

To: Codington County Commissioners  
From: U.S. Fish and Wildlife Service, Realty Division  
Subject: Land & Water Conservation Funds

I'm writing to inform you about an opportunity the U.S. Fish and Wildlife Service (Service) in South Dakota may have to utilize Land & Water Conservation Funds (LWCF) to work cooperatively with landowners to conserve grasslands in Codington County. LWCF are granted to state and local entities to fund outdoor recreation projects and awarded to Federal agencies to support habitat conservation efforts. LWCF are not taxpayer dollars, but rather are derived from oil and gas leases on the U.S. Outer Continental Shelf. The current opportunity presented to the Service would provide LWCF to secure grassland easements from landowners.

Grassland easements offered through the Service are extremely popular with South Dakota livestock producers, and interest vastly surpasses available funding with over 685 landowners currently waiting for grassland easement offers. A primary goal of grassland easements is to protect native grasslands. Grassland easements preclude tillage agriculture and haying prior to July 15<sup>th</sup>. Landowners retain all other rights including unrestricted grazing and public access rights. Grassland easements do not preclude landowners from paying property taxes. The enclosed brochure provides much more specific details regarding Service grassland easements.

The Service in South Dakota has not consistently received LWCF but has a good chance of receiving some this fiscal year to support the Service's popular grassland easement program. We welcome the chance to meet with you in the near future to discuss this important funding opportunity. In support of the Service's ongoing conservation efforts in Codington County, we are seeking a "no objection" response from your office to use LWCF for grassland easements.

**BOYD**  
**SCHULZ**

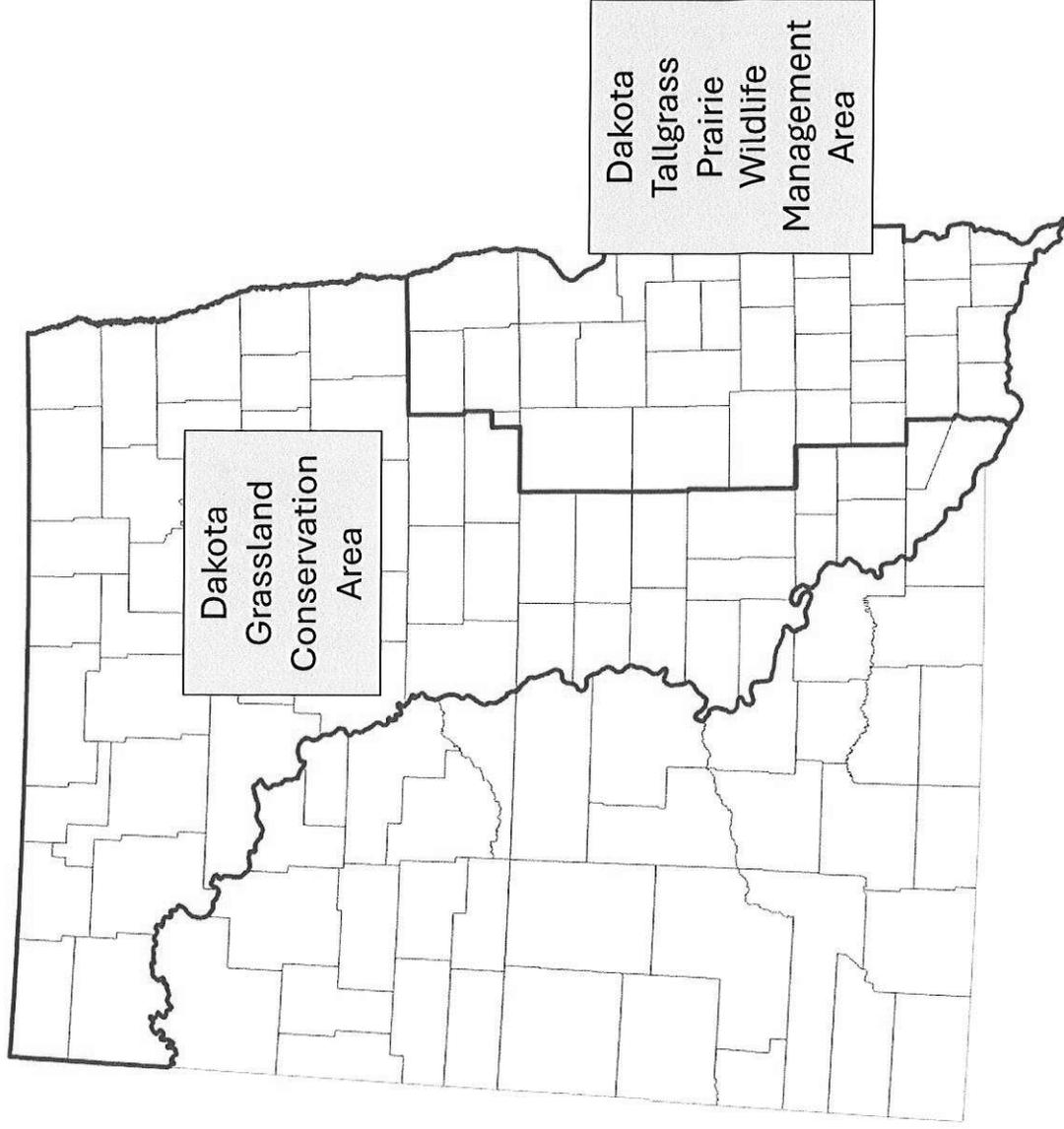
Digitally signed by BOYD  
SCHULZ  
Date: 2025.05.16 08:37:59  
-05'00'

