this contract if (i) the buyer does not receive the full amount of funds requested from the U.S. Fish and Wildlife Service for this acquisition project, or (ii) the U.S. Fish and Wildlife Service does not approve the purchase of the property.

(b) The buyer's final decision to buy the property and the owner's final decision to sell the property depend on the opinion of market value in an appraisal report recommended by an appraisal review report, or the opinion of value in a waiver valuation. The buyer is responsible for obtaining the appraisal and appraisal review or waiver valuation. The buyer has the right, but not the obligation, to decline to buy at the tentative purchase price if it exceeds the opinion of market value in the appraisal report or the opinion of value in the waiver valuation. The seller has the right, but not the obligation, to decline to sell at the tentative purchase price if it is less than the opinion of market value included in the appraisal report or the opinion of value in the waiver valuation.

**B.** If the conditions in the contingent purchase agreement are met, the buyer and seller complete the actions required by the specific acquisition alternative or combination of alternatives in SM Part 520 7.14 that the buyer is using to acquire the property.

## NOTES

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## Multi-Year Financing

WSFR may approve an application that proposes to finance the acquisition of real property through more than one award over an extended period or more than one annual apportionment in the programs and subprograms funded by the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act, but not other programs unless regulations or policies specific to those programs explicitly allow it.

## Parcels Unspecified

WSFR may approve an award application when the parcels are not known at the time of the application unless program regulations, program policies, or the Notice of Funding Opportunity on awards.gov requires the parcels to be identified in the application.

The applicant must include in the application's project statement: the criteria for selecting parcels for acquisition, which must be based on the purpose of the award.

As specific parcels are identified for acquisition during the period of performance, the recipient must send WSFR the supporting documents required by SM Part 520 FW 7.34. Although a buyer may enter into an option or purchase agreement contingent on receiving the Service's approval to buy the specific parcel, the buyer must not exercise the option or enter into a final purchase agreement to buy the parcel for a specific price until it receives the Service's approval.

### NOTES

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**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 recipient is reasonable as long as the price paid was the result of an approved valuation method
- ✓ A buyer must obtain appraisal and appraisal review reports that conform to the UASFLA (yellow book) unless the valuation problem qualifies for a waiver valuation. Appraisal and appraisal review reports that conform to the UASFLA must also conform to the USPAP.
- ✓ Match for real property acquisitions can be provided through direct or indirect cash expenditures, in-kind contributions.
- ✓ 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
- ✓ A recipient or subrecipient may enter into an agreement to purchase real property before approval of an award. However, the recipient or subrecipient 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 an award application when the parcels are not known at the time of the application

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## *Exhibit 1a*

### **ASSIGNMENT CONDITIONS FOR AN APPRAISER**

Prepare an appraisal report that conforms to the most recent edition of both the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA or Yellow Book) and the Uniform Standards of Professional Appraisal Practice (USPAP).

Provide a legal description of the subject property sufficient to locate and inspect the subject property. The legal description must describe the rights and interests that make up the subject property and any encumbrances or exceptions to title. If only part of an ownership will be conveyed, the legal description must also locate and identify: (a) any physical part of the real estate to be retained by the owner and (b) any real property rights or interests to be retained by the owner.

State all general assumptions and limiting conditions, which must be appropriate, not alter the assignment, and result in a credible analysis. The general assumptions and limiting conditions must not substitute for inspecting the property or gathering information where feasible and necessary to support the opinion of market value.

State all extraordinary assumptions and use one only if: (a) it is required to develop credible opinions and conclusions, (b) you have a reasonable basis for it, (c) it will result in a credible analysis, and (d) you comply with the USPAP disclosure requirements for extraordinary assumptions.

State all hypothetical conditions and use one only if: (a) it is clearly required for legal purposes, reasonable analysis, or comparison; (b) you include in the addenda of the appraisal report a copy of the UASFLA-required legal instructions, *which must be from the state Attorney General's Office if the acquisition is funded by a grant to a state or state agency*; (c) the hypothetical condition will result in a credible analysis; and (d) you comply with the USPAP disclosure requirements for hypothetical conditions.

Complete the larger-parcel determination required by UASFLA 1.2.7.3.1. Obtain legal instructions if the ownership interests in all parts of the potential larger parcel are not identical. Include in the addenda of the appraisal report a copy of the UASFLA-required legal instructions, *which must be from the state Attorney General's Office if the acquisition is funded by a grant to a state or state agency* (see UASFLA 4.3.4.4).

Show only one highest and best use for each parcel, which may be an integrated use if justified by supporting data. The highest and best use must be an economic use. Noneconomic uses, such as conservation and preservation, are unacceptable. A state agency's intended use of the property is an improper highest and best use unless you conclusively show that private demand exists for that intended use.

Define in the appraisal report any term for a real property interest that is subject to different interpretations.

Confirm in the appraisal report that you hold a credential listed below that qualifies you for the scope of work in this assignment. Indicate which credential you hold and the state that issued it:

(a) *Licensed Residential Real Property [or Real Estate] Appraiser.*

(b) *Certified Residential Real Property [or Real Estate] Appraiser.*

(c) *Certified General Real Property [or Real Estate] Appraiser.*

(d) A credential with a different name than those at (a) through (c) above, but with an equivalent scope of practice and equivalent requirements for education, experience, and examination (see most recent version of *The Real Property Appraiser Qualification Criteria* at [www.appraisalfoundation.org](http://www.appraisalfoundation.org) for these requirements).

Give copies of the appraisal report to the following intended users and authorize them to discuss it with you and each other:

- Recipient and any subrecipient of the Federal grant that funds or leverages acquisition of the subject property.
- The designated review appraiser.
- The U.S. Fish and Wildlife Service's grant manager and his or her designees.

Disregard any perceived pressure from client or landowner to develop a predetermined value or direction in value.

## *Exhibit 1b*

### **ASSIGNMENT CONDITIONS FOR A TECHNICAL REVIEW APPRAISER**

Prepare an appraisal review report that conforms to the most recent edition of the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA or Yellow Book) and the Uniform Standards of Professional Appraisal Practice (USPAP).

Include one of the following conclusions in the report:

- (a) Recommend the appraisal as the basis of the amount believed to be just compensation;
- (b) Accept the appraisal as meeting all the requirements, but do not recommend it as the basis of the amount believed to be just compensation; or
- (c) Do not accept the appraisal because it does not meet all requirements.

Confirm in the appraisal review report that you hold a credential listed below that qualifies you for the scope of work in this assignment. Indicate which credential you hold and the state that issued it:

- (a) *Licensed Residential Real Property [or Real Estate] Appraiser.*
- (b) *Certified Residential Real Property [or Real Estate] Appraiser.*
- (c) *Certified General Real Property [or Real Estate] Appraiser.*
- (d) A credential with a different name than those at (a) through (c) immediately above, but with an equivalent scope of practice and equivalent requirements for education, experience, and examination (see most recent version of *The Real Property Appraiser Qualification Criteria* at [www.appraisalfoundation.org](http://www.appraisalfoundation.org) for these requirements).

Give copies of the report to the following designated users and authorize them to discuss it with you and each other:

- (a) Recipient and any subrecipient of the Federal grant that funds or leverages acquisition of the subject property, AND
- (b) The U.S. Fish and Wildlife Service's grant manager and his or her designees.

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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.

### **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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Land Bank Balance Sheet

8-3

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	<b>\$3,888,840</b>
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	<b>\$17,827,538</b>
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
Skagit TLT - E-2		E-36-HL-1	Barr Creek	\$346,578	<b>\$110,519</b>
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	<b>\$0</b>
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	<b>\$0</b>
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	<b>\$182,401</b>
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

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STATE OF WASHINGTON

AGR

\$65.00

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 Lewis Co, WA

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. 11<sup>th</sup> 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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- 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 12<sup>th</sup> day of August, 2009.

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

Dated: 8/2/09

By: *Peter Goldmark*  
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 *Michael Rollinger*  
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

## **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 #12-1 “**Project Narrative SWG Conservation Easement: Harmony Road Wetlands – Cattail Property**” in Tab #12
- Handout #12-4 “**Appraisal Review Report**” in the sample award application package in Tab #12
- Toolkit: Lands Chapter SM Part 520 FW 7
- Toolkit: 50 CFR 80.131

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

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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?

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3. The State of Grace has an open WSFR land acquisition award 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?

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4. A 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 wants to purchase the property and apply the Waiver Valuation Method to determine market value. May the Waiver Valuation Method be used for this property?

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

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

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# TAB 9

## Module 9

### Managing and Monitoring Real Property Interests

#### Learning Objectives:

1. Understand how the non-Federal entity must use real property acquired under a Federal financial assistance award or with license revenue.
2. Understand the criteria under which recipients may allow additional recreational, commercial, and related facilities on lands acquired, management, or developed with Federal financial assistance awards or license revenue.
3. Explain what is meant by “loss of control” of real property and what State fish and wildlife agencies must do in order to correct a “loss of control”.
4. Recognize the recipient responsibilities for monitoring and maintaining control of WSFR funded projects that occur on real property that financial assistance recipients do not hold title to.
5. Specify the record keeping and inventory requirements for real property acquired with WSFR award funds.
6. Describe the desired functions of a Land Inventory Records System for real property acquired with WSFR award funds.
7. List the essential information fields of a Land Inventory Records System for real property acquired with WSFR award funds.
8. Reconciling recipient land records with WSFR records for an OIG Audit.

#### Handouts:

- 9-1 – Program Income
- 9-2 – Lands Inventory Requirements
- 9-3 – Land Reconciliation Process Best Practices
- 9-4 – Third Party Agreement Best Management Practices

## Managing and Monitoring Real Property Interests

During the award period or performance the recipient must monitor the award and subaward supported activities to assure compliance with all applicable Federal, State and local requirements. Additionally, the recipient must comply with any conditional statements specified in the award letter.

After the award period the recipient or subrecipient has several post-award responsibilities relating to real property acquisition awards:

- 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

### Common Real Property Audit Findings:

- State and WSFR land records not reconciled
- Inadequate land record systems
- Unapproved disposals of lands
- Loss of control
- Boundary encroachments
- Inadequate assurance for public access to property owned by third party

### Suggested Elements of Monitoring Compliance for Real Property

The recipient should establish a Real Property Monitoring System that includes:

- Schedule for monitoring- annually, biannually, quarterly as needed
- Responsible parties (positions) who will conduct monitoring
- Monitoring checklist (inspections of boundaries, physical facilities, signage, public access and proper use.
- Process for remedies

Monitor Land Use for:

- Allowable Recreational Activities
- Allowable Commercial Activities
- Interference

## Use of Real Property

Except as otherwise provided by Federal statute(s) or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the non-Federal entity must not dispose of or encumber its title or other interests (**2 CFR 200.311(b)**).

For awards issued under the Wildlife and Sport Fish Restoration programs, if a grant funds acquisition of an interest in a parcel of land or water, the State fish and wildlife agency must use it for the purpose authorized in the grant (**50 CFR 80.134(a)**). If a grant funds management, operation, or maintenance of a parcel of land or water, or a capital improvement, the agency must use it for the purpose authorized in the grant during the period of performance (**50 CFR 80.134(c)**). The agency must do this even if it did not acquire the parcel of land or water, or the capital improvement, with grant funds.

For awards issued under the Wildlife Restoration, Sport Fish Restoration, and State Wildlife Grants programs, the State fish and wildlife agency may allow commercial, recreational, and other secondary uses of a grant-funded parcel of land, water, or capital improvement if those secondary uses do not interfere with the authorized purpose of the grant award (**50 CFR 80.134(d)** / **522 FW 21.5**).

Recipients may request that the Service confer on the determination that no interference will occur (**522 FW 21.5(d)**). States generally allow fish or wildlife dependent activities (hunting, fishing, trapping, birding, wildlife photography, and wildlife viewing)

No formal definition for “interference” exists in regulation; however, a *Best Management Practice (BMP)* is to consider any activity that may temporarily or permanently impede the parcel of land, water, or capital improvement from serving its authorized purpose, regardless of the scale or scope of the activity.

While the State fish and wildlife agency has the responsibility to determine if secondary uses interfere with the purpose for which the real property was acquired or managed, the Service has the right to review or inspect at any time to ensure such compliance (**522 FW 21.7**).

## Lands Acquired with Hunting and Fishing License Revenue

Lands that are acquired with revenues from protected hunting and fishing license revenue must remain within the control of the State fish and wildlife agency and must only be used for the administration of the State fish and wildlife agency, which includes only those functions required to manage the agency or the fish and wildlife-related resources for which the agency has authority under State law (50 CFR 80.10(c)(1-2)). If not, then the State **fish and wildlife agency risks potentially being placed in a state of diversion (50 CFR 80.21)**.

## Loss of Control of Real Property

### (a) Real Property Acquired with Wildlife or Sport Fish Restoration Funds

If a State fish and wildlife agency loses control of real property, or allows a use of real property that interferes with its authorized purpose, then the agency must fully restore the real property to its authorized purpose (**50 CFR 80.135(a)**). If the agency cannot fully restore the real property to its authorized purpose, then it must replace the real property.

The State fish and wildlife agency may have a reasonable amount of time, up to 3 years from the date of notification by the Regional Director, to restore the real property to its authorized purpose or acquire replacement property (**50 CFR 80.135(f)**). If not, the Director may declare the agency ineligible to participate in the program that funded the original acquisition.

Replacement real property **must**:  
(1) Be at least of equal value at current market price; and  
(2) Have fish, wildlife, and public-use benefits consistent with the purpose of the original grant.  
**(50 CFR 80.135(c)(1-2))**

When acquiring replacement property, the State fish and wildlife agency must obtain the Regional Director's approval of the determination of the value and benefits of the replacement property; and the documentation supporting this determination.

The Service requires written documentation that the State replaced real property. The Service keeps this documentation to demonstrate compliance with Federal regulations (**522 FW 20.4(C)**).

If a State fish and wildlife agency does not use grant-funded real property for its authorized purpose, a diversion occurs only if both of the following conditions apply:

- ✓ The agency used license revenue as match for the grant; and
- ✓ The unauthorized use is for a purpose other than the management of the fish and wildlife-related resources for which the agency has authority under State law.

### (b) Real Property Acquired with Hunting and Fishing License Revenue

If a State fish and wildlife agency loses control of real property acquired with protected hunting and fishing license revenue, then the State fish and wildlife agency is required either to regain management control of the real property or replace the real property with real property of equal value and equal benefits as those originally acquired, or the hunting and fishing license revenue must be restored to the State fish and wildlife agency (**522 FW 20.6**). In order to avoid

diversion, the replacement real property must not be funded with hunting and fishing license revenues.

In such cases, the State must document in writing and enter into State records the replacement of real property or the restoration of hunting and fishing license revenues in order to demonstrate that no diversion has occurred.

**(c) Real Property Acquired with Other Federal Financial Assistance**

If a recipient loses control of real property acquired with Federal financial assistance funding, then the recipient risks becoming noncompliant with Federal statutes, regulations, or the terms and conditions of the Federal award. In such cases, the Federal awarding agency (or pass-through entity) may impose additional conditions, as described in **2 CFR 200.207**.

If the Federal awarding agency, or the pass-through entity, determines that the noncompliance cannot be remedied by imposing additional conditions, then they may impose additional remedies for noncompliance as allowed under **2 CFR 200.338**. Such remedies include, but are not limited to: (1) temporarily withholding cash payments; (2) disallow all or part of the costs of the activity or action not in compliance; (3) suspend or terminate the Federal award; (4) initiate suspension or debarment proceedings; (5) withhold future Federal awards; and (6) take other actions legally allowable.

**Management Control of WSFR funded projects that occur on real property that financial assistance recipients do not hold title to**

The recipient / subrecipient is responsible for accountability and must maintain management control of real property acquired or constructed with WSFR funds and ensure that the acquisition or construction purpose continues to be met throughout useful life of the property.

**Third Party Agreements** (see Handout 9-4)

Should include the following:

- Duration of agreement—Sufficient?
- Useful life—Clearly establish
- Monitoring—Must include a long-term monitoring plan
- Fees—How to use
- O&M responsibilities
- Signage/Program Credit
- Proprietary Interest—What if?

- NOFP—Lease, easement
- Maps/Site Plan—For monitoring
- Compliance—Cite fed & state rules, regulations
- Conditions—Safety, insurance

**WSFR Guidance on Public Access (to property not owned by recipient)**

Public Access – Public access will be determined on a case by case basis. To ensure public access to facilities not owned by the recipient WSFR will place the following Special Term and Condition on all applicable awards:

Legally binding instruments with a third party or subrecipient must:

- Define public as: relating to or involving people in general, rather than being limited to a particular group of people.
- Designate the amount of public access that will be allowed.
- Include the prescribed method used for determining public access to facilities.

