

**1SUPPORTING STATEMENT A  
FOR PAPERWORK REDUCTION ACT SUBMISSION**

**U.S. FISH AND WILDLIFE SERVICE GRASSLAND EASEMENTS  
OMB Control Number 1018-New**

**Terms of Clearance:** This is a request for a new control number in conjunction with a collection in use without OMB approval.

**Justification**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

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. Title 41 of the CFR, Chapter 101, contains the Federal Property Management Regulations, and Chapter 102 contains the Federal Management Regulation. Title 50 of the Code of Federal Regulations (CFR) contains land use management regulations for rights-of-way, mineral operations, and revenue sharing. Title 43 of the CFR contains regulations pertaining to the Secretary of the Interior and to the public lands. In addition, Service Manual Part 341 FW 6, Minimally Restrictive Conservation Easement Acquisition, discusses the Service's real property acquisition authorities and responsibilities.

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 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 as breeding and migratory habitat for many species of grassland and wetland-dependent birds.

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 covered by a grassland easement may not be cultivated. If the landowner retains grazing rights, grazing is allowed anytime during the year. 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.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.**

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 explain the program and answer questions from the landowner. If the landowner decides they would like to participate in the program, they complete FWS 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 single lump-sum payment, in the form of an Electronic Funds Transfer (EFT) from the U.S. Treasury for the full amount specified in the easement, to the landowner. The Interior Business Center will issue an IRS Form 1099-S at the end of the calendar year. The payment should be reported on landowner's Federal income tax return, but may not be taxable.

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 grassland habitat. The Service encourages grasses suitable to the landowner's needs and to the long-term benefits of wildlife. Cost-sharing or donated seed may be available through Federal, State, or private organizations. Forms 3-1383-G are currently approved under OMB Control No. 1018-0102.

*Non-hour Cost Burdens on Landowners* (captured in question 13 below)

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.

### **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 about 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. The Service will provide the mortgage holder with the subordination agreement to be signed by the Farm Loan Officer and notarized. We captured the nonhour cost burden associated with the notarization requirement in question 13 below.

### **Request 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. If approved, the Service will provide the landowner with specific special conditions to be followed.

### **Request for Approval – Mowing Before July 15<sup>th</sup>**

Mowing before July 15 to control weeds is prohibited without prior written approval by the Service. If approved, the Service will provide the landowner with specific special conditions to be followed.

### **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 shall come into ownership or possession of the lands subject to the easement. The landowner shall 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.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.**

The Service accepts electronic submission of necessary information. Finalization of the easement agreement must be in writing which will require the landowner sign/return the document to the Service.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

We collect only the minimum information necessary to identify the landowner and easement.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

We collect only the minimum information necessary to process requests for easements. We do not expect this information collection to impact small businesses or other small entities.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

If we do not collect the information, or if we collect the information less frequently, we would be unable to enter into easements with landowners which would hinder the Service's ability to protect the important grasslands.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- \* requiring respondents to report information to the agency more often than quarterly;
- \* requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- \* requiring respondents to submit more than an original and two copies of any document;
- \* requiring respondents to retain records, other than health, medical, government

- contract, grant-in-aid, or tax records, for more than three years;
- \* in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;
  - \* requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
  - \* that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
  - \* requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances requiring collection of the information in a manner inconsistent with OMB guidelines.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

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, 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](mailto: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.

In addition to the *Federal Register* notice, we consulted with the nine (9) individuals identified below who familiar with this collection of information in order to validate our time burden estimate and asked for comments on the questions below:

<b>Organization</b>	<b>Title</b>
Private Citizen	Landowner
Private Citizen	Landowner
Private Citizen	Landowner
Private Citizen	Landowner
Private Citizen	Landowner
Private Citizen	Landowner
Private Citizen	Landowner
Private Citizen	Landowner *No response
Private Citizen	Landowner *No response

***“Whether or not the collection of information is necessary, including whether or not the information will have practical utility; whether there are any questions they felt were unnecessary”***

Comments: All landowners agreed that that the information we request has practical utility, and there were no questions they felt were unnecessary.

Agency Response/Action Taken: No response required.

***“The accuracy of our estimate of the burden for this collection of information”***

Comments: Most landowners felt that the amount of time it takes them to complete each form was not burdensome and spent anywhere from 30 minutes to 1 hour on paperwork. One of the landowners did mention that in order to clean up a title defect on his property it took 30 days. This landowner understood why it took so long and had no issue with it.

Agency Response/Action Taken: The responses supports the Service's burden estimates. No response required

***“Ways to enhance the quality, utility, and clarity of the information to be collected”***

Comments: No suggestions were given. One landowner mentioned that the easement brochure details everything very well.

Agency Response/Action Taken: The commenters provided no suggestions or recommendations. No response required.

And

***“Ways to minimize the burden of the collection of information on respondents”***

Comments: No suggestions or comments provided.

Agency Response/Action Taken: No response required.

***Additional comments received during the outreach:***

Comments: Additional comments included praise to the Service for its employees and program. The Service was considered one of the most important partners in one of the landowners ranching operations.

Agency Response/Action Taken: No response required.