---

South Dakota Realty Supervisor

## Land and Water Conservation Funds (LWCF)

- Not Taxpayer dollars
- Funds derived from oil and gas leases on Outer Continental Shelf
- Funds split
  - To States via grants for outdoor recreation
  - To multiple Federal agencies for approved land acquisition projects
- U.S. Fish & Wildlife Service uses LWCF for grassland easements with Livestock Producers
  - Easements prevent tillage
  - Easements do not limit grazing – unrestricted
  - Used for generational succession planning
  - Financial tool for young Livestock Producers
- 2025 proposed funding
  - Dakota Grassland Conservation Area - \$8,000,000
  - Dakota Tallgrass Prairie Wildlife Management Area - \$6,000,000
- **Currently 685 Livestock Producers waiting for easement offers in South Dakota**



**U.S. Fish & Wildlife Service**

# **Grassland Easement Program**



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

*What is a grassland easement?*

A grassland easement (also known as a habitat easement) is a legal agreement signed with the United States of America, through the U.S. Fish and Wildlife Service that pays landowners to permanently keep their land in grass. Landowners who sell a grassland easement to the Service agree to maintain permanent vegetative cover such as forbs, grasses, and low shrubs. Many landowners plan on never putting their land into crop production and can benefit from the added cash incentive of a grassland easement. Land covered by a grassland easement may not be cultivated. Mowing, haying, and grass seed harvesting are restricted and may be delayed until after July 15 each year. This specific restriction is designed to help grassland nesting species, such as ducks and pheasants, complete their nesting before the grass is disturbed.

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

*Why protect grasslands?*

Vast grasslands once covered much of North America. Settlement, agriculture, and development

have reduced prairie habitats to a patchwork of isolated grasslands in a sea of croplands, roads, and cities. Loss of grasslands is detrimental to people as well as to wildlife. Grasslands help reduce soil erosion caused by wind and water. They also filter chemicals, thus protecting our water supplies. Vegetation, such as grass, forbs, and shrubs, help trap snow and rain. This allows a more regulated flow of precipitation to seep into the ground, recharging water supplies. Grasslands also provide season-long forage for livestock. Many wildlife species depend on grasslands for food, cover, and nesting sites. Protecting grasslands ensures that these habitats and the wildlife that depend on them will continue to exist for future generations.

**Land Qualifications**

No. The property must lie within an approved county and have potential value to wildlife. Highest priority lands are large tracts of grassland with high wetland densities and native prairie or soils most likely to be converted to cropland.

*Does any land qualify for a grassland easement?*

*What about farm sites, permanent structures, etc.?*

Existing farm sites and other permanent structures are excluded from grassland easements. Planning for future improvements or expansions of existing farm sites or structures is important and should be considered at the time the easement is executed, when practical. Requests for improvements may be allowed and will require prior Service approval.

*Will the grassland easement affect my eligibility in USDA farm programs?*

**Landowner Use and Other Rights**

The easement may limit enrollment or participation in U.S. Department of Agriculture programs where base acres of cropland are used to determine program eligibility, such as the Conservation Reserve Program. Contact your local Farm Service Agency for information regarding eligibility.

*Are grazing and haying permitted?*

Possibly. Different types of easements allow various permitted uses. The value the Service pays is affected by the easement type and the permitted uses. If the landowner retains grazing rights, grazing is allowed anytime during the year. If a landowner retains haying rights, it is allowed only after July 15 of each year to allow grassland-nesting wildlife species, such as ducks, pheasants, and songbirds, to raise their young.

*Who controls noxious weeds and pests?*

As the landowner, you are responsible for noxious weed and pest control. Mowing before July 15 to control weeds is prohibited without prior approval by the Service.