The prescribed method used for determining public access to facilities is: *a reasonable number of regularly scheduled and posted hours of availability to the general public for archery and firearms target practice as part of a states hunter education program, closely correlated with award investment while taking into consideration safety and security issues and without impeding requirements such as mandatory membership or excessive fees beyond those needed to offset maintenance and management costs.*

**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)

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



**Exercise: Managing and Monitoring Real Property**

Using the toolkit, review SM Part 522 FW 21 & 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 award. The original purpose of the land was for grassland habitat management for recreational hunting of grassland dependent species. 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?

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2. An 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?

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## Lands Record Keeping

- WSFR must keep all records related to real property acquired or contributed as match on file
- WSFR must maintain all real property records in perpetuity
- Real property records include electronic databases
- The recipient or subrecipient is responsible for maintenance of project records
- The recipient or subrecipient shall maintain current and complete financial, property and procurement records in accordance with requirements contained in the Service Manual
- Recipient land records shall be reconciled with WSFR land records in association with Office of Inspector General (OIG) Audits

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

## General WSFR Standards for Lands Inventory Records System

The cornerstone of a good monitoring program is a strong land inventory records system. The information the system contains assists the recipient in performing its compliance monitoring.

- System information should be easily accessible in a timely manner. Ideally a Land Inventory Records 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

- 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
- This guidance does not exempt States from following Federal regulations regarding record keeping requirements for real property. (e.g. 50 CFR 80.19)

## **Land Record Reconciliation**

The reconciliation process involves three main information categories that must align between the recipient's and WSFR's real property inventories:

- Property Identification
- Funding Source
- Property Size/Water Rights.

### **Property Identification**

Ensure that property records the recipient and WSFR are comparing actually reference the same property, parcel, or tract. Although not limited to these fields, WSFR identifies interests acquired in real property by comparing the following commonly-occurring fields:

- Award Number
- Facility/Area/Property Name
- County
- Grantor/Seller/Vendor
- Type of Interest (Fee interest or partial interest))
- Location information: (PLSS, Latitude/Longitude, or metes and bounds)
- Acquisition Date (Best available or an agreed-upon date)

## **Funding Source(s)**

Funding Source information is necessary to validate and ensure that assets are properly managed as a federally-assisted acquisition and maintained for the purposes of the specific award. Real property used as non-Federal match must be included in the inventory and indicate the program and award it is matching. Administrators can most readily determine funding source according to:

- Federal Award number (FBMS and/or FAIMS), and
- Award Program(s) Identification (CFDA # or program abbreviations)

## **Property Size or Water Rights**

There may be multiple ways the property size (survey vs. metes and bounds) or water rights (cubic feet per second or acre-feet) have been measured or calculated which can result in significantly different values that must be reconciled between the recipient and Federal inventory systems. Award recipients and WSFR personnel can apply a step-down approach that will provide the best available estimate for the reconciliation.

### Acreage Reconciliation Process:

1. Data Comparison
2. Identify discrepancies
3. Follow Data Source Hierarchy
  - Survey
  - Regional Engineer
  - Recorded Deed
  - Title Policy/ Opinion
  - Final Performance Report
  - Arbitrary Agreement

(See handout #9-3 – Land Reconciliation Process Best Practices)

## **Reconciliation Resolution**

Land records are considered reconciled when WSFR and the non-Federal agency have identified all WSFR-related properties in their respective record systems and there is documented agreement regarding property identification, funding source, and property size or water rights.”

## **TRACS Enhancement Real Property Records**

- TRACS Lands Module to house all WSFR land records
- States will have access with WSFR oversight
- Ability to easily update lands records as needed (dispositions, updated acreages, etc)
- Ability to generate reports
- Records can be exported in a variety of formats

### **TRACS Real Property Data Fields:**

- Interest type acquired
- Acquisition Date
- Acquisition Purpose
- Deed Information (date recorded, book and page #, state ID#)
- Encumbrances
- Transaction Parties
- Location (#acres, county, city, state, address, congressional district)
- Summary of Land Costs



**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.



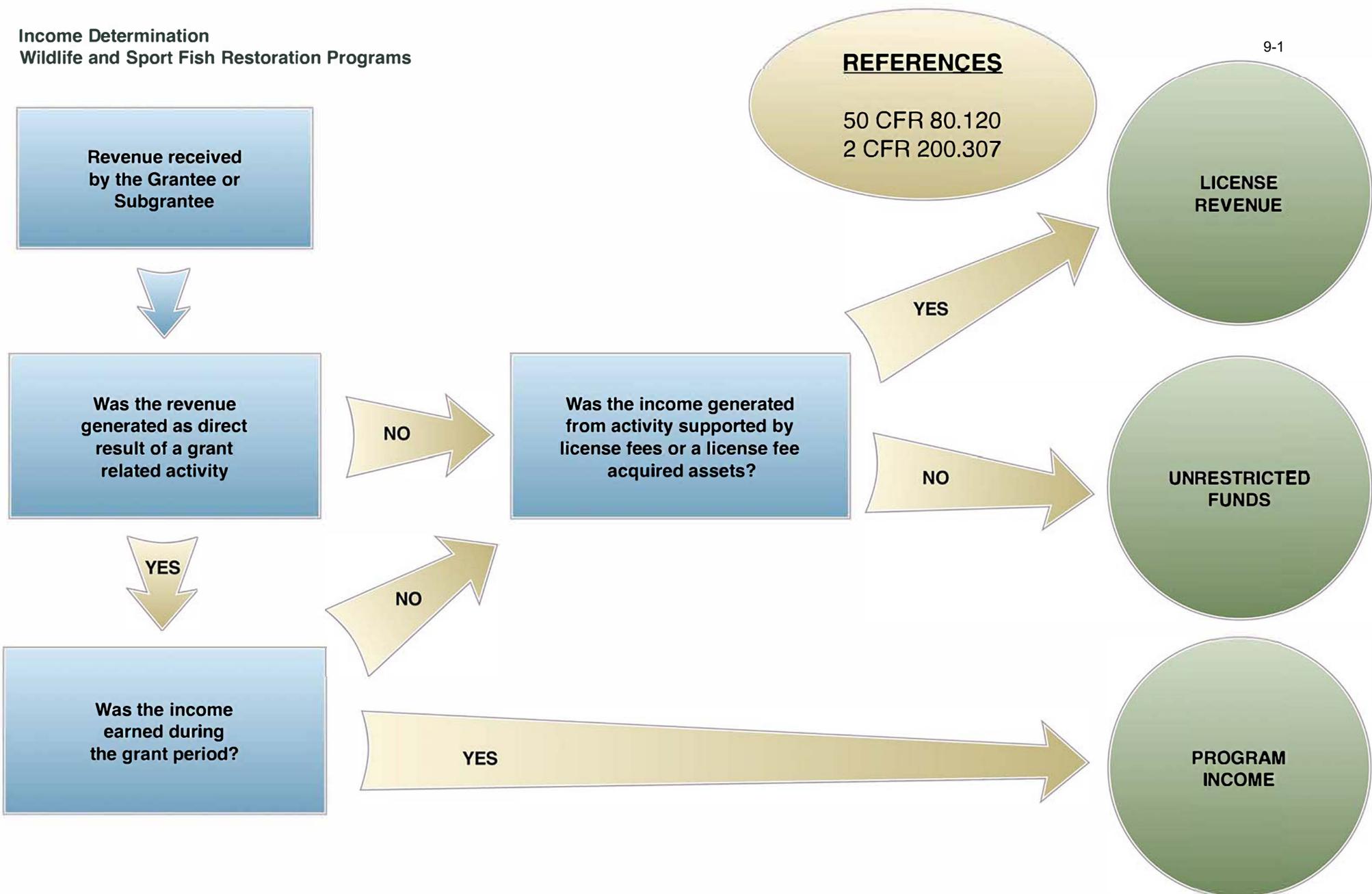
## Learning Points

- ✓ Real property interests acquired with a WSFR award 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 award
- ✓ Commercial activities are allowable to the extent they do not interfere with the primary purpose of the award
- ✓ The recipient must maintain management control and ownership of property acquired with WSFR funding or license fees
- ✓ Income received by a recipient or subrecipient, during an open award period, as a direct result of an award related activity is program income
- ✓ The recipient or subrecipient is responsible for maintenance of project records
- ✓ It is the responsibility of the recipient 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 recipient or subrecipient shall maintain current and complete financial, property and procurement records in accordance with requirements contained in the Service Manual and 2 CFR 200.327, 328 and 329
- ✓ OIG Audits require comprehensive inventory of acquired lands and lands used as match
- ✓ Land records are considered reconciled when WSFR and the non-Federal agency have identified all WSFR-related properties in their respective record systems and there is documented agreement regarding property identification, funding source, and property size or water rights.”

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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. 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 be 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. 2 CFR 200.307(c)

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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 black ink, appearing to read "Kenneth Starnes". The signature is written in a cursive, flowing style.

**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.<sup>1</sup>

**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

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<sup>1</sup> 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.



## WSFR Land Reconciliation Process Best Practices

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Document ID: 2018\_20Sept\_BPOL\_008-A  
 Document Type:  Guidance  Interpretation  Briefing  White paper  Best practices  
 Date Issued: 11/13/2018 - Updated to remove Everglades Restoration Program  
 Date Expires: When replaced or reconciliation is final  
 Status: New  
 Contact: Lisa Van Alstyne, Chief, WSFR Policy Branch, 703.358.1942  
 Becky Miller, Lands and Grant Specialist, WSFR Lands Team, 916.978.6185

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**Summary:** This provides Wildlife and Sport Fish Restoration Program (WSFR) staff best management practices for reconciling land inventory records between financial assistance recipients and WSFR on WSFR-funded real property and water rights acquisitions. The best practices were developed by the WSFR Lands Team (a Team of Regional and HQ staff with interest and expertise in WSFR real property matters) in response to a request from WSFR Chiefs for consistent practices to resolve land inventory reconciliation audit findings. This document also provides details for submitting reconciled documents to the Office of the Inspector General (OIG).

**Program:** WSFR-administered programs that purchase land or other real property.

**Background:** Financial assistance recipients are required to maintain adequate records (that include accurate and complete inventories) and control of all federally-funded real property. This includes full fee acquisitions, less than full fee acquisitions, and partial interests that the recipient or a third party donates as match for a project. Maintaining accurate records helps to ensure that the real property interest is managed for and continues to serve the authorized purposes under the specific award. Requirements for recordkeeping are found at [49 CFR 24.9](#), [2 CFR 200.333](#), and [50 CFR 80.90](#), as well as other regulations specific to individual assistance programs. WSFR Regional offices must also maintain real property records and the Federal records must be consistent with recipient's records. The Department of the Interior, Office of Inspector General, performs WSFR audits and has determined through multiple findings that financial assistance recipients and the WSFR programs have failed to adequately reconcile real property inventories and ensure compliance with these regulatory requirements. These Best Management Practices set minimum requirements for reconciling State and Federal records for real property acquired with WSFR funds.

**Authorities:** Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, ([2 CFR 200](#))

Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs ([49 CFR 24](#))

Administrative Requirements, Pittman-Robertson Wildlife Restoration and Dingell-Johnson Sport Fish Restoration Acts, ([50 CFR 80](#))

Conservation of Endangered and Threatened Species of Fish, Wildlife, and Plants ([50 CFR 81](#))

National Coastal Wetlands Conservation Grant Program ([50 CFR 84](#))

State Wildlife Grant Program ([CFDA 15.634](#))

Great Lakes Restoration Initiative ([CFDA 15.662](#))

Highlands Conservation Act of 2004 ([CFDA 15.667](#))

Coastal Impact Assessment Program ([CFDA 15.668](#))

Director's [letter](#) dated March 29, 2007, requesting States and other financial assistance recipients maintain an accurate and complete inventory of all real property that has been acquired using Federal assistance funding.

**Discussion:** The reconciliation process involves three main information categories that must align between the recipient's and WSFR's real property inventories: *Property Identification*, *Funding Source*, and *Property Size/Water Rights*. Although there may be additional information in the recipient files, the Federal inventory, or the tracking program, these three information categories are the most reliable to ensure that records are consistent. The three information categories identified above consist of multiple pieces of information and data may be contained in one data field (property size/water rights) or multiple data fields (property identification and funding), depending on the nature of the data organization. Land records are reconciled when WSFR and the non-Federal agency have identified all WSFR-funded real property in their respective record systems and there is documented agreement on all real property that aligns the three minimum information categories of property identification, funding source, and property size or water rights.

**Best Practice:** The three information categories identified above may be contained in one data field (property size/water rights) within the TRACS database or multiple fields (property identification and funding) within the TRACS database. In order to reconcile real property records, the person or persons responsible for data entry will concentrate the data recorded on these primary information categories.

**Step 1: *Property Identification*:** Ensure that property records the recipient and WSFR are comparing actually reference the same property, parcel, or tract. Although not limited to these fields, WSFR identifies interests acquired in real property by comparing the following commonly-occurring fields:

- Award Number
- Facility/Area/Property Name
- County
- Grantor/Seller/Vendor
- Type of Interest (Fee interest or partial interest)
- Location information: (PLSS, Latitude/Longitude, or metes and bounds)
- Acquisition Date (Best available or an agreed-upon date)

**Step 2: *Funding Source(s)*:** Funding Source information is necessary to validate and ensure that assets are properly managed as a federally-assisted acquisition and maintained for the purposes of the specific award. WSFR determined that the funding amount or percentage is an unreliable metric due to different ways States record acquisitions with multiple funding sources. WSFR recommends that administrators consult the award and administrative record if there is a question about funding source. Real property

used as non-Federal match must be included in the inventory and indicate the program and award it is matching. Administrators can most readily determine funding source according to:

- Federal Grant number (FBMS and/or FAIMS), and
- Grant Program(s) Identification (CFDA # or program abbreviations)

**Step 3: Property Size or Water Rights:** Property size or water rights the recipient acquires is nearly always recorded in a single inventory field. There may be multiple ways the property size (survey vs. metes and bounds) or water rights (cubic feet per second or acre-feet) have been measured or calculated (from GIS, for example) which can result in significantly different values that must be reconciled between the recipient and Federal inventory systems. In some instances, the number of property records in the inventory can make reconciliation of acreage for every parcel extremely difficult. Award recipients and WSFR personnel can apply a step-down approach that will provide the best available estimate for the reconciliation. The WSFR program has accepted differences with conditions applied to those inventory records for future correction. The Appendix discusses the acreage reconciliation process or approach that can be employed to resolve differences in acreage between the WSFR land inventories and those inventories WSFR financial assistance recipients use.

**Audit Reconciliation Resolution:** When reconciliation is in response to an audit, WSFR requires some form of resolution notification to close out the reconciliation process. Upon reconciliation completion, WSFR must officially address the Corrective Action Plan (CAP) developed in response to the audit findings.

The WSFR Regional Chief will send a letter to the State Agency or other award recipient acknowledging that the reconciliation is complete (inventories match or both agencies are aware of the differences and have agreed on a resolution for each item) and that the finding is resolved. The WSFR Regional Chief should forward this letter as an attachment to the memorandum informing WSFR auditors (Branch Chief, Compliance Branch, FASO Division) of the results of the reconciliation as it relates to the CAP.

The letter to the State Agency or other financial assistance recipient and the “resolution memorandum” from the Regional WSFR Chief to the Chief, Compliance Branch could follow one of three approaches described below depending on the results of the reconciliation:

**(1)** State that the reconciliation is complete and all differences in the inventories have been corrected, and that the finding is resolved. In this situation, WSFR determines there is no need to transmit additional detailed information because all records are reconciled and all issues are resolved and corrected.

**(2)** Include a Summary of Findings and Disposition addressing the finding related to the real property reconciliation. The State agency or other financial assistance recipient will attach to the resolution memo, or transmit under separate cover, the resolution documents that summarize the reconciled inventory. This format is necessary when there are a significant number of corrections. In this case, corrections may not have all been implemented, but are known to both agencies and are in progress.

**(3)** Include an attached report addressing all findings. Agencies use this approach when there are many differences between the financial assistance award recipient and Federal agency inventories and there are many corrections requiring resolution in the future (e.g., replacement property is acquired or funds are returned).

## APPENDIX

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### Acreage Reconciliation Process

The Wildlife and Sport Fish Restoration Program (WSFR) compiled land record data using metadata from the Federal Assistance Information Management System (FAIMS) in December 2011. Each WSFR Region modified the data to reflect additions and changes that have occurred since FAIMS was decommissioned. WSFR staff compared WSFR land records to various State databases and discovered many discrepancies in acreage. Reasons for these differences include transcription errors, estimation errors, and State sales or exchanges following initial acquisitions that were not recorded in WSFR records. A detailed review of the State records will resolve many discrepancies.