Despite multiple attempts to solicit feedback, we received no responses from 2 of the 9 individuals contacted.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

The Service provides a written offer in a document called a Statement of Just Compensation. Payments to landowners are based on the value of the easement. The statement describes the property encumbered by the easement and the amount of the payment.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

We do not provide any assurance of confidentiality. Information may be disclosed in accordance the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. § 552a) and the routine uses listed in the System of Records Notice (SORN) [INTERIOR/FWS-5, National Wildlife Refuge Special Use Permits](#) - 64 FR 29055 (May 28, 1999); modification published 88 FR 16277 (March 16, 2023) and [INTERIOR/FWS-21, Permits System](#) - 68 FR 52610 (September 4, 2003); and modifications published 88 FR 16277 (March 16, 2023) and 88 FR 16277 (March 16, 2023).

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any**

steps to be taken to obtain their consent.

We do not ask questions of a sensitive nature.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- \* Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
- \* If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.
- \* Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.

We estimate that we will receive **3,615 responses** totaling **11,955 burden hours**. We estimate the annual dollar value of the burden hours is **\$497,312** (rounded).

We used Table 1 from Bureau of Labor Statistics (BLS) [News Release](#) USDL- 23-1305, June 16, 2023, Employer Costs for Employee Compensation—March 2023, to calculate the cost of the total annual burden hours:

- Individuals – the hourly rate for all workers is \$43.07, including benefits.
- Private Sector – the hourly rate for all workers is \$40.79, including benefits.

Requirement	Average Number of Annual Respondents	Average Number of Responses Each	Average Number of Annual Responses	Average Completion Time per Response	Estimated Annual Burden Hours	Hourly Rate	\$ Value of Annual Burden Hours
<b>Application Process (Form 3-2573)</b>							
<b>Individuals</b>							
Reporting	525	1	525	1	525	\$ 43.07	\$ 22,611.75
Recordkeeping				1	525	43.07	22,611.75
<b>Private Sector</b>							
Reporting	525	1	525	2	1,050	40.79	42,829.50
Recordkeeping				2	1,050	40.79	42,829.50
<b>Correction of Title Defects</b>							
<b>Individuals</b>							
Reporting	525	1	525	1.5	787.5	43.07	33,917.63
Recordkeeping				1.5	787.5	43.07	33,917.63
<b>Private Sector</b>							
Reporting	525	1	525	2.5	1,312.5	40.79	53,536.88
Recordkeeping				2.5	1,312.5	40.79	53,536.88
<b>Subordination Agreements</b>							
<b>Individuals</b>							
Reporting	500	1	500	1	500	43.07	21,535.00
Recordkeeping				1	500	43.07	21,535.00



<b>Private Sector</b>							
Reporting	500	1	500	2.5	1,250	40.79	50,987.50
Recordkeeping				2.5	1,250	40.79	50,987.50
<b>Request for Approval – Other Improvements/Alterations</b>							
<b>Individuals</b>							
Reporting	175	1	175	1.5	262.5	43.07	11,305.88
Recordkeeping				1.5	262.5	43.07	11,305.88
<b>Private Sector</b>							
Reporting	200	1	200	1	200	40.79	8,158.00
Recordkeeping				1	200	40.79	8,158.00
<b>Request for Approval – Mowing Before July 15th</b>							
Individuals	50	1	50	1	50	43.07	2,153.50
Private Sector	50	1	50	1	50	40.79	2,039.50
<b>Notification Requirement – Sale or Transfer of Lands</b>							
Individuals	20	1	20	2	40	43.07	1,722.80
Private Sector	20	1	20	2	40	40.79	1,631.60
<b>TOTALS:</b>	<b>3,615</b>		<b>3,615</b>		<b>11,955</b>		<b>\$ 497,311.65</b>

**13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)**

- \* The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- \* If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- \* Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

We estimate landowners will incur approximately **\$2,115,000** annually in non-hour cost burden associated with the following:

Respondent Category	Average Number of Annual Responses	Average Cost	Average Annual Non-hour Cost Burden
<b>Costs associated with noxious weed and pest control</b>			

Individuals	525	\$2,000	\$ 1,050,000
Private Sector	525	\$2,000	1,050,000
<b>Costs associated with notarization of subordination agreements</b>			
Individuals	500	\$15	7,500
Private Sector	500	\$15	7,500
<b>TOTALS:</b>	<b>1,050</b>	<b>\$4,000</b>	<b>\$2,115,000</b>

**14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.**

We estimate the total cost to the Federal Government to administer this information collection will be **\$19,908 annually**.

We used Office of Personnel Management Salary Table [2023-DEN](#) to determine average hourly wages. We multiplied the hourly rate by 1.61 to account for benefits in accordance with BLS [News Release](#) USDL- 23-1305.

<b>Position/Grade</b>	<b>Annual Salary</b>	<b>Fully Burdened Hourly Rate (Incl. Benefits)</b>	<b>Time Spent on Collection</b>	<b>Total Annual Salary Costs</b>
Management Analyst (GS-13/5)	\$ 123,653	\$ 199,081.33	10%	\$ 19,908.13
<b>Total:</b>				<b>\$ 19,908.13</b>

**15. Explain the reasons for any program changes or adjustments in hour or cost burden.**

This is a request for a new control number in conjunction with a collection in use without OMB approval.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

This information collection will not be published.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

We will display the OMB control number and expiration date.

**18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."**

There are no exceptions to the certification statement.