



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R6-NWRS-2023-N061; FVRS3110060000-XXX-FF06R05000; OMB

Control Number 1018-New]

Agency Information Collection Activities; Submission to the Office of Management and Budget; U.S. Fish and Wildlife Service Grassland Easements

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing a new information collection in use without Office of Management and Budget (OMB) approval.

DATES: Interested persons are invited to submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of publication of this notice at <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under Review - Open for Public Comments" or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041-3803 (mail); or by email to Info_Coll@fws.gov. Please reference "1018-New Grassland Easements" in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information

about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov*, or by telephone at (703) 358-2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

On March 20, 2023, we published in the *Federal Register* (88 FR 16651) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on May 19, 2023. In an effort to increase public awareness of, and participation in, our public commenting processes associated with information collection requests (ICRs), the Service also published the *Federal Register* notice on Regulations.gov (Docket No. FWS-R6-NWRS-2023-0036) to provide the public with an additional method to submit comments (in addition to the typical *Info_Coll@fws.gov* email and U.S. mail submission methods). We received three comments in response to that notice:

Comment 1: Email comment from Jean Public, received on March 20, 2023. The commenter did not address the information collection requirements.

Agency Response to Comment 1: No response required.

Comment 2: Anonymous comment received via Regulations.gov (FWS-

R6-NWRS-2023-0036-0002) on March 29, 2023. The commenter supports the grassland easement program, stating it is a great step towards restoring and conserving America's land and wildlife. They further opined that the program creates a beneficial relationship between ranchers and the Service, and easements balance both economic gains and environmental protection.

Agency Response to Comment 2: The commenter did not address the information collections; therefore, no response required.

Comment 3: Anonymous comment received via Regulations.gov (FWS-R6-NWRS-2023-0036-0003) on May 14, 2023. The commenter requested that the Service prohibit hunting, fishing, and trapping.

Agency Response to Comment 3: The commenter did not address the information collections; therefore, no response required.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Vast grasslands once covered much of North America. Settlement, agriculture, and development have reduced prairie habitats to a patchwork of isolated grasslands surrounded by 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 helps 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 wildlife will be there for future generations to enjoy.

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, glacially formed 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 breeding and migratory habitat for many species of grassland and wetland-dependent birds. The Migratory Bird Hunting and Conservation Stamp Act (16 U.S.C. 718d(b)(3)) and the Safe, Accountable, Flexible, Efficient Transportation Equity Act (P.L. 109-59, section 1119) authorize the U.S. Fish and Wildlife Service (Service) to enter into grassland easements with private landowners. The Service acquires easements from willing sellers only. Once approved, the easements are a permanent (perpetual) easement between the Service and all present and future landowners.

A grassland easement is a legal agreement signed with the United States of America, through the Service, that pays the landowner to permanently keep their land in grass. Eligible 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. Landowners retain the right to open or close their lands to hunting and trapping, as they have in the past. In addition, subsurface rights such as oil, gas, and minerals are not affected. However, 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. Landowners should contact their local Farm Service Agency for information regarding eligibility. 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.

Landowners who sell a grassland easement to the Service agree to maintain permanent vegetative cover such as forbs, grasses, and low shrubs. The value the Service pays is affected by the easement type and the permitted uses. Land encumbered by a grassland easement may not be cultivated. If the landowner retains grazing rights, grazing is allowed anytime during the year. However, 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.

The Service collects the following information in conjunction with the administration of grassland easements:

Application Process

To apply for the Grassland Easement Program, landowners must contact the Service to speak to a realty specialist or field biologist, who can explain the program and answer questions from the landowner. If the landowner decides they would like to participate in the program, they complete Form 3-2573, "Easement Acquisition – Initial Landowner Inquiry Form" and a site inspection will be scheduled.

A Service realty specialist estimates the value of the easement based on the assessed value of the proposed land. In situations where a landowner is purchasing the land under a contract for deed, in order for an easement to be placed on the property, both the purchaser and the contract seller, who holds the legal title, must sign the easement agreement. When the Service accepts the easement, the landowner will receive a letter, sent via certified mail, notifying them of the acceptance of the easement being recorded at the county courthouse. A copy of the easement will be included with the certified letter.