Many of the differences, however, are based on how acreage was determined originally. For some acquisitions acreage was based solely on information in the deed. Others were checked and adjusted by the Regional Engineer or other qualified U.S. Fish and Wildlife Service (Service) employee against the original General Land Office (GLO) plats (GLO States only), based on new and more accurate surveys, or converted to digitized acreages for use in geographic information systems (GIS). Ultimately, States did not always report the same acreage as did WSFR.

A simple, but common, example is where the State's initial proposal was based on an option for a standard section of 640 acres. After a Regional Engineer or other qualified Service employee review, they determined that the section only contained 638 acres according to the GLO plat. WSFR may have approved payment based on 638 acres and recorded that number while the state may have recorded the initial 640 acres in their records.

#### *Acreage Reconciliation*

To resolve data discrepancies, we recommend the following hierarchy of documentation:

- (1)** Where an accurate survey was provided or a new survey was completed, the recorded survey acreage should be the official acreage.
- (2)** In the absence of a new survey, the review completed by a Regional Engineer or other qualified Service employee on which the land payment was based, should be considered the official acreage.
- (3)** If no new survey and no qualified Service employee reviews are available, then the recorded deed acreage should supersede other values.
- (4)** Where recorded acreage differs and WSFR cannot determine actual acreage from a survey, a qualified Service employee's review, or a deed, WSFR must find additional supporting information in other documents prior to the proposed purchase (e.g. title insurance, Attorney General's certification of title, etc.) and verified to reinforce the acreage documented. The WSFR Program and the State Agency must agree that the supporting documentation is sufficient.
- (5)** If none of the above are available, then the acreage noted on the summary of land costs the State agency submitted as part of the final performance report, will suffice for

documentation.

**(6)** In the absence of all of the resources listed above, we recommend that arbitrary agreement of acreage be determined mutually by State and Service representatives. Representatives will facilitate the process by recalculating acreage based on the legal description in the deed. As a last resort, grant managers may draw a polygon from the legal description and the most reliable maps available.

Once WSFR and the State Agency have determined the “official acreage” by following the recommended hierarchy of evidence detailed above, the agencies will mutually agree and document the data and how it was determined in both State and WSFR records

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# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



9-4

**SEP 30 2019**

In Reply Refer To:  
FWS/WSFR/AWSR/069186

To: Regional Directors, Attn: Regional Wildlife and Sport Fish Restoration Chiefs

From: Assistant Director, Wildlife and Sport Fish Restoration Program 

Subject: Wildlife and Sport Fish Restoration Management Best Practices for Third-Party Agreements

This memorandum transmits guidance that provides Wildlife and Sport Fish Restoration Program (WSFR) staff best management practices (BMPs) for reviewing grants and advising States on maintaining control of WSFR-funded projects that occur on real property that financial assistance recipients do not own. These BMPs update and supersede the guidance issued on May 24, 2017.

In part, this update addresses concerns from the Office of the Inspector General that WSFR must have a written policy on how it makes decisions for adequate public access. The process reflected in this document allows for Regional staff to work with recipients in a way that considers some basic standards and considerations, but is flexible enough to accommodate project variations in the Federal and State investment as it relates to the public benefits expected under the award. Please note that WSFR staff must include, as part of the award file, details on how public access was determined, using the considerations in these BMPs. Failure to document how we decided on the acceptable amount of public access for each specific award may result in continued audit findings.

The final guidance will be available on the FA Wiki at:  
<https://fawiki.fws.gov/display/WTK/Director%27s+Orders-Rules-Policy-Interim+Guidance>.  
Please contact Ms. Lisa Van Alstyne, WSFR Policy, at 703-358-1942 if you have questions, feedback, or recommendations.



## WSFR Best Practices for Third-Party Agreements

Document ID: 2018\_25October\_BPOL\_006-A  
 Document Type:  Guidance  Interpretation  Briefing  White paper  Best Practices  
 Date Issued: 10/25/2018  
 Date Expires: Expires when updated or moved to other policy document such as a Service Manual Chapter  
 Status: **Update**  
 Contact: Lisa Van Alstyne, Fish & Wildlife Administrator, WSFR Policy, 703.358.1942

**Summary:** This document gives WSFR staff best management practices to consider when reviewing grant proposals and advising States on maintaining control of WSFR-funded projects that occur on real property that financial assistance recipients do not own.

**Audience:** WSFR staff

**Program:** WSFR-administered grants

**Background:** The Office of Inspector General (OIG) auditors cited deficiencies in current guidance for property where WSFR financial assistance recipients do not hold title, but where Federal financial assistance was used to improve property and/or habitat. For example, WSFR recipients commonly build boat ramps and shooting ranges on property owned by a subrecipient or other third party including State agencies (other than the fish and wildlife agency), municipalities, or other partners. When State fish and wildlife agencies are working in these partnerships, they must protect the Federal investment using a legally binding instrument available in that specific State such as, but not limited to, a lease agreement, easement, Memorandum of Understanding (MOU), or Memorandum of Agreement (MOA).

**Authorities:**

1. [Administrative Requirements, Pittman-Robertson Wildlife Restoration and Dingell-Johnson Sport Fish Restoration Acts, \(50 CFR 80\)](#)
2. [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, \(2 CFR 200\)](#)
3. [Useful Life of Capital Improvements Funded by Federal Assistance Grants, \(522 FW 18\)](#)
4. [OIG Report No. R-GR-FWS-0002-2012, Re: Loss of Control of Third-party Agreement on Real Property Bound by an MOU](#)

**Guidance:** Recipients often use funds available under a WSFR award to improve or modify real estate that they do not own. Recipients may also use these funds to provide public access to land or water owned by third parties for activities such as hunting, fishing, target shooting, and boating. Recipients may lease land or acquire easements on property to limit development or other ownership rights. The legally binding instrument recipients use to protect or secure property is essential to maintaining control of the WSFR-

funded project and protecting the Federal interest in the project.

The State fish and wildlife agency may not be able to hold a lease or easement if another State agency owns the site. In these circumstances, WSFR must ensure recipients use a legally binding agreement (e.g., a MOU or MOA) to protect the Federal interest. The definition of grant agreement at 2 CFR 200.51 emphasizes that awards must be used to carry out a public purpose. In discussing financial management, 2 CFR 200.302(b)(4) tells recipients they must have effective control to ensure funds are used solely for authorized purposes. 2 CFR 200.331(d) also addresses the monitoring of subrecipients to ensure the project continues for authorized purposes. 50 CFR 80.134(b) supports this by requiring recipients to use a capital improvement for its authorized purpose during its useful life. Termination during the useful life of assets acquired with WSFR financial assistance or during a specified public access period requires the Regional Director's concurrence under 50 CFR 80.137. WSFR will not approve an award that would allow a subrecipient or third party to: (a) terminate an agreement at its discretion during the project's useful life, or (b) alter public access after a specified period without WSFR's concurrence. WSFR will not allow a recipient to terminate an agreement based on a justification that the circumstances requiring the termination were beyond the control of the subrecipient or third party. Recipients and subrecipients or third parties must mutually agree on any provisions for termination or amendments, including responsibilities and/or compensation should the agreement be terminated early. In the discussion below, we list award components that could affect or be affected by WSFR awards on property where the recipient does not hold title. WSFR staff must review third-party agreements before approving a project and decide whether recipients have considered and/or addressed the following:

**Discussion:**

**A. Compliance** - Include guidance for compliance with Federal and State laws and regulations, and references sufficient to identify those authorities.

**B. Conditions** – Address: each party's responsibilities including operations and maintenance; the conditions for use by the public and any restrictions on such use; enforcement of safety standards; and insurance requirements.

**C. Credit** - Consider whether the agreement will require the third party to acknowledge or give credit to the Federal program(s) in all future reports or advertisements produced that pertain to the project.

**D. Duration** – Ensure the agreement's term is long enough that the benefits received align with the value of the Federal investment.

**E. Liability** – Consider any landowner liability issues for public access required by an award. State laws and landowner insurance policies may help decide whether this should be addressed in an agreement.

**F. Fees** - Consider how to handle any fees charged before and after the capital improvement project has been constructed/completed.

**(1)** Financial assistance recipients must:

**(a)** Clearly describe the fees that subrecipients or third parties may charge for facilities,

**(b)** Notify subrecipients or third-parties of the requirements for notifying the financial assistance recipient if they choose to change any fees, and

**(c)** Include language in the third-party agreement about whether user fees must be used for general operations and maintenance (O&M).

**(2)** Financial assistance recipients may consider using fees received before the end of the period of performance as match using the cost-sharing method for program income.

**G. Maps/Site Plan** - Include maps or a site plan. Maps should show the geographic location of the property to clearly identify location. It is critical to include structures, level of public access, or other public benefits that existed on the property before the WSFR-funded improvement, amenity, or access was added, especially when monitoring. If there is no map of the improvements, WSFR cannot determine what was accomplished when field reviewers are monitoring the project. This is especially important for a future

WSFR-award manager that has no background or familiarity with the award.

**H. Monitoring** – Include a long-term monitoring plan. Recipients must:

- (1) Consider turnover in staffing or changing duties for those responsible for monitoring or maintaining the facility,
- (2) Clearly identify future site-monitoring requirements,
- (3) Insert language in the agreement about State agency staff requirements for site inspections of land and facilities to ensure that they are fulfilling award purposes,
- (4) Communicate how they will manage financial and performance records, and
- (5) Clearly state the rules and processes for future site inspections in award documentation.

**I. Notice of Federal Participation (NOFP)** – For any project that meets the criteria for a capital improvement, we must require and record a NOFP along with the instrument that allows for facilities or structures to be located on the property (e.g., lease, easement, or other legally binding agreement.) For the Boating Infrastructure Grant program the requirement is at 50 CFR 86.18. A WSFR Regional Office may direct or a recipient may require a NOFP even if the project does not meet the threshold for a capital improvement. Alternatively, if the Regional Office approves, the terms of the NOFP could be incorporated in the legal instrument that allows the WSFR-funded improvement to be located on the property. When the Regional Office approves this approach, the instrument does not necessarily need to be recorded in the Recorder of Deeds' office.

**J. Operation and Maintenance (O&M) Responsibilities** - Provide O&M responsibilities of all parties involved. O&M may include (but is not limited to) mowing and vegetation control, litter removal, garbage can placement and removal, restroom services and maintenance, other concessionaire services, general maintenance of facilities and structures, and major maintenance or repairs of facilities and structures. The grant recipient may provide additional O&M responsibilities. If fees are collected, the agreement will include how fees will be used to address O&M and whether further Federal funds may be requested for future O&M.

**K. Proprietary Interest** - Insert language in the agreement that by accepting Federal funds, the financial assistance recipient acknowledges that the Federal Government has a legally prescribed interest in the capital improvement throughout its useful life. Should the subrecipient or third party destroy or alter the use of the capital improvement during its useful life, it must reimburse the recipient in proportion to the cost of the project minus depreciation according to depreciation requirements at 2 CFR 200.436.

**L. Public Access** – When working with a private, third-party entity, States must ensure that the third party understands that Federal funds are being used, which may result in a requirement for some degree of public access. If one of the purposes of a grant project is public access, the third-party agreement must clearly support this. WSFR staff will determine whether public access is adequate on a case-by-case basis. To ensure public access, WSFR will place a special term and condition on all awards where WSFR financial assistance will be used to fund renovation, construction, and/or operation and maintenance on property a subrecipient owns. The special term and condition will stipulate that award recipients (State fish and wildlife agencies) must protect WSFR's investment with a legally binding instrument such as a lease agreement, easement, Memorandum of Understanding (MOU), or Memorandum of Agreement (MOA). For purposes of this process, the term *public* refers to people in general, and is not limited to a particular group. The legally binding instrument must be included in the grant file and:

- Designate the amount of public access.
- Include the WSFR-prescribed method used for determining public access to facilities.

The WSFR prescribed method used to determine the amount of public access is:

- (1) *A reasonable number of regularly scheduled and posted hours of availability must be given to the general*

*public that reflects, at minimum, the amount of the Federal and State investment;*

**(2)** *Hours of operation may take into consideration safety and security issues, but must not impose impediments such as mandatory membership or excessive fees beyond those needed to offset maintenance and management costs;*

**(3)** *If there is potential for closing down a site for targeted, non-public use, the recipient must define a process where the third party must notify the public of any changes in availability and must compensate the recipient when it reduces the minimum public access defined in the agreement. The preferred method is for the third party to offer additional public access at an alternate time that compensates for the interruption; and*

**(4)** *If there are gates, locks, or other controls to access, the third-party must clearly indicate at the control point how the public may gain access to the facility.*

**M. Signage** - If signs are displayed at the facility or structure, include language that gives credit to the Federal financial assistance program that provided funding. Describe any State agency requirement to post signage and maintain signage at the completed project. Signs may include:

**(1)** State agency name;

**(2)** Appropriate WSFR Program symbol and name, and acknowledgement that the WSFR Program funded the project;

**(3)** Acknowledgment of any partners or their logos;

**(4)** Hours of public access;

**(5)** Locations and/or methods of access;

**(6)** Contact information in case of emergency; and

**(7)** Web site address for more information.

**N. Useful Life** - Establish the useful life (see 522 FW 18.5 B), and what would happen in the event the third-party partner chooses to limit use below the minimum required in the agreement or remove the WSFR-funded improvement before the end of its useful life. The agreement should include expectations if the project is still viable beyond the expected useful life, for example, does the project continue to be used in the same manner or does it revert to the total control of the third party. Define the process should unexpected circumstances reduce the useful life of a project. Define how additional operation and maintenance funds from future grants affect useful-life expectations. This could include a situation where there was no initial WSFR-funded or State fish and wildlife agency-funded investment, but only operations and maintenance. In that case, a useful-life assessment may consider how the operations and maintenance could extend the useful life of the existing property and/or associated appurtenances or amenities. Then, appropriate processes and expectations should be included. When determining useful life, recipients must:

**(1)** Clearly define the entire project and project area;

**(2)** Depending on the size and extent of the project, define the useful life of each individual component or the entire project; and

**(3)** Clearly identify the period of the useful life or extended period of the useful life.

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

- Handout #12-5 “**Draft Conservation Easement**” in Tab #12
  - Handout #12-6 “**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?

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

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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?

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# TAB 10

## **Module 10**

### **Reporting Requirements**

#### **Learning Objectives:**

1. Identify and understand the types of reports and reporting frequency requirements for real property awards.
2. Understand the noncompliance requirements resulting from the failure to submit reports by their required due dates.
3. Understand the required elements that must be included in performance reports for real property awards.
4. Recognize the need for and the required elements of a Notice of Federal Participation
5. Understand the requirements concerning reporting on the status of real property acquired with financial assistance funding.

#### **Handouts:**

- 10-1 Determining Reporting Periods and Due Dates for Reports
- 10-2 Sample Final Performance Report Narrative
- 10-3 Sample Summary of Land Costs
- 10-4 Sample Title Insurance
- 10-5 Sample Warranty Deed
- 10-6 Sample Conservation Easement Agreement
- 10-7 Sample Conservation Easement Management Plan
- 10-8 Sample Conservation Easement Baseline Documentation Report
- 10-9 Sample Real Property Performance Report Template
- 10-10 Real Property Status Report (SF-429A)

## Financial and Performance Reporting/Monitoring

Recipients of financial assistance awards are responsible for monitoring and reporting on the financial and performance aspects of their awards. The Federal awarding agency must require the recipient to use OMB-approved standard information collections when providing financial and performance information (**2 CFR 200.301**). The Paperwork Reduction Act requires all Federal awarding agencies to have information collection approval from the Office of Management and Budget (OMB) in order to collect information from the public.

Information Collection Clearance Control Number 1018-0100 (expires 7/31/2021) is used for all Service financial assistance programs and activities.

### Financial Reports

Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved government-wide data elements for collection of financial information (**2 CFR 200.327**). Presently, financial reports are submitted to the Service using the OMB-approved Federal Financial Report (SF-425).

Recipients may submit the SF-425 electronically, scanned, faxed, or mailed to the Regional Office. The form must be signed by the designated individual or official who has been authorized to certify the SF-425 on behalf of the recipient.

The Training Branch has developed a tutorial that explains how recipients of Service awards should complete the SF-425. The tutorial is available on the FWS FA Wiki (<https://fawiki.fws.gov/display/TRNG>).

You can obtain the most current version of the SF-425 at <https://www.grants.gov/> or <https://fawiki.fws.gov/display/WTK/Forms>.

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## Performance Reports

The non-Federal entity is responsible for oversight of the operations of the Federal award. They must monitor their activities under the Federal award to assure compliance with applicable Federal requirements and performance expectations are being achieved (**2 CFR 200.328(a)(1)**).

Unlike the SF-425, there is no standard OMB-approved form for submitting performance reports; however, there are required data elements that must be included with each performance report. Similar to the SF-425, recipients may submit their performance reports electronically, scanned, faxed, or mailed. There is no regulatory requirement for an authorized signature to be included with a performance report.