*Will my mineral rights be affected?*

No. Subsurface rights such as oil, gas, and minerals are not affected. However, consult your local Service representative to avoid potential easement violation situations.

*What about hunting and trapping?*

You still have the right to open or close your lands to hunting and trapping, as you have in the past.

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

#### **The Easement Process**

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



*How long does the easement last?*

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

*What happens before the easement is accepted?*

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

*What happens after the easement is accepted?*

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

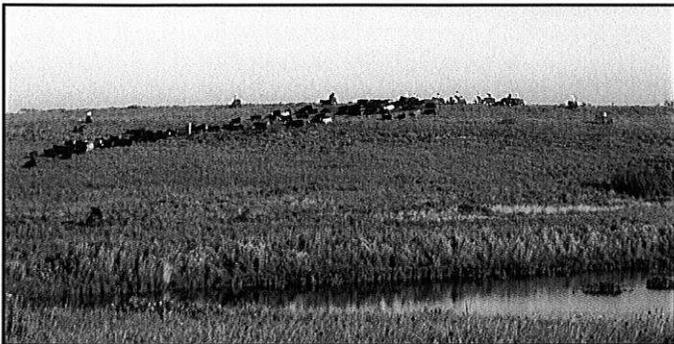
*How will I receive an offer?*

#### **The Payment Process**

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

*What is the method of payment?*

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



*When will I be paid?*

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

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

**If the Proposed Easement Land is Mortgaged**

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

*Who pays for the subordination agreement?*

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

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

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

*If purchasing land, can I sell an easement to help decrease purchase costs?*

Yes. If you are purchasing land and want to sell the easement at the time of purchase, both you and the contract seller, who currently holds the legal title, must sign the easement agreement.

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

**Taxes**

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

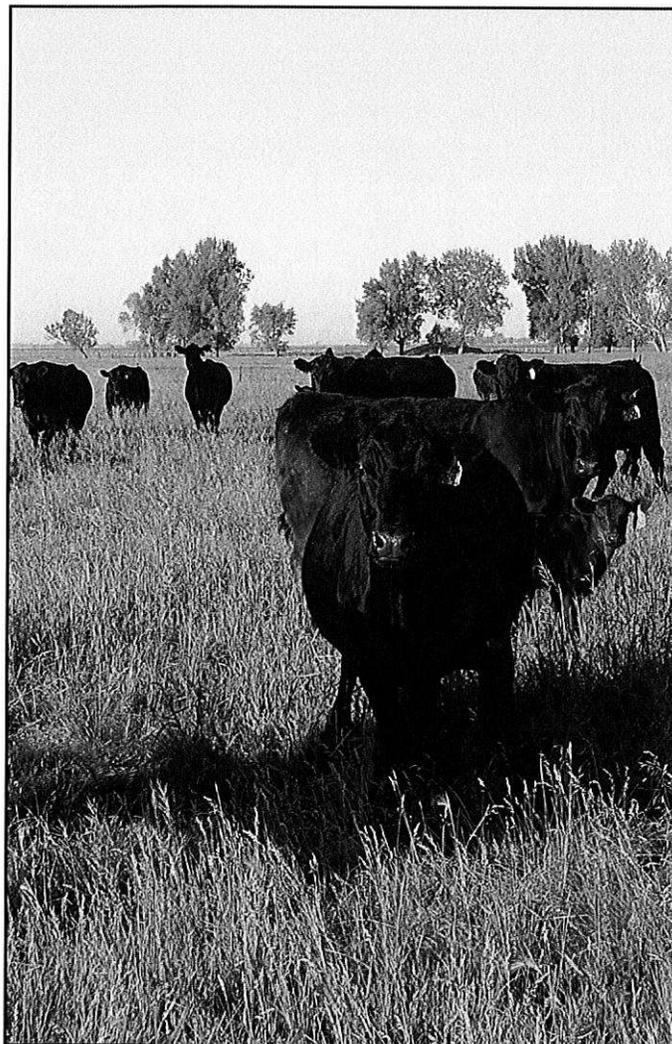
*What if the quality of the grassland deteriorates?*

**Potential Problems**

Consult your Service representative to set up a review of your property to discuss your concerns.

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

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



**Great Lakes Region  
5600 American Blvd., Suite 990  
Bloomington, MN 55437  
Ph: 612-713-5410 (Iowa, Minnesota)**

**Missouri-Basin and Upper Colorado-  
Basin Regions  
134 Union Boulevard  
Lakewood, CO 80228  
Ph: 406-430-9001 (Montana)  
Ph: 701-355-8514 (North Dakota)  
Ph: 605-352-7014 (South Dakota)**

**April 2022**