Typically, within 8-12 months after the easement is signed, the Service makes one single lump-sum payment to the landowner, in the form of an electronic funds transfer (EFT) from the U.S. Treasury, for the full amount specified in the easement. The Interior Business Center will issue an IRS Form 1099-S at the end of the calendar year. The payment may not be taxable; however, it should be reported on the landowner's Federal income tax return.

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, landowners must contact their local Service representative before performing any alterations that may impact vegetation or wetlands within the easement boundary. Violation of easement terms may result in legal prosecution, fines, and restitution.

Should the quality of the grassland easement deteriorate, the landowner may obtain a Special Use Permit (FWS Form 3-1383-G) to replant or rejuvenate tame (non-native) grassland habitat. The Service encourages grasses suitable to the landowner's needs and also to the long-term benefit of wildlife. Cost-sharing or donated seed may be available through Federal, State, or private organizations. Form 3-1383-G is currently approved under OMB Control No. 1018-0102.

Correction of Title Defects

The Service obtains title information from the abstracter at no cost to the landowner. 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, Service personnel assist the

landowner in correcting the defects before the Service accepts the easement.

The process usually takes 6 to 9 months.

Subordination Agreements

Usually, mortgages do not affect easement transactions. If the mortgage holder needs to consent to the easement, we will ask the mortgage holder for a signed statement known as a subordination agreement, which subordinates the rights of the mortgage to those of the easement. Payment of easements where there is a mortgage or contract for deed is dependent on the mortgage holder or the contract seller and the terms of the landowner's 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 the landowner.

Requests for Approval – Other Improvements/Alterations

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. To avoid easement violations, landowners must contact their local Service representative before manipulating permanent vegetative cover on easement lands.

Requests for Approval – Mowing Before July 15th

Mowing before July 15 to control weeds is prohibited without prior written approval by the Service.

Notification Requirement – Sale or Transfer of Lands

Easements, and the associated covenants and agreements, run with the land and are binding on all persons and entities who come into ownership or possession of the lands subject to the easement. The landowner must notify the

Regional Director in writing of any sale or transfer at least 30 days following the sale or transfer of any portion of the lands subject to this easement.

Recordkeeping Requirements

Landowners may be required to maintain and/or furnish documentation such as records of ownership, sales, property characteristics, and corresponding assessed values of record, upon request, as part of the application process or associated information collections.

Non-Hour Cost Burdens on Landowners

Landowners are responsible for the management of and costs associated with noxious weed and pest control, and must also pay any fees associated with subordination agreements. They may file a claim for reimbursement from the Government.

Title of Collection: U.S. Fish and Wildlife Service Grassland Easements.

OMB Control Number: 1018-New.

Form Number: 3-2573.

Type of Review: New information collection in use without OMB approval.

Respondents/Affected Public: Individuals/households and private sector.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non-Hour Burden Cost: \$ 2,115,000 (associated with noxious and pest control requirements, and subordination agreements).

| Requirement | Average Number of Annual Respondents | Average Number of Responses Each | Average Number of Annual Responses | Average Completion Time per Response (Hours) | Estimated Annual Burden Hours |
|--|--------------------------------------|----------------------------------|------------------------------------|--|-------------------------------|
| Application Process (Form 3-2573) | | | | | |
| Individuals | 525 | 1 | 525 | 2 | 1,050 |
| Private Sector | 525 | 1 | 525 | 4 | 2,100 |
| Correction of Title Defects | | | | | |
| Individuals | 525 | 1 | 525 | 3 | 1,575 |
| Private Sector | 525 | 1 | 525 | 5 | 2,625 |
| Subordination Agreements | | | | | |
| Individuals | 500 | 1 | 500 | 2 | 1,000 |

| | | | | | |
|--|--------------|---|--------------|---|---------------|
| Private Sector | 500 | 1 | 500 | 5 | 2,500 |
| Request for Approval – Other Improvements/Alterations | | | | | |
| Individuals | 175 | 1 | 175 | 3 | 525 |
| Private Sector | 200 | 1 | 200 | 2 | 400 |
| Request for Approval – Mowing Before July 15th | | | | | |
| Individuals | 50 | 1 | 50 | 1 | 50 |
| Private Sector | 50 | 1 | 50 | 1 | 50 |
| Notification Requirement – Sale or Transfer of Lands | | | | | |
| Individuals | 20 | 1 | 20 | 2 | 40 |
| Private Sector | 20 | 1 | 20 | 2 | 40 |
| Totals: | 3,615 | | 3,615 | | 11,955 |

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

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