The Service does not require recipients to pass the reporting requirements for Federal awards on to subrecipients. The recipient is responsible for meeting the reporting requirements of their awards. The recipient may require their subrecipients to submit financial and performance reports to monitor their performance under the Federal award (**516 FW 1.15**).

## Frequency of Reporting

Final Reports: Recipients must submit a final financial and performance report to the Federal awarding agency no later than 90 calendar days after the award period of performance end date or termination date of the award, whichever comes first. For those awards with a period of performance of 12 months or less, the final financial and performance reports are the only required reports, unless the Federal awarding agency imposes additional special terms and conditions to the award as allowed for under **2 CFR 200.207**.

Interim Reports: For awards that last longer than 12 months, recipients must submit interim financial and performance reports at least annually, but no more frequently than quarterly. Annual interim reports are due no later than 90 calendar days after the award has been open for four (4) full quarters (see **Handout 10-1**). Interim reporting period end dates align with the end of each Federal fiscal quarter to include March 31<sup>st</sup>, June 30<sup>th</sup>, September 30<sup>th</sup>, and December 31<sup>st</sup>.

The Service may allow a recipient to use alternate reporting schedule end dates if the recipient provides a valid written justification for changing the date and the Service ensures that the suggested date(s) requires the recipient to submit interim performance reports at least annually (**516 FW 1.11**).

## Extensions for Reports

Recipients may request an extension for either interim or final reports. Recipients must submit extension requests in writing that includes a justification for the extension, the requested revised due date, and the type of report affected.

The Service may approve one due date extension for a maximum of 90 days past the original report due date, unless a longer period is justified by something that significantly impairs the recipients operations. All approve extension requests will be provided in writing to the recipient (**516 FW 1.13**).

## Noncompliance with Reporting Requirements

If the Service does not receive a recipient's report by the due date or the agreed-upon extension date, then the Service must issue a notice of noncompliance (via letter or email), no later than 30 calendar days (but as soon as practical) after the due date or agreed-upon extension date has passed. The noncompliance notice must state:

- The recipient is noncompliant with the terms and conditions of the award;
- The Service must receive the report within the next 10 calendar days of the recipient's receipt of notice. If not, then the Service reserves the right to make no further obligations and payments on the award and suspend the award until it receives the report;
- The Service reserves the right to impose additional conditions as allowed under 2 CFR 200.207 or 2 CFR 200.338; and
- The Service may withhold any other pending awards to the recipient until it receives the overdue report.

If within 10 calendar days of the recipient's receipt of the overdue report notice, the Service does not receive the recipient's overdue report, then the Service may:

- Suspend payments and additional obligations for the award for 30 calendar days. A written notice of suspension must be sent (via letter or email) to the recipient; and
- Consider imposing additional remedy conditions as allowed under 2 CFR 200.338.

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If within 30 calendar days of the recipient's receipt of the overdue report notice, the Service does not receive the overdue report, then the Service may:

- Convert the suspension to a termination. A written notice of termination must be sent (via letter or email) to the recipient; and/or
- Withhold any other pending awards to the recipient.

The Service must report the termination to the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS). This noncompliance information becomes viewable to other Federal awarding agencies.  
**(2 CFR 200.339(b))**

### Performance Reporting for Land Acquisition Awards

TRACS is being designed to serve as the performance reporting platform for WSFR awards. TRACS performance reports are designed to meet the Federal reporting requirements of the Federal award and may not necessarily meet the individual recipient (often States) reporting requirements and purposes.

For land acquisition projects, recipients are encouraged to follow the performance reporting requirements for construction.

*“For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies to monitor progress under Federal awards.” (2 CFR 200.328(c))*

The Federal awarding agency may make site visits as warranted by program needs.  
**(2 CFR 200.328(e))**

The interim or final performance report for land acquisition awards must contain the following information: **(522 FW 6.8)**

1. Summary of Land Costs: Include a schedule showing the seller, acreage, appraised value, price paid, relocation costs, and other costs (appraisal, negotiation, title search, land surveys, etc.) for each tract acquired.
2. Title Vesting Evidence: Provide a certificate by the Attorney General (AG) or other authorized State official that the title to the property acquired is vested in the State. Title insurance policy or title certificate may be substituted for the AG certificate. In cases of condemnation, a final judgement will suffice.

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## Significant Development Reports (2 CFR 200.328(d))

Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity (recipient or subrecipient) must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known.

- Problems, delays, or adverse conditions which will materially impair the ability to meet the objectives of the Federal award.
- Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

## Performance Reports – Required Information and Documents

**Handouts 10-2** thru **10-9** provide a sample of a *Best Management Practice (BMP)* performance report for a real property conservation easement acquisition. The following information must be included in performance reports for a real property acquisition award: **(520 FW 7.39)**

- A. Verify that the transfer of real property, or lease classified as personal property under state law, is complete and legally valid. Include information or documents that enable the Service to locate the property, if not already included in the award application.
- B. Incorporate by reference or attach copies of the following:
  1. Closing statement showing itemized list of all charges, credits, cash paid or received, and all assets exchanged.
  2. Itemized list of the costs of any relocation assistance or benefits provided to a tenant and, if applicable, to the seller.
  3. Acreage (or other more appropriate measure) of the parcel that was acquired. For example, in the case of a grazing permit, the final signed agreement between the recipient and the land management agency controlling the grazing rights. In the case of acquisition of volumes of water, the executed legal document as evidence of ownership of the water described in the purchase option.
  4. Deed, patent, or other conveyance document.
  5. Certificate of title (transactions registered in the Torrens system).
  6. Declaration of taking and final judgment for those acquisitions involving eminent domain.
  7. Lease, assignment of lease, or sublease.
  8. Water stock certificate, certificate of water shares, or any other legal instrument confirming a recipient's or subrecipient's acquisition of water rights.

9. Baseline documentation report and final management plan for a conversation easement.
  10. Notice of Federal participation (see next subsection for information included in a Notice of Federal participation).
  11. Documentary evidence of any of the following actions to protect or settle the title to a full-fee interest or a less-than-full-fee interest. Such evidence could include: (a) Certificate of title from the state Attorney General's Office, or a title company, licensed abstractor, or real estate attorney; (b) Title insurance policy; (c) Declaration or final judgment of the court in a judicial proceeding to remove clouds on the title; or (d) Registration under the Torrens system where there is a low risk of loss of title.
- C. Include references to the locations in the public records of all recorded or registered documents sent in with the performance report, including the number of the book and the page(s).

### Notice of Federal Participation

Recipients must consult their legal counsel on the exact wording and recoding of the Notice of Federal Participation, but it must include the following information, assurances, and signature. **(520 FW 7.38)**

- A. Location of the real property with a reference to the deed or other recorded document that legally describes it, and the name of the owner or interest holder.
- B. A statement that the recipient or subrecipient acquired the real property or received it as a donation or a matching *third-party in-kind* contribution under: (1) a specific award by name, number, effective date, and the name of the recipient (and subrecipient, if applicable), and (2) a specific program by name and CFDA number.
- C. A statement that the U.S. Department of the Interior, U.S. Fish and Wildlife Service, acting through its Wildlife and Sport Fish Restoration program (or other program, if applicable) is the awarding agency.
- D. The authorized purpose of the award and the authorized purpose of the real property acquisition, if different or more specific.
- E. An assurance that the recipient (and any subrecipient) will use the real property for its originally authorized purpose as long as needed for that purpose or any future purpose that is mutually agreed upon by the Service and the recipient.
- F. A statement that the recipient (and any subrecipient) must not authorize or tolerate any activities on the real property that interfere with its originally authorized purpose. If such activities do occur, the recipient (and any subrecipient) must ensure that they stop immediately.

- G. A statement that the recipient (and any subrecipient) must not dispose of, transfer, or encumber the title without Service approval.
- H. A statement that there must be no discrimination on any real property acquired or constructed under the award as long as it continues to serve its originally authorized purpose.
- I. The signature of the director or chief executive of the recipient's agency or organization and the signature of the director or chief executive of any subrecipient agency or organization that will hold the real property.

**Post Award Closure – Reporting on Real Property**

For all financial assistance actions in which real property has been acquired under a Federal award, the recipient must submit reports on the status of the real property (**2 CFR 200.329**). If the Federal interest in the real property is for a period of less than 15 years, then the recipient must submit such reports annually. If the Federal interest in the real property is 15 years or longer, then the recipient must submit such reports within one year of the period of performance end date of the award and then, at a minimum, every five years thereafter (**2 CFR 1402.329(d)(2)**).

When reporting on the status of real property, recipients must use the OMB-approved Real Property Status Report (SF-429A) (**Handout 10-10**) or an alternative approved by the Director, Office of Grants Management (DOI).

During the period of performance, reports must be submitted to the Financial Assistance Officer. After the period of performance, each bureau must establish a process to designate individuals to receive, review, and accept reports. (**2 CFR 1402.329(d)(3)**)

For those real property acquisition awards prior to October 29, 2019, the Federal awarding agency and the recipient must establish due dates for reports going forward.

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**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

- ✓ Final financial and performance reports are due 90 days after the end of the award period of performance.
- ✓ Interim (annual) financial and performance reports are 90 days after the award has been open for four (4) full quarters.
- ✓ The Service does not require recipients to pass the reporting requirements for Federal awards on to subrecipients. The recipient is responsible for meeting the reporting requirements of their awards. The recipient may require their subrecipients to submit financial and performance reports to monitor their performance under the Federal award.
- ✓ Recipients may request an extension for a reporting due date. The Service may approve one due date extension for a maximum of 90 days past the original report due date, unless a longer period is justified by something that significantly impairs the recipients operations.
- ✓ If the Service does not receive a recipient's report by the due date or the agreed-upon extension date, the Service reserves the right to impose additional conditions as allowed under 2 CFR 200.207 or 2 CFR 200.338.
- ✓ 520 FW 7.39 provides the required information and documents that must be included in a performance report for real property acquisition awards.
- ✓ For all financial assistance actions in which real property has been acquired under a Federal award, the recipient must submit reports on the status of the real property. If the Federal interest in the real property is for a period of less than 15 years, then the recipient must submit such reports annually. If the Federal interest in the real property is 15 years or longer, then the recipient must submit such reports within one year of the period of performance end date of the award and then, at a minimum, every five years thereafter.

## Determining the Reporting Periods and Due Dates Reports

<b>Funding Period Effective Date</b>	<b>Annual Interim Report End Effective Date</b>	<b>Annual Interim Report Due Dates</b>
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 2<sup>nd</sup> prevents the 1<sup>st</sup> 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**

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 # FA 000000000**



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 2019 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:**

- Acquire a real property interest (conservation easement) in 175 acres by June 30, 2020. (TRACS Strategy: Real Property Acquisition)
- Develop one Conservation Management Plan by June 30, 2020. (TRACS Strategy: Planning)

**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, 2019.
- 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, 2019.

**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**

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, 2019

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 28,2019  
 Date of Appraisal Review: October 10, 2019  
 Appraised Value (*Yellow Book*): \$105,000

<b>SUMMARY OF PARCEL COSTS</b>	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
<b>Total Costs to Acquire Parcel:</b>	<b>\$133,000</b>	<b>\$99,750</b>	<b>\$33,250</b>
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 flow 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 mailers:

(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, 2019

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 0 52' 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 FA 000000000**, dated September 10 2019, 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, 2019 ("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 FA 000000000, 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, 2019.

*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.

*Alisa 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 15<sup>th</sup>, 2019

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,

*Alvin 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 15<sup>th</sup> day of October, 2019.

Signed Sealed & Delivered *Wendy Watson*  
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, 2019

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 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 S47'55'33"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 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

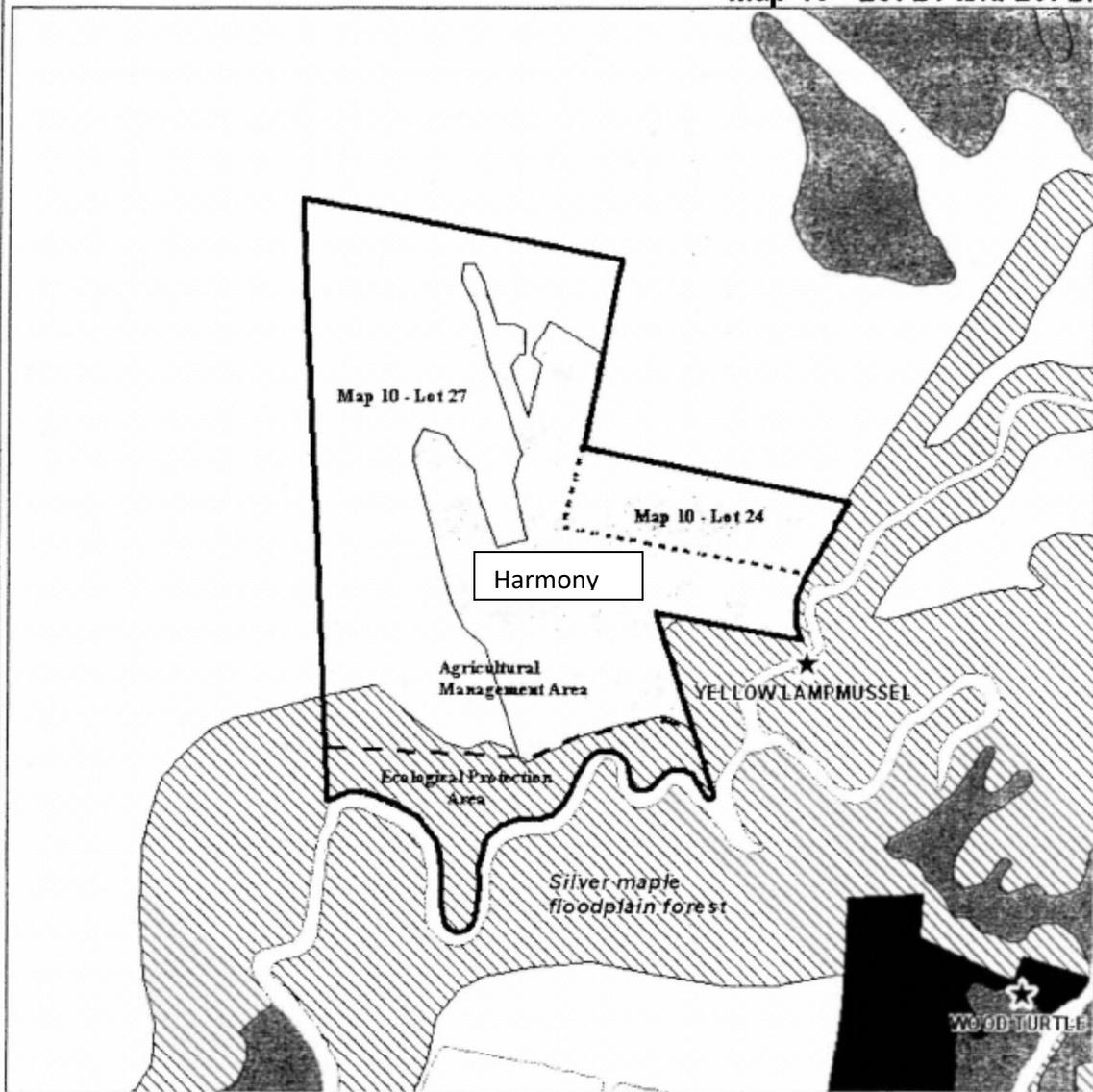
Being those premises deeded to Billy and Betty Cattail in deed recorded in said Registry of Deeds in Book 1696, Page 169.





i EXHIBIT C

Map 10 - Lot 24 and Lot 27



LEGEND

Property Boundary	Prime Farmland Soils	<b>Element Occurrence</b>	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	

**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 **FA 00000000** 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 **FA 00000000**.

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, 2019.

*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, 2019

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 15<sup>th</sup> day of October, 2019

*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: **07/20/22**

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, 2019 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, 2019

Attest:

*Wesley Watson*  
\_\_\_\_\_

*Billy Cattail*  
\_\_\_\_\_ Billy Cattail

State of Grace  
County of Hope

October 15, 2019

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: **07/20/22**

**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, 2020.

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 2021. Continue to conduct surveys for these species.

Information provided above relates to current knowledge about the property. Within the next five years (2020-2025), 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 2021. 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 2022.
- b. Easement Holder, with participation of landowners, should develop action plan for where and how to control invasive plant species, by 2023.

