

## **USE RIGHTS**

**Can I hunt on the easement area?** Yes. Hunting is not restricted by the easement. Posting or not posting the easement area is determined by the landowner in accordance with state law.

**Who has access to my property?** Access is controlled by the landowner; however, the easement does allow a Service representative the right of ingress to and egress on, over, across and through the easement area for compliance monitoring purposes.

**Are there any restrictions on grazing?** No. Grazing the easement area is not restricted. You do not need a permit and there are no restrictions on the number of animals, time of grazing or length of grazing. Mineral blocks, salt blocks or feeders associated with grazing are not restricted. Grazing must be accomplished to allow for regrowth of grass.

**Can I hay the easement area?** Yes, haying is allowed after July 15 every calendar year. A permit is not required. **If you are requesting to mow or hay the area before July 15 for noxious weed control, or to enhance the grassland, a permit will be required.**

**Who controls the weeds on my property?** You as the owner are still responsible for weed control. Any mowing prior to July 15 will require a permit. A permit will not be required for weed control by mowing after July 15, nor is it required for herbicide applications.

**Can I spray buckbrush?** This activity is addressed on a case-by-case basis. A permit will be issued if the manager deems the activity compatible with the easement.

**Can I plant trees or shrubs?** **No tree plantings will be permitted on easements.** Tree belts and shelter should be excluded from the easement if planning on replacing or expanding a shelter belt.

**Can I dig a dugout on the property?** Yes, dugouts are allowed, if they do not significantly impact the hydrology of protected wetlands. However, you need a permit from the Service for this activity.

**Can I install a well, water pipeline and tanks for livestock?** Yes, livestock watering facilities are allowed; however, **you need a permit from the Service** for this activity.

**Can I plant a food plot on the easement area?** **No. Food plots are not allowed.**

**Can I seed, interseed, or reseed my easement area?** Before a permit is issued, the owner must describe the need, designate the species to be planted, and agree to follow the seeding guidelines and procedures established in the permit. Interseeding on native prairie will generally not be permitted.

**I have a wind lease on my property, can turbines be constructed if I sign this easement?**

If the wind lease is recorded before a FWS easement, and remains in effect without expiring, the easement will not restrict wind development. The grassland easement payment is reduced based on the potential impact.

**Can I sign a wind lease with a grassland easement already on my property?** Yes. If you are approached by a wind company during our easement evaluation process, then it may be beneficial for you to complete the lease negotiations with the wind company before proceeding with the grassland easement. If the FWS easement is recorded first, you can still sign a wind lease; however, easement areas affected by wind development must be replaced by the wind company.

**Can I construct wind towers with a grassland easement already on my property?** Before the Service can authorize the construction of wind turbines on areas protected by a grassland easement, the refuge manager will work with you and the wind developer in an attempt to minimize