#### **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.

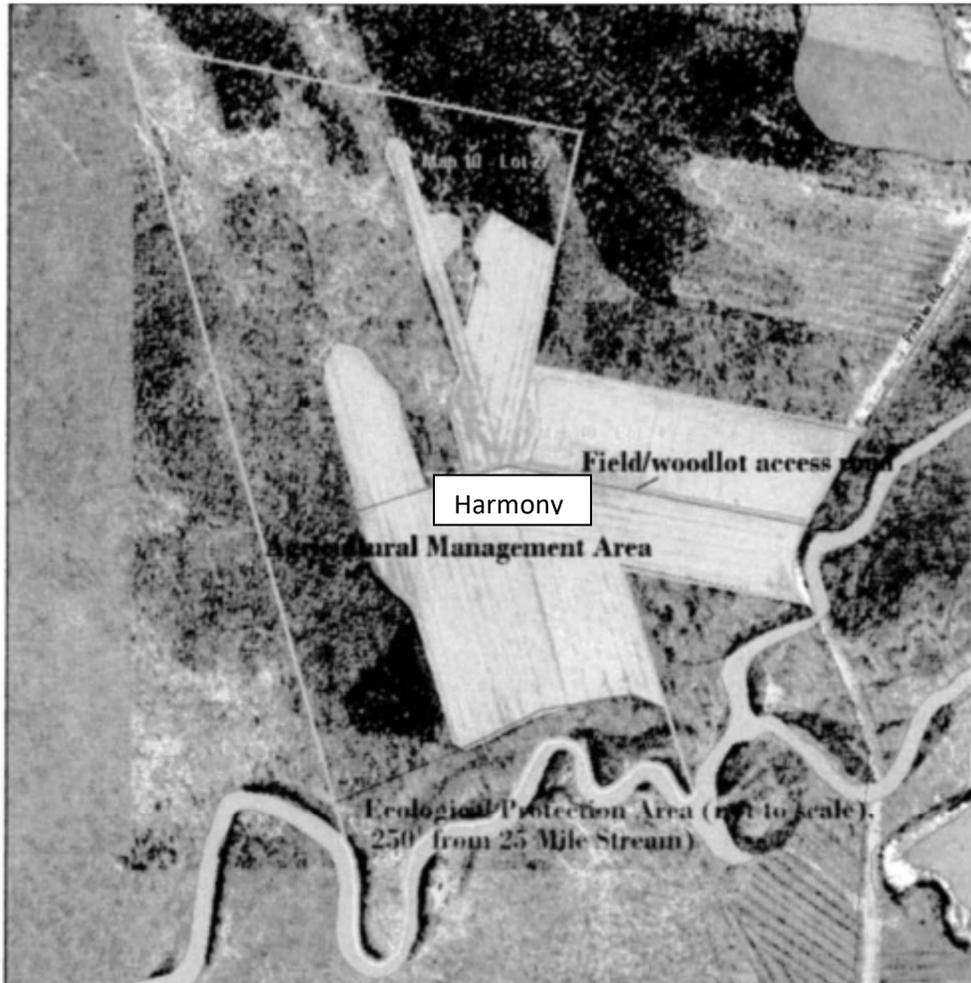
**Objectives and Strategies:**

- 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 2021. 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**

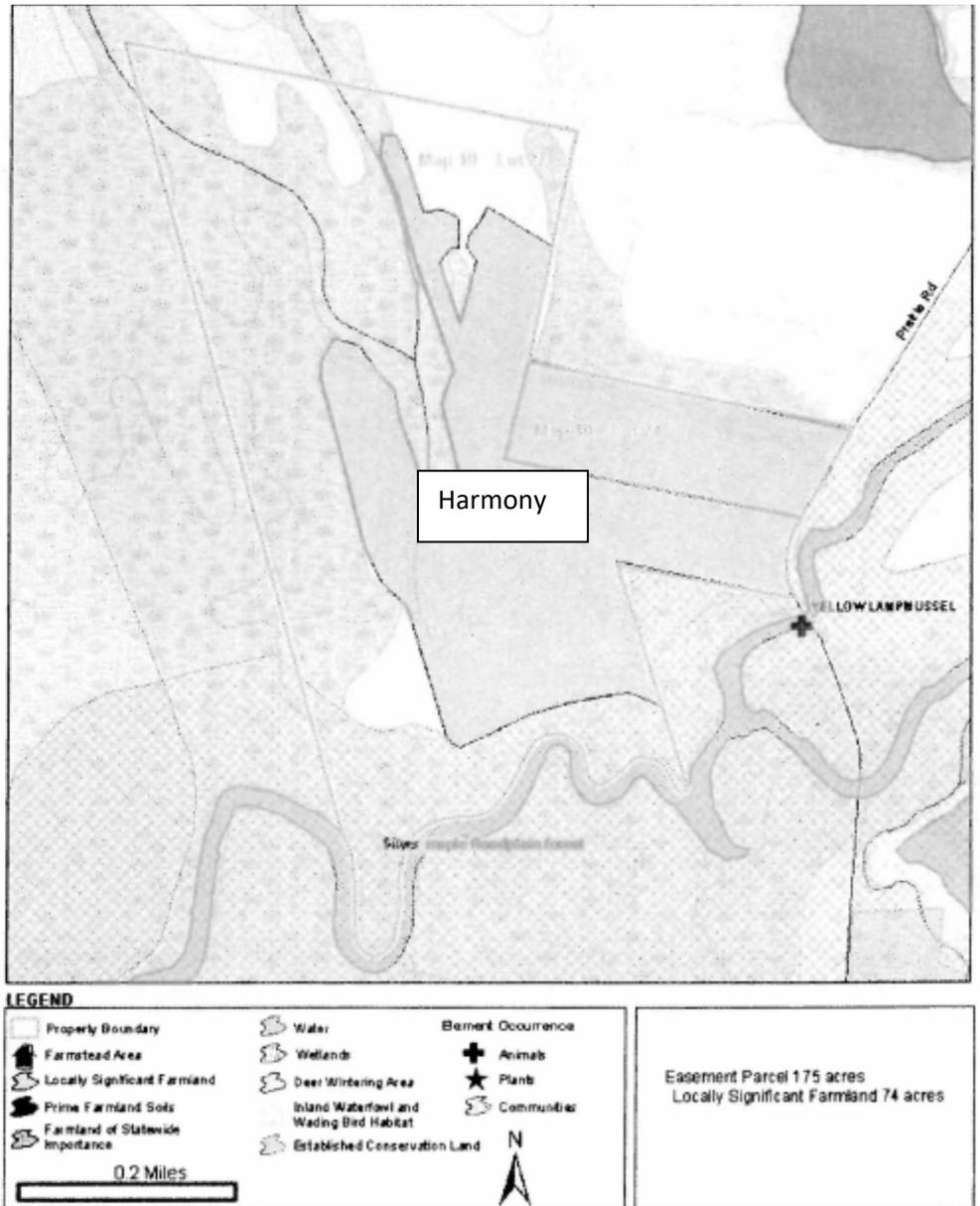


**LEGEND**

Property Boundary	Water	<b>Element Occurrence</b>
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.

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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.

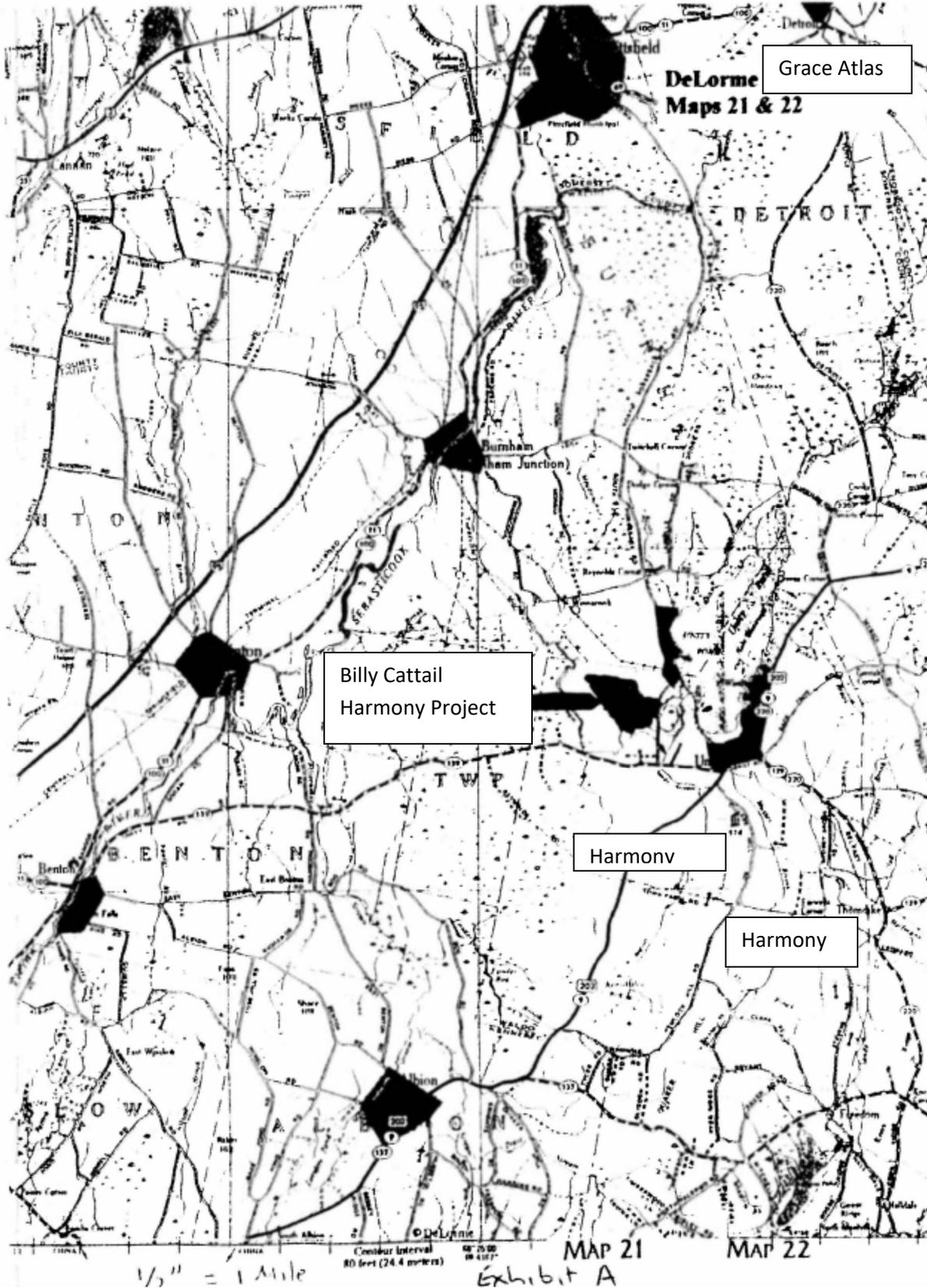
*Alivia Attorney*

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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

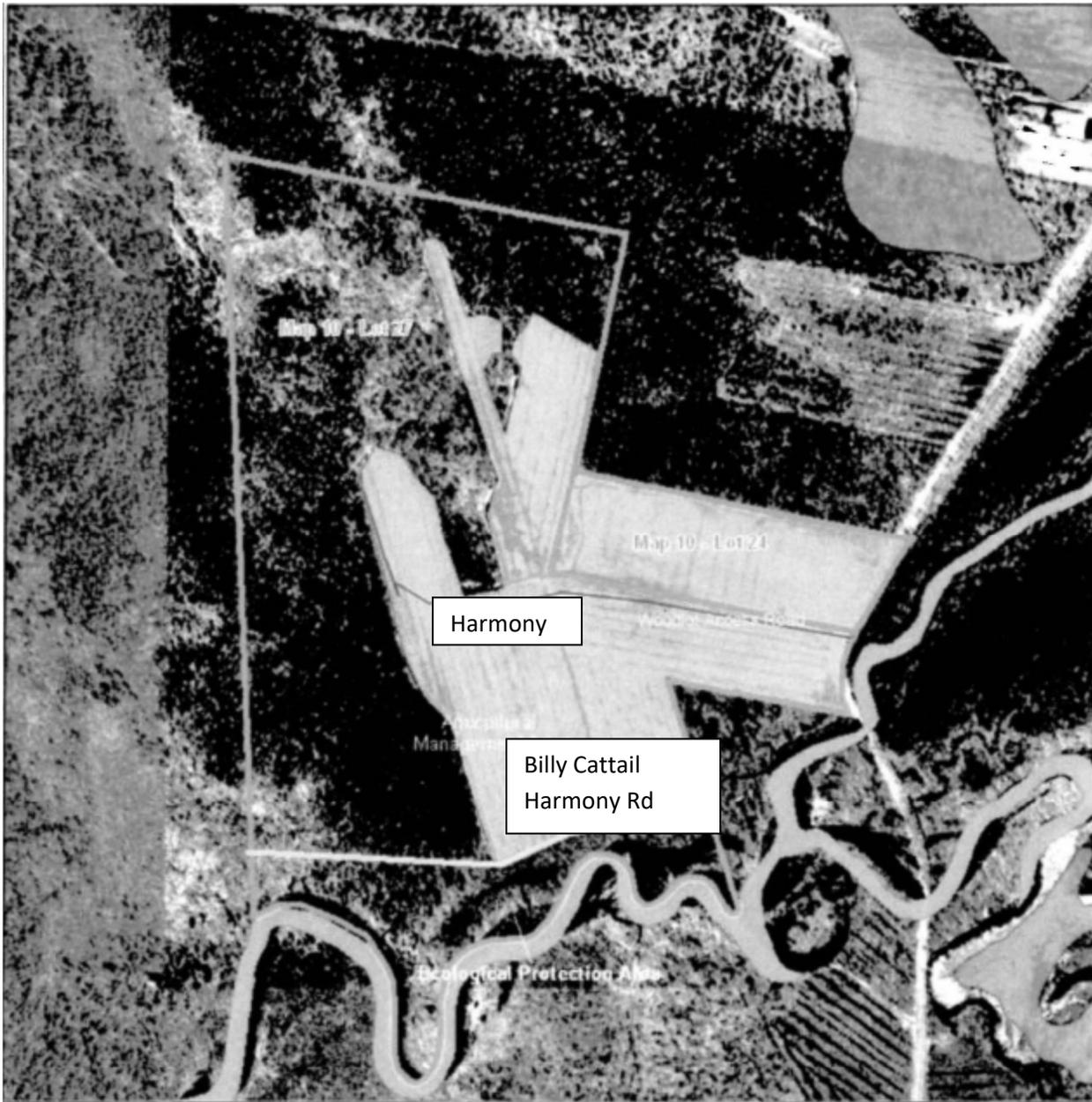




Map 10 - Lot 24 and Lot 2



LEGEND



LEGEND

<ul style="list-style-type: none"> <li> Property Boundary</li> <li> Field Edge Buffer</li> <li> Prime Farmland Soils</li> <li> Farmland of Statewide Importance</li> <li> Locally Significant Farmland</li> </ul>	<ul style="list-style-type: none"> <li> Water</li> <li> Wetlands</li> <li> Deer Wintering Area</li> <li> Inland Waterfowl and Wading Bird Habitat</li> <li> Established Conservation Land</li> </ul>	<p><b>Element Occurrence 'Not Shown'</b></p> <ul style="list-style-type: none"> <li> Animals</li> <li> Plants</li> <li> Natural Communities</li> </ul>	<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  $S\frac{5}{8}$  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  $8S8.46$  feet to a capped  $S\frac{5}{8}$  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  $\frac{3}{4}''$  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  $S\frac{5}{8}$  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  $S\frac{5}{8}$  inch iron rod.

Thence continuing  $N15'02'13''E$  a distance of  $971.84$  feet to a capped  $S\frac{5}{8}$  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  $S\frac{5}{8}$  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  $S\frac{5}{8}$  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  $S\frac{5}{8}$  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  $S\frac{5}{8}$  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*

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# Final Performance Report

(Version 2.4 – revised 6/12/18)

**PERFORMANCE REPORTS ARE DUE WITHIN 90 DAYS OF GRANT COMPLETION DATE**

*Directions, notes, and examples in this template that are **italicized** should be deleted once this template is filled out as a final report and prior to submission.*

## 1. STATE AND AGENCY:

**Report date:** *month day, year*

**Grant number:** *ten-character alpha-numeric Federal grant identifier.*

**Year of grant award:** *Federal fiscal year funding awarded.*

**Grant name:** *As it appears on grant documents.*

**2. REPORT PERIOD:** *Beginning and ending date of the grant.*

**3. LOCATION OF WORK:** *City, State, and latitude/longitude, if available. If statewide, indicate without listing districts and counties.*

**County(ies):**

**Congressional District(s):**

**4. COSTS.** Please summarize sources of federal funds and match and indicate amounts budgeted and spent for each in the table below. Indicate if match is in-kind. Indicate in table whether costs are “Actual” or “Estimated”. Note that a SF-425 is also required, but may be submitted separately.

Source	Budgeted	Actual ___ or Estimated ___
• Federal		
• State		
• Other (specify for each contributing partner)		
Total Federal		
Total Match		
Total Project		

**5. OBJECTIVES.** *Provide comprehensive list of approved project objectives from grant narrative(s), including any objectives added through amendment.*

**6. DESCRIBE HOW THE OBJECTIVES WERE MET.** *Was funding spent as agreed to in the grant documents? Focus response on the activities accomplished with Wildlife and Sport Fish Restoration funding. Of the objectives listed in number 5, explain each one and briefly present*

results (this may be submitted in a table format). For example, with a land acquisition and/or restoration project, at minimum describe the land(s) acquired (including location and acreage), type of acquisition (fee title, easement, etc.), and specific restoration activities implemented. A brief review of results and the context in which they are important will aid Wildlife and Sport Fish Restoration and state agencies in demonstrating that funded work is substantial and beneficial.

**7. DISCUSS DIFFERENCES BETWEEN OBJECTIVES AND WORK ACTUALLY CARRIED OUT WITH WILDLIFE AND SPORT FISH RESTORATION GRANT FUNDS; include differences between expected and actual costs.** *If additional work was performed under this grant that was not captured in the discussion above, or if some of the work anticipated in the grant documents was not accomplished, please explain the differences in approach, results, and costs.*

**8. If the work in this grant was part of a larger undertaking with other components and funding, present a brief overview of the larger activity.** *If the grant funded targeted land acquisitions within a larger acquisition boundary, which is part of a multi-agency acquisition effort to protect and restore habitat, briefly describe (1-2 sentences) the overall goal.*

**9. NUMBER OF TRACTS/PARCELS.** *If more than one parcel is acquired and/or used for match, provide a summary table (attachment) for each parcel(s) associated with the grant.*

**10. SUBMIT ALL OF THE FOLLOWING REQUIRED DOCUMENTS FOR EACH PARCEL WITH THE FINAL PERFORMANCE REPORT** (as applicable for fee title or conservation easement acquisition, or both).

- Fee Title:**
  - Copy of Recorded Deed(s)
  - Copy of Notice(s) of Federal Participation with Book/Page Number
  - Title Insurance Policy or Title Vesting Certificate (indicate which is being provided)
  - Signed Settlement Statement (to verify purchase price and date of sale)
  - Statement of Just Compensation (if applicable; if purchase price is lower than appraised value)
  - GIS Shapefile
  - Three maps of varying scale, from small to large scale, including:
    - location within the State
    - specific location map - perhaps at the county level
    - parcel - a plat map or equivalent
- Conservation Easement:**
  - Copy of Recorded Easement and Notice of Federal Participation
  - Signed Settlement Statement (to verify purchase price and date of sale)
  - Statement of Just Compensation (if applicable; i.e. purchase price is lower than appraised value)
  - Baseline Inventory

- Property Management Plan
- GIS Shapefile
- Three maps of varying scale, from small to large scale, including:
  - location within the State
  - specific location map - perhaps at the county level
  - parcel - a plat map or equivalent

11. List any publications or in-house reports resulting from this work. Provide citations, including status (indicate if not completed), note any that are included with this report, and note where reports or publications may be obtained.

12. Name, title, phone number, and e-mail address of person compiling this report.

**COMPLETE THE SUMMARY TABLE BELOW FOR EACH TRACT/PARCEL (SEE 522 FW 24 FOR DEFINITION OF PARCEL) PURCHASED AND USED FOR MATCH FOR THIS GRANT.** If more than one tract/parcel was acquired and/or used for match a separate table for each is required (*page breaks and formatting may be adjusted to fit the entire table on one page*).

Tract/Parcel Name:				
Unit Name (if different from Tract/Parcel Name):				
Area Name (if different from above):				
State ID Number:				
Seller:				
Date Acquired:				
Interest Acquired (Fee title or CE):				
Titled to/Held by:				
Acreage:				
Township, Range, and Section:				
Latitude/Longitude (of primary access point):				
Boating Access? Y or N				
Encumbrances? Y or N and name of document where they are described				
Date of Valuation:				
Date of Appraisal Review:				
Appraised Value ( <i>Yellow Book</i> ):				
SUMMARY OF PARCEL COSTS	Total	Federal	State	Other
1) Purchase Price:				
2) Relocation Costs, if any:				
3) Appraisal Costs:				
4) Survey Costs:				
5) Closing Costs:				
6) Other Costs: ( <i>DESCRIBE</i> )				
Total Acquisition Costs ( <i>sum 1-6</i> ):				
Notes				



14k. In accordance with the National Historic Preservation Act (NHPA), does the property possess historic significance, and/or is it listed or eligible for listing in the National Register of Historic Places?  Yes  No

If yes, describe them:





15. Has a significant change occurred with the real property, or is there an anticipated change expected during the next reporting period?

Yes  No

If yes, describe the change:





16. Real Property Disposition Status:

A. Sold

B. Transferred to different award

C. Used in other Federally sponsored project/program

D. Transferred title

E. Retained Title

F. N/A

i. If the Federal agency provided the recipient disposition instructions to sell or retain title to the real property, enter the amount of funds owed to the Federal government:

ii. If applicable, enter the amount of any net proceeds from the sale of the real property and describe how the proceeds were distributed:

iii. If the Federal agency directed the recipient to transfer title to the real property, enter the amount of funds the Federal Agency owes:

17. Indicate the cumulative energy consumption for the previous 12 months:

A. Electric (kWh)

or (Btu)

B. Petroleum (Gal)

C. Natural Gas (cu ft)

D. Other

(Specify)

18. Remarks:



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

- **Toolkit: Lands Chapter SM FW 520 7**

1. Use **Handout 10-3, Summary of Land Costs in the sample Final Performance Report Package** to fill in the information listed below. Any missing info?

Seller's name:

---

Buyer's name:

---

Type of interest acquired (fee simple, leasehold etc...)

---

Acreage:

---

Date acquired:

---

Appraised value

---

Purchase price:

---

Closing costs:

---

Appraisal, Survey & other costs:

---

2. Your agency received a public records request from a land conservancy group exercising the Freedom of Information Act. Find and reference the following documents from the **Final Performance Report Package** (handouts #10 2-8): Any missing info?

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

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**TAB 11**

## Module 11 Disposition of Real Property

### Learning Objectives:

1. Understand the process by which a non-Federal entity may dispose of real property interests acquired with Federal financial assistance funding.
2. Explain the process by which a non-Federal entity may dispose of partial interests in real property acquired with Federal financial assistance funds.

### Handouts:

- None

## Disposal (Disposition) of Real Property

When real property is no longer needed for the originally authorized purpose, the non-Federal entity must obtain disposition instructions from the Federal awarding agency or pass-through entity. The disposition instructions must provide for one of the following three alternatives (**2 CFR 200.311(c)**):

(1) Retain title after compensating the Federal awarding agency. The amount paid to the Federal awarding agency is computed by applying the Federal awarding agency's percentage of participation in the cost of the original acquisition (plus any costs of any improvements) to the current, fair market value of the property.

(2) Sell the property and compensate the Federal awarding agency. The amount due to the Federal awarding agency is calculated by applying the Federal awarding agency's percentage of participation in the cost of the original purchase (plus any costs of any improvements) to the proceeds of the sale after deduction of any actual or reasonable selling and fixing-up expenses.

When selling real property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return (**2 CFR 200.311(c)(2)**).

(3) Transfer title to the Federal awarding agency or to a third-party designated/approved by the Federal awarding agency. The non-Federal entity is entitled to be paid an amount calculated by applying the non-Federal entity's percentage of participation in the purchase of the real property (plus any costs of any improvements) to the current, fair market value of the property.

Disposition of real property acquired under a Federal award constitutes a Federal action under NEPA. There is no categorical exclusion (Cat-Ex) for the disposal of real property interests. An example Programmatic Environmental Assessment for small disposals of state real property acquired with WSFR-administered funds is provided in **Handout 11-1**.

Notes:

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## Disposition of Real Property Acquired with Wildlife / Sport Fish Restoration Funds

Prior to disposing of real property acquired under a Wildlife Restoration or Sport Fish Restoration award, the Director of the State fish and wildlife agency **AND** the Regional Director must jointly determine that the real property is no longer needed or that it is no longer useful for its authorized purpose (**50 CFR 80.137**).

Once this joint determination has been made (and documented), the State fish and wildlife may either propose another eligible purpose for the real property under the grant program that funded the original acquisition, or ask the WSFR Regional Office for disposition instructions as required under **2 CFR 200.311(c)**.

The Regional Director must approve a proposed alternative eligible purpose for the real property.

## Disposition of Real Property Acquired with License Revenue

State fish and wildlife agencies may dispose of real property acquired with protected hunting and fishing license revenue without approval of the WSFR Regional Office. The agency must follow State policies and procedures for the disposition of real property.

Income from the sale of real property acquired with license revenue, meets the definition of hunting and fishing license revenue (see **50 CFR 80.20(c)**) and therefore must come back to the State fish and wildlife agency and be controlled only by the State fish and wildlife agency and used only for the administration of the State fish and wildlife agency.

States should document in writing and enter into State records the disposition of real property and ensure that proceeds from the sale of disposition are returned to the State fish and wildlife agency in order to demonstrate that there was no diversion of license revenue (**522 FW 20.6**).

Notes:

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## Exchanging (Swapping) of Real Property

There is no regulatory allowance for the exchanging of a parcel(s) of real property acquired under a Federal financial assistance, for another parcel(s) of real property. WSFR considers a land exchange as two separate real property transactions: (1) a disposal of real property interests; and (2) a new acquisition of real property interests.

WSFR must ensure that both the disposition and acquisition of real property interests are in accordance with Federal statutes and regulations.

## Disposition of Partial Interests in Real Property

Non-Federal entities are required to follow the same procedures at **2 CFR 200.311(c)** regardless of whether they are disposing of real property (fee simple) or partial interests in real property acquired under a Federal financial assistance award.

When disposing of partial interests in real property, the non-Federal entity must demonstrate that the partial interest in real property is no longer needed for the originally authorized purpose and that its disposition will not impact the remaining real property interest's ability to serve the originally authorized purpose for which it was acquired. Prior to the disposition, the non-Federal entity must obtain disposition instructions from the Federal awarding agency or pass-through entity (**2 CFR 200.311(c)**).

Disposition of partial interests in real property acquired under a Federal award also constitutes a Federal action under NEPA. There is no Cat-Ex for the disposal of partial interests in real property. An EA is often required as part of the disposition process.

Prior to disposing of partial interests in real property acquired under a Wildlife Restoration or Sport Fish Restoration award, the Director of the State fish and wildlife agency **AND** the Regional Director must jointly determine that the partial interests in real property are no longer needed or that it is no longer useful for its authorized purpose (**50 CFR 80.137**). Once this joint determination has been made (and documented), the State fish and wildlife must request disposition instructions from the WSFR Regional Office.

Examples of partial interests in real property include:

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



## Documentation for the Disposition of Real Property

Recipients who are proposing to dispose of real property interests should consult with the WSFR Regional Office as soon as is practicable. In the case of real property acquired with Wildlife or Sport Fish Restoration program funding, the Director of the State fish and wildlife agency must justify why the real property is no longer useful or no longer needed for its originally authorized purpose. Depending on the real property interest and each unique situation, the following information may be requested by the WSFR Regional Office.

- ✓ Federal award identification number (FAIN) and Federal funding program name for the original acquisition.
- ✓ Description of the real property interest to be disposed (deed, legal description).
- ✓ Justification for the disposition.
  - In the case of disposition of all real property interests, then the justification should describe why/how the real property interest is no longer useful or needed for its originally authorized purpose.
  - In the case of disposition of partial real property interests, then the justification should describe why/how the partial interest in real property is no longer needed for the originally authorized purpose and that its disposition will not impact the remaining real property interest's ability to continue to serve the originally authorized purpose for which it was acquired.
- ✓ If the recipient would like to request a specific method of disposition, then this should be requested and justified.
- ✓ If applicable, the documentation concerning the real property interest proposed as replacement (for awards issued under Wildlife and Sport Fish Restoration programs, replacement real property must meet the criteria at **50 CFR 80.135(c)(1-2)**).
- ✓ Maps, plats, or other geographic information showing the location of real property interests being proposed for disposition and replacement, if applicable.
- ✓ If applicable, conveyance documents.

Notes:

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**Exercise: Disposal of Real Property**

Use your workbook, **2 CFR 200.311**, **50 CFR 80.130-137**, and **Service Manual Part 522 FW 6-7** 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 city ordinances/codes have been passed to reduce noise and prohibit the discharge of firearms in the area. What options does the state agency have?

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2. The state fish and game agency acquired the land to construct a 1,000 acre fishing reservoir, using SFR federal funds. This included the land to construct fishing piers and boating access facilities. The agency is approached by the nearby city requesting the ability to use the lake to host a triathlon. The city is requesting permission to close down access to the lake for the weekend in order to host the event. During the closure, no access would be allowed for recreational fishing or boating. Is this allowable?

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**Exercise: Disposal of Real Property**

3. The state fish and wildlife agency acquired a 1,000 acre parcel of land, using license revenue, and is maintaining it as a wildlife management area (WMA). The governor plans on taking the land and giving it to Google for them to construct their newest headquarters. Is this allowable? What concerns are there?

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4. May a recipient or subrecipient sell the water and mineral rights from real property they acquired with WSFR funds or contributed as match for a WSFR award?

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

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**Exercise: Disposal of Real Property**

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



## Learning Points

- ✓ Except as otherwise provided by Federal statute(s) or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the non-Federal entity must not dispose of or encumber its title or other interests (**2 CFR 200.311(b)**).
- ✓ For awards issued under the Wildlife Restoration, Sport Fish Restoration, and State Wildlife Grants programs, the State fish and wildlife agency may allow commercial, recreational, and other secondary uses of a grant-funded parcel of land, water, or capital improvement if those secondary uses do not interfere with the authorized purpose of the grant award (**50 CFR 80.134(d) / 522 FW 21.5**).
- ✓ If a State fish and wildlife agency loses control of real property, or allows a use of real property that interferes with its authorized purpose, then the agency must fully restore the real property to its authorized purpose (**50 CFR 80.135(a)**). If the agency cannot fully restore the real property to its authorized purpose, then it must replace the real property.
- ✓ When real property is no longer needed for the originally authorized purpose, the non-Federal entity must obtain disposition instructions from the Federal awarding agency or pass-through entity. The disposition instructions must provide for one of the following three alternatives (**2 CFR 200.311(c)**).
- ✓ Income from the sale of real property acquired with license revenue, meets the definition of hunting and fishing license revenue (see **50 CFR 80.20(c)**) and therefore must come back to the State fish and wildlife agency and be controlled only by the State fish and wildlife agency and used only for the administration of the State fish and wildlife agency.
- ✓ When disposing of partial interests in real property, the non-Federal entity must demonstrate that the partial interest in real property is no longer needed for the originally authorized purpose and that its disposition will not impact the remaining real property interest's ability to serve the originally authorized purpose for which it was acquired. Prior to the disposition, the non-Federal entity must obtain disposition instructions from the Federal awarding agency or pass-through entity (**2 CFR 200.311(c)**).



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

- Handout # 10-6 “**Conservation Easement**” in the sample **Final Performance Report** in Tab #10.

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.

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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?

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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?

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**TAB 12**

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

**State: Grace****Grant Title:** State Wildlife Grant Program #T1-74-L-1**Project Title:** Harmony Road Wetlands - Cattail Conservation Easement**Need:**

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. 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 2017 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 2016, 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 Grace Natural Heritage Database, less than 15% of the State or 3,087,100 acres of land are permanently conserved in Grace.

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. Without the easement, there is no assurance of proper management and protection of the critical resources found on the Harmony Road Wetlands property.

**Purpose**

The purpose of this grant is to provide for permanent habitat protection of native flora and fauna with the greatest conservation need in Grace.

**Objective**

1. Acquire a real property interest (conservation easement) in 175 acres by June 30, 2020.  
(TRACS Strategy: Real Property Acquisition)
2. Develop one Conservation Management Plan by June 30, 2020.  
(TRACS Strategy: Planning)

**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:**

*Objective #1 Acquire a real property interest (conservation easement) in 175 acres by June 30, 2020*

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.

### TRACS Activity Tag 1: Land acquisition

*Objective #2 Develop one Conservation Management Plan by June 30, 2020.*

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 GNAF 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.

**TRACS Activity Tag 1: Land use planning**

**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			
<b>Total Project Cost</b>	<b>\$133,000</b>	<b>\$99,750</b>	<b>\$33,250</b>

**Indirect Costs** - the Department's approved NICRA is 14.00% charged to the base of salaries. A copy of the NICRA is on file in the WSFR Regional Office.

**In-Kind Match:** No in-kind match will be utilized for this grant.

**Pre-Award Costs:** No pre-award costs are requested for this grant.

**Indirect Cost Statement:** "We are a U.S. state government entity receiving more than \$35 million in direct Federal funding each year with an indirect cost rate of 14%. We submit our

indirect cost rate proposals to our cognizant agency. A copy of our most recently approved rate agreement/certification is on file in the Region 5 Headquarters Office.”

**Single Audit Reporting Statement:** Grace was required to submit a Statewide Single Audit report for its most recently closed fiscal year and that report is available on the Federal Audit Clearinghouse Single Audit Database website. The report is filed under the Grace EIN (99-9999999).

**Conflict of Interest Statement:** The Department, at the time of this application, is not aware of any actual or potential conflicts of interest that may arise during the life of this award which may affect the Department, its employees, or its subrecipients. Should an actual or potential conflict of interest arise during the period of performance, then the Department will notify the WSFR Regional Office.

**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, 2019  
Complete Environmental Compliance - September 20, 2019  
Complete Survey and Appraisal - October 15, 2019  
Complete Acquisition - October 30, 2019

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

September 5, 2019  
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  
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September 5, 2019  
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,



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Paul Politician  
Deputy Commissioner

September 21, 2019  
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, 2019 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,



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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
<b>Total Project Cost</b>	<b>\$133,000</b>	<b>\$99,750</b>	<b>\$33,250</b>

## 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  $\frac{5}{8}$  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  $8S8.46$  feet to a capped  $\frac{5}{8}$  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  $\frac{3}{4}''$  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  $\frac{5}{8}$  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  $\frac{5}{8}$  inch iron rod.

Thence continuing  $N15'02'13''E$  a distance of  $971.84$  feet to a capped  $\frac{5}{8}$  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  $\frac{5}{8}$  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  $\frac{5}{8}$  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  $\frac{5}{8}$  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  $0015.98$  feet to the point of beginning containing  $163.8$  acres. All capped  $\frac{5}{8}$  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.

Application for Federal Assistance SF-424		
* 1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application	* 2. Type of Application: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision	* If Revision, select appropriate letter(s): <input type="text"/> * Other (Specify): <input type="text"/>
* 3. Date Received: <input type="text" value="10/01/2019"/>	4. Applicant Identifier: <input type="text" value="W-777-E"/>	
5a. Federal Entity Identifier: <input type="text"/>	5b. Federal Award Identifier: <input type="text"/>	
<b>State Use Only:</b>		
6. Date Received by State: <input type="text"/>	7. State Application Identifier: <input type="text" value="W-777-E"/>	
<b>8. APPLICANT INFORMATION:</b>		
* a. Legal Name: <input type="text" value="State of Grace Inland Fisheries and Wildlife"/>		
* b. Employer/Taxpayer Identification Number (EIN/TIN): <input type="text" value="01-0000000"/>	* c. Organizational DUNS: <input type="text" value="1234567890000"/>	
<b>d. Address:</b>		
* Street1: <input type="text" value="10 State House Road"/>	Street2: <input type="text"/>	
* City: <input type="text" value="Mercy"/>	County/Parish: <input type="text" value="Hope"/>	
* State: <input type="text" value="Grace"/>	Province: <input type="text"/>	
* Country: <input type="text" value="USA: UNITED STATES"/>	* Zip / Postal Code: <input type="text" value="00000"/>	
<b>e. Organizational Unit:</b>		
Department Name: <input type="text" value="Department of Inland Fisheries and Wildlife"/>	Division Name: <input type="text" value="Fish and Wildlife"/>	
<b>f. Name and contact information of person to be contacted on matters involving this application:</b>		
Prefix: <input type="text" value="Ms."/>	* First Name: <input type="text" value="Paula"/>	
Middle Name: <input type="text"/>	* Last Name: <input type="text" value="Projectwriter"/>	
Suffix: <input type="text"/>	Title: <input type="text" value="Federal Aid Coordinator"/>	
Organizational Affiliation: <input type="text"/>		
* Telephone Number: <input type="text" value="(000)000-0000"/>	Fax Number: <input type="text" value="(000)000-0011"/>	
* Email: <input type="text" value="paulaprojectwriter@grace.state.us"/>		

**Application for Federal Assistance SF-424**

**\* 9. Type of Applicant 1: Select Applicant Type:**

A: State Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\* Other (specify):

**\* 10. Name of Federal Agency:**

U.S. Department of the Interior - Fish and Wildlife Service

**11. Catalog of Federal Domestic Assistance Number:**

15.634

CFDA Title:

State Wildlife Grant

**\* 12. Funding Opportunity Number:**

F17AS00035

\* Title:

State Wildlife Grant Program

**13. Competition Identification Number:**

Title:

**14. Areas Affected by Project (Cities, Counties, States, etc.):**

Add Attachment

Delete Attachment

View Attachment

**\* 15. Descriptive Title of Applicant's Project:**

Grace State Wildlife Grant Program Harmony Roads Wetlands Conservation Easement

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

<b>Application for Federal Assistance SF-424</b>	
<b>16. Congressional Districts Of:</b>	
* a. Applicant <input type="text" value="1"/>	* b. Program/Project <input type="text" value="2"/>
Attach an additional list of Program/Project Congressional Districts if needed.	
<input type="text"/>	<input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>
<b>17. Proposed Project:</b>	
* a. Start Date: <input type="text" value="10/15/2019"/>	* b. End Date: <input type="text" value="10/15/2021"/>
<b>18. Estimated Funding (\$):</b>	
* a. Federal	<input type="text" value="99,750.00"/>
* b. Applicant	<input type="text"/>
* c. State	<input type="text" value="33250.00"/>
* d. Local	<input type="text"/>
* e. Other	<input type="text"/>
* f. Program Income	<input type="text"/>
* g. TOTAL	<input type="text" value="133,000.00"/>
<b>* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?</b>	
<input type="checkbox"/> a. This application was made available to the State under the Executive Order 12372 Process for review on <input type="text"/> .	
<input checked="" type="checkbox"/> b. Program is subject to E.O. 12372 but has not been selected by the State for review.	
<input type="checkbox"/> c. Program is not covered by E.O. 12372.	
<b>* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)</b>	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If "Yes", provide explanation and attach	
<input type="text"/>	<input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>
<b>21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)</b>	
<input checked="" type="checkbox"/> ** I AGREE	
** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.	
<b>Authorized Representative:</b>	
Prefix: <input type="text" value="Mr."/>	* First Name: <input type="text" value="Roland"/>
Middle Name: <input type="text"/>	
* Last Name: <input type="text" value="Great"/>	
Suffix: <input type="text"/>	
* Title: <input type="text" value="Commissioner"/>	
* Telephone Number: <input type="text" value="(555)000-0000"/>	Fax Number: <input type="text" value="(555)000-0011"/>
* Email: <input type="text" value="rolandgreat@grace.state.us"/>	
* Signature of Authorized Representative: <input type="text" value="Roland Great"/>	* Date Signed: <input type="text" value="09/01/2019"/>

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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 project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, 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 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 progressive 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 of 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.
20. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL <i>Roland Great</i>	TITLE Commissioner
APPLICANT ORGANIZATION State of Grace Inland Fisheries and Wildlife	DATE SUBMITTED 09/15/2019

SF-424D (Rev. 7-97) Back

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, 2019

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, 2019

September 10, 2019

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, 2019, and Report Date of October 24, 2019, prepared by Robert Reportwriter

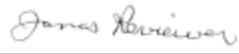
Dear Ms. Gatekeeper:

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, 2019; the date this review report was prepared and signed is October 10, 2019.

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, 2019

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.

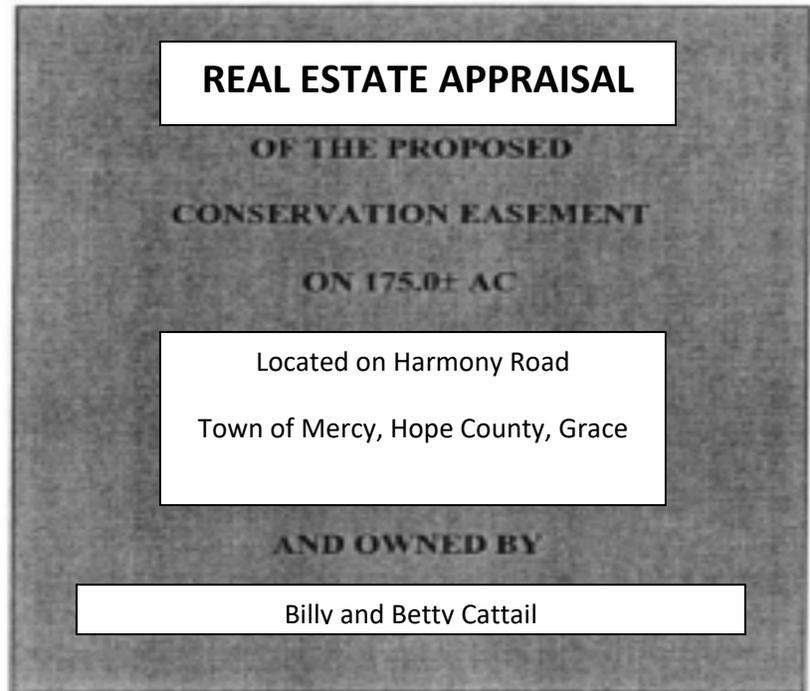
#### Appraiser's Opinion of Value:

Subject Property Value: Before \$175,000 After (if applicable) \$70,000

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, 2019

Prepared by:  
LLC APPRAISAL COMPANY  
WEBSITE: [www.lcappraisal.com](http://www.lcappraisal.com)

**LLC APPRAISAL COMPANY**

**4, Representative Street Suite 100**

**Mercy, Grace 00000**

**WEBSITE: [www.llcappraisal.com](http://www.llcappraisal.com)**

Cindy C. Harvester, Executive Director

Grace Farmland Trust Fields and Forest Forever Program

Box 0000

Turkey Trot, Grace 00010

October 12, 2019

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, 2019 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 Award **Number FA000000000**, dated September 10 2019, 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, 2019 ("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, 2019.

*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.

*Alvin 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, 2019

Friends of Mercy Wetlands  
By: Name: Richard The Lionhearted

*Richard Lionhearted*

\_\_\_\_\_  
Title: Chair

**17. HOLDER ACKNOWLEDGEMENT.**

STATE OF GRACE  
COUNTY OF HOPE Date: October 15<sup>th</sup>, 2019

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,

*Alvin 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 15<sup>th</sup> day of October, 2019.

Signed Sealed & Delivered *Wesley Watson*  
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, 2019

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  $\frac{5}{8}$  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  $\frac{5}{8}$  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  $\frac{3}{4}$ " 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 N72'01'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  $\frac{5}{8}$  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  $\frac{5}{8}$  inch iron rod.

Thence continuing N15'02' 13"E a distance of 971.84 feet to a capped  $\frac{5}{8}$  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  $\frac{5}{8}$  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  $\frac{5}{8}$  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  $\frac{5}{8}$  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 S47'55'33"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.

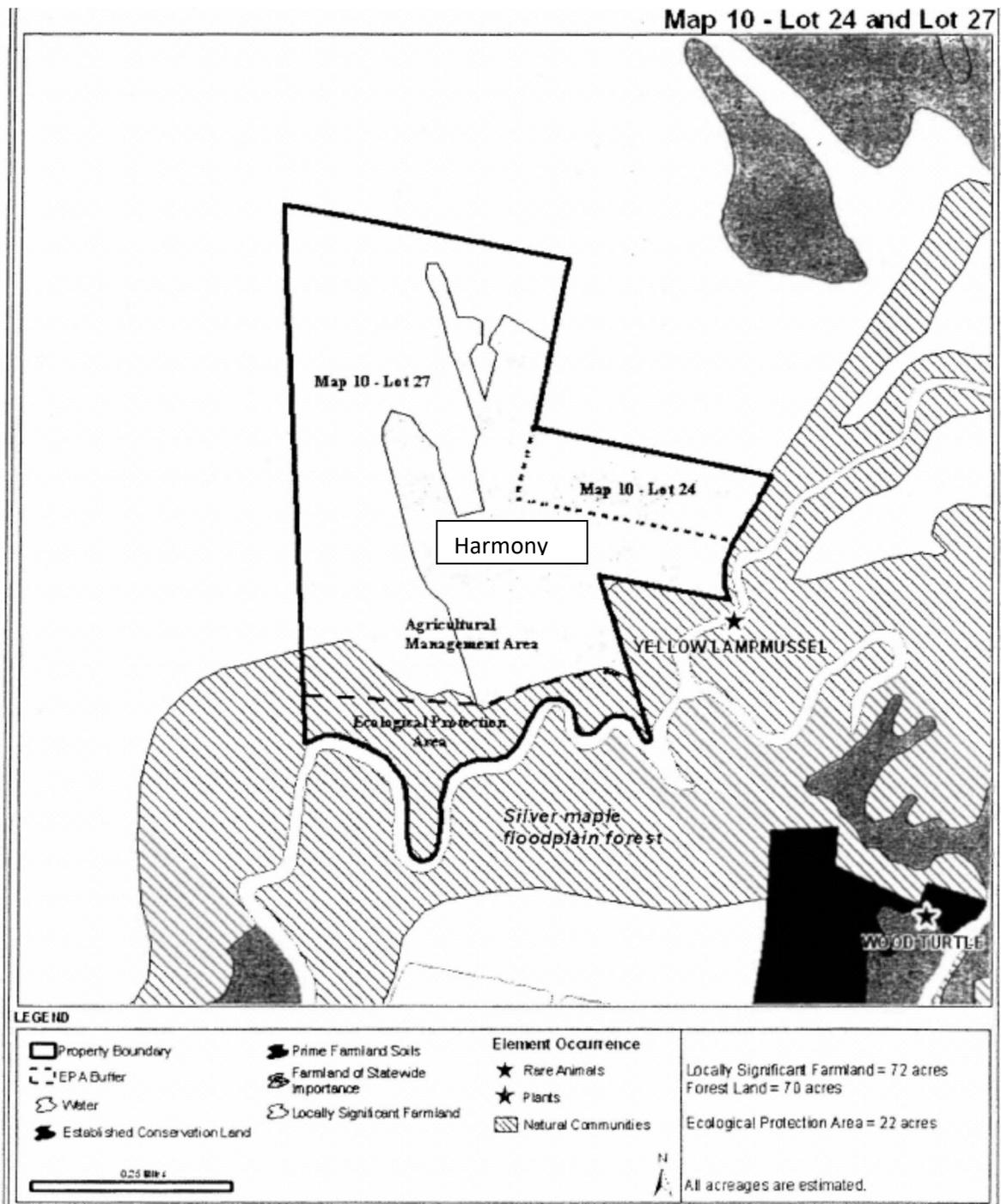
Thence following the westerly side line of the Harmony Road along a curve to the left with a radius of 550.37 feet and a distance of 1015.98 feet to the point of beginning containing 163.8 acres. All capped  $\frac{5}{8}$  inch iron rebar are scribed PLS 351. All bearings are observed magnetic north 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.

DRAFT



i EXHIBIT C



**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 **FA 00000000** 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 **FA 00000000**.

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, 2019.

*Roland Great*

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State of Grace  
Department of Inland Fisheries and Wildlife  
By: Roland M. The Great, Commissioner

State of Grace, County of Hope

October 15th, 2019

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 15<sup>th</sup> day of October, 2019

*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: **07/20/22**

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, 2019 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, 2019

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: **07/20/22**

**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, 2020.

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 2021
- 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 2021. Continue to conduct surveys for these species.

Information provided above relates to current knowledge about the property. Within the next five years (2020-2025), 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 2020. 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 2021.
- b. Easement Holder, with participation of landowners, should develop action plan for where and how to control invasive plant species, by 2022.

#### **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.

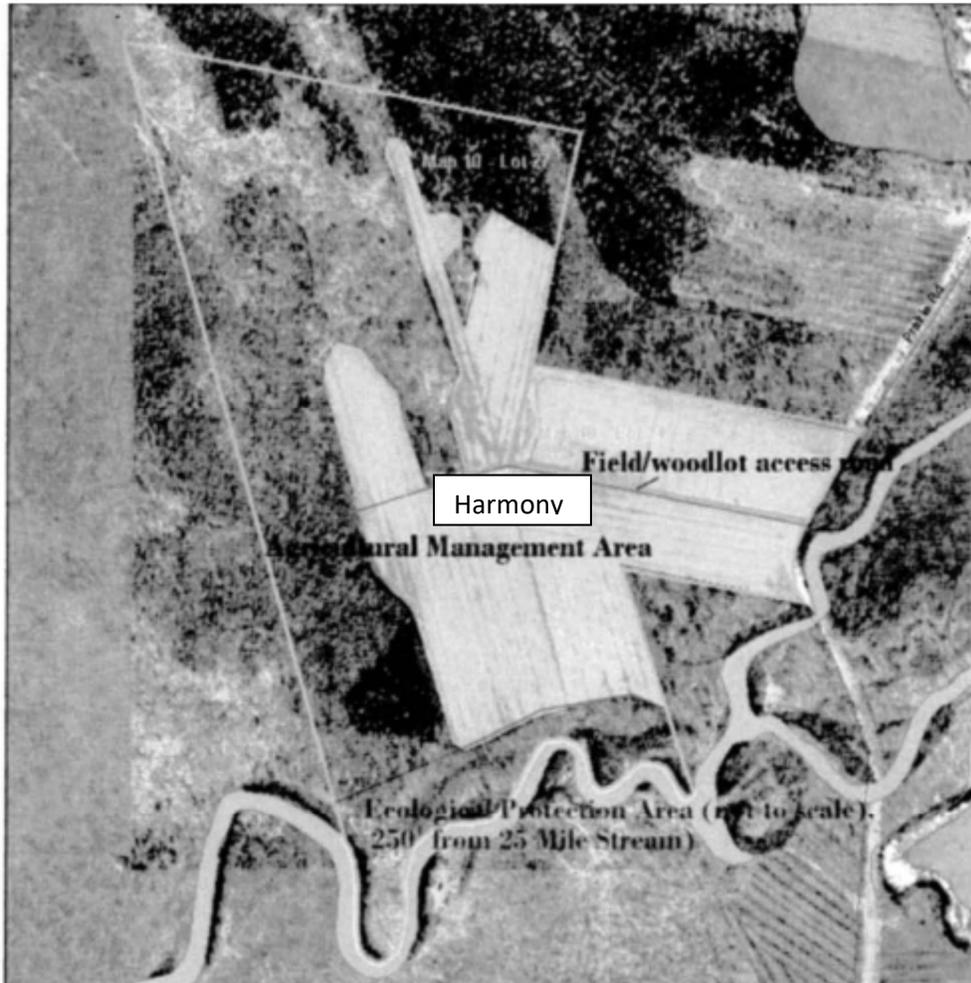
**Objectives and Strategies:**

- 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 2021. 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**

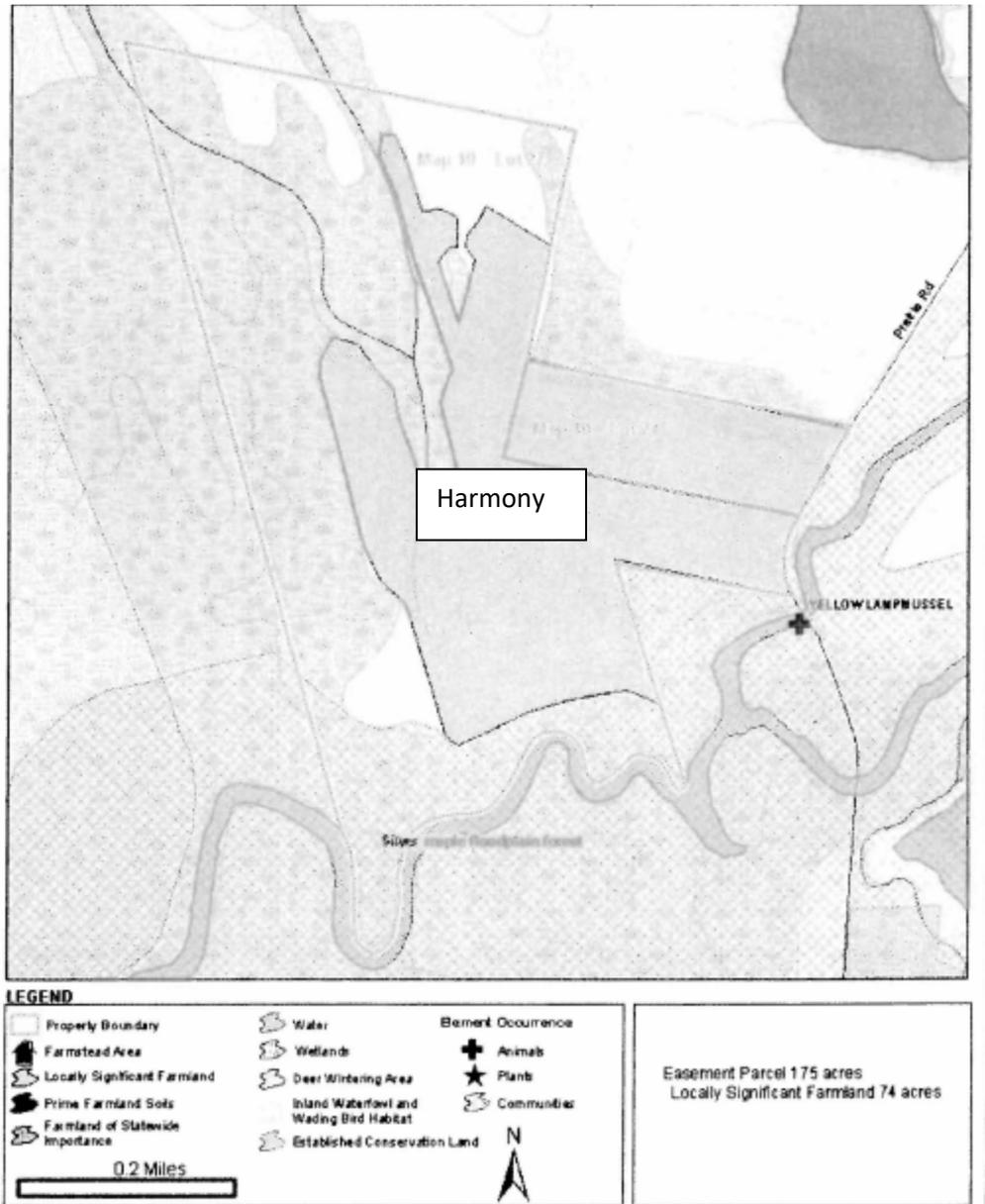
Property Boundary	Water	<b>Element Occurrence</b>
Farmstead Area	Wetlands	Animals
Locally Significant Farmland	Deer Wintering Area	Plants
Prime Farmland Soils	Inland Waterfowl and Wading Bird Habitat	Communities
Farmland of Statewide Importance	Established Conservation Land	

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.

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12-6

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# TAB 13



For Immediate Release: December 5, 2019  
 Contact: Elena DeLacy  
 Phone: (530) 621-1224  
 Email: [elena@arconservancy.org](mailto:elena@arconservancy.org)

### **Wildlife Habitat and Working Lands Preserved on the Cosumnes River**

Recent efforts to protect a property known as Ervin Ranch on the Cosumnes River in El Dorado County reached a notable milestone on December 5, 2019. The cooperative effort by the American River Conservancy (ARC), California Department of Fish and Wildlife (CDFW), Wildlife Conservation Board (WCB), California Natural Resources Agency (CNRA) and United States Fish and Wildlife Service (USFWS) has succeeded in protecting a total of 1,737 acres of oak woodlands, rangeland, riparian corridors and salmon-spawning habitat. This most recent conservation accomplishment, spearheaded by local land trust ARC, complements the recent multi-phased acquisition of 3,157-acres of the El Dorado Ranch, just upriver of the Ervin Ranch. Both ranches, once slated for residential development, will become the first Wildlife Area in El Dorado County.

WCB provided \$1,366,500 in purchase funding, while ARC raised \$1,000,000 in funds from the Environmental Enhancement and Mitigation Grant Program administered by CNRA. \$7,183,500 of purchase funding was provided by USFWS through Wildlife Restoration Act grant funds directed through CDFW. CDFW will own and manage the property as a unit of the El Dorado Ranch Wildlife Area.

Ervin Ranch is located just southwest of El Dorado Hills and southeast of Folsom along the Cosumnes River in western El Dorado County, California.

The acquisition protects nearly one mile of river frontage and spawning gravels for steelhead and winter-run Chinook salmon. Portions of the property are identified as Priority Conservation Areas for Oak Woodlands in El Dorado County's General Plan, and the property is also a "working landscape", preserving seasonal rangelands in the western part of El Dorado County.



"The Ervin Ranch purchase protects an important wildlife movement corridor and a prime stretch of the Cosumnes River for wild salmon. The Cosumnes is unique in the Sierra because it is a free-flowing river system with no major dams." said Elena DeLacy, Executive Director of ARC.

According to CDFW’s Supervising Wildlife Biologist, Jason Holley, “conserving the Ervin Ranch is a win-win for wildlife, and outdoor enthusiasts alike. The new Wildlife Area will have something for everyone to enjoy, a true multi-use area (including hunting, fishing, hiking, and bird watching). We’re hoping to open the area for walk-in public use by 2022.”

American River Conservancy and numerous funding partners have protected over 8,800 acres of habitat in the Upper



Cosumnes River watershed. 2019 marks ARC’s 30<sup>th</sup> year of preserving rivers and land for life. Since 1989, ARC has worked with private landowners, public agencies and funding partners to preserve habitat, agricultural lands, recreational access and riparian corridors. ARC has protected over 27,500 acres through conservation easement and fee-title acquisition in the Upper American River and Upper Cosumnes River watersheds. Approximately 11,000 acres of land conserved by ARC since 1989 is classified as agricultural land – working farms and cattle ranches – while also serving as important wildlife corridors in the region.

#####



# MDWFP NEWS

More Items 

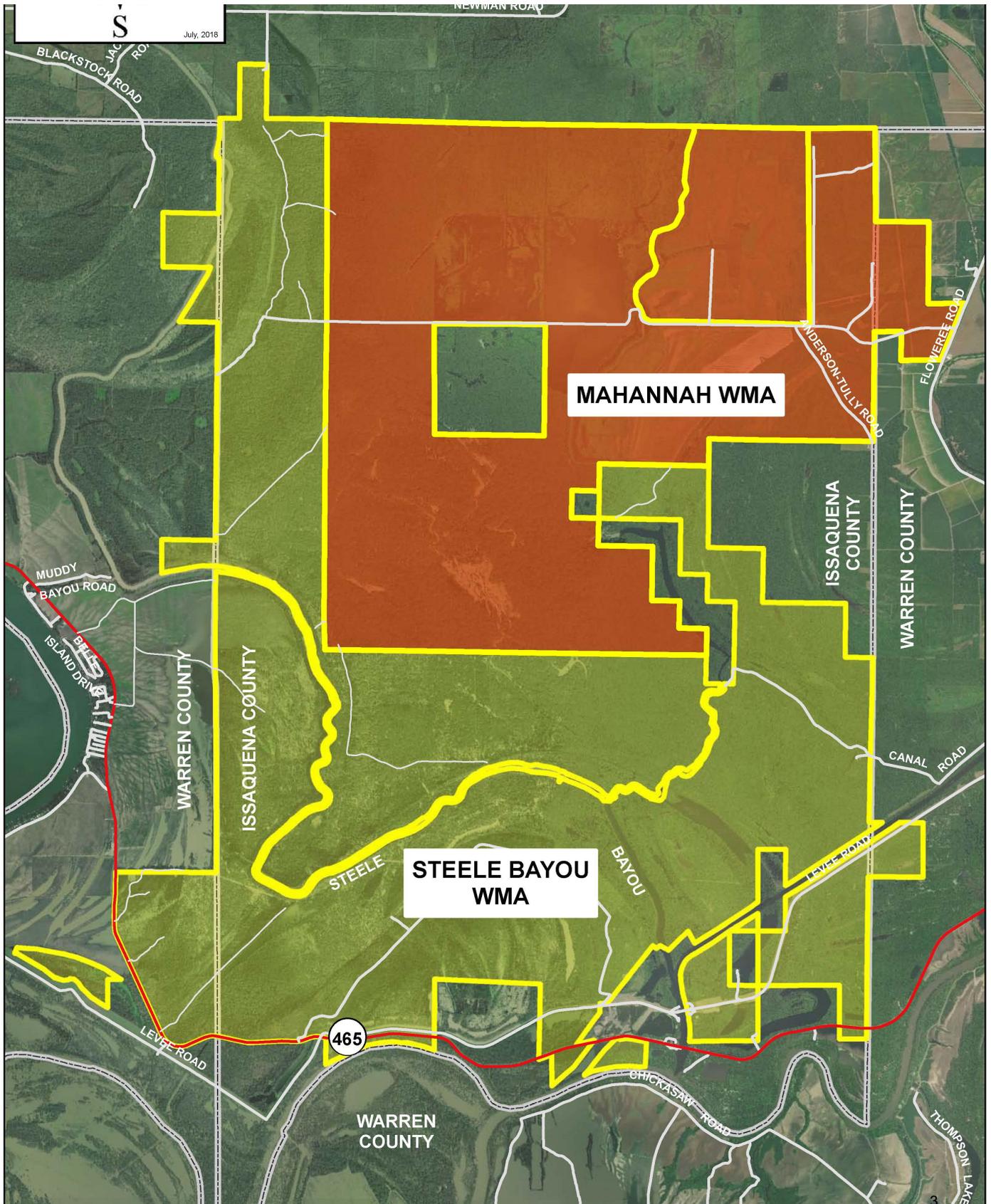
## MDWFP Announces Steele Bayou WMA

7/20/2018 3:07:52 PM  
From MDWFP



The Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP), in partnership with The Nature Conservancy (TNC) and U.S. Fish and Wildlife Service through Federal Aid in Wildlife Restoration, recently acquired approximately 17,816 acres in Issaquena and Warren counties from Anderson-Tully Company. The land will be managed by MDWFP and tentatively titled "Steele Bayou Wildlife Management Area". The property is a matrix of bayous, cypress sloughs, and well-managed bottomland hardwoods. The forested ecosystem represents a significant conservation investment for all Mississippians.







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## Wequiock Creek acquisition brings increased access to community, benefiting hunters and students

August 26, 2019



*A red-headed woodpecker pauses from foraging on a tree. Photo by Debbie Koenigs/USFWS.*

We at the Fish and Wildlife Service are excited to announce funding to increase wetland protections within the Wequiock Creek watershed, a popular birding site in northeastern Wisconsin. This land acquisition will preserve an important intact floodplain wetland and Wequiock Creek, a naturally meandering stream that enters Green Bay at the Point Au Sable Nature Preserve. Additionally, agricultural fields on the parcel will eventually be restored to native oak savanna, creating enhanced recreational opportunities and supporting wildlife species like the rusty-patched bumble bee and red-headed woodpecker.

“While the property provides critical coastal and riparian wetland ecological benefits, it is also extremely important for providing public access and recreational opportunities in an area that is developing rapidly and losing greenspace,” said Julie Hawkins Tyriver, Land Conservation Director for the Northeast Wisconsin Land Trust. “Not only is the area important to residents today, it has high cultural significance to multiple Native American tribes and is reported to be very near the location where French Explorer Jean Nicolet landed.”

The Wisconsin Department of Natural Resources, in partnership with the Northeast Wisconsin Land Trust and the University of Wisconsin-Green Bay, was recently awarded \$450,000 from the Service for this project to acquire 74 acres of land in the Wequiock Creek watershed and to restore 25 acres of emergent wetlands on the adjacent Point au Sable Nature Preserve in Brown County, Wisconsin. Additional funding sources include \$375,000 in natural resource damage assessment settlement funds to support the acquisition provided by the Fox River Trustees, \$150,000 provided by the Wisconsin Department of Natural Resource’s Knowles-Nelson Stewardship Program, and \$6,000 from other contributing funders. Pending approval by University of Wisconsin - Green Bay, the

acquired land will expand the Point au Sable Nature Preserve by 40%, supporting additional education and research opportunities for local schools and the university.



*Point au Sable Nature Preserve and adjacent Wequioc Creek acquisition. Photo courtesy of Erin Giese/University of Wisconsin - Green Bay Cofrin Center for Biodiversity.*

The Point au Sable wetlands are the largest coastal wetlands on the entire east shore of Green Bay and contains one of lower Green Bay's last remnant sedge meadows. The area is a magnet for migratory birds, attracting more than 220 species, including vulnerable species like the eastern whip-poor-will, rusty blackbird, and golden-winged warbler. This well-known destination for birdwatchers is also habitat for a highly productive fish community, amphibians, bats, mammals and invertebrates. The Wequioc Creek acquisition will allow access for recreation opportunities such as wildlife watching, hiking, hunting, as well as creek access for fishing.

Wetlands in coastal watersheds are diverse and complex ecosystems that are vital to the nation's economy and an important part of the nation's natural heritage. In 2019, more than \$20 million was awarded to 22 projects in 11 coastal states to protect, restore or enhance more than 7,000 acres of coastal wetlands and adjacent upland habitats through the U.S. Fish and Wildlife Service's National Coastal Wetlands Conservation Grant Program. The program, funded in part through taxes paid on equipment and fuel purchases by recreational anglers and boaters, creates significant benefits for the American public. The billions of dollars generated through recreational angling, boating, waterfowl hunting and birdwatching benefit communities across the country.

*The mission of the U.S. Fish and Wildlife Service is working with others to conserve, protect and enhance fish, wildlife, plants and their habitats for the continuing benefit of the American people. We are both a leader and trusted partner in fish and wildlife conservation, known for our scientific excellence, stewardship of lands and natural resources, dedicated professionals and commitment to public service.*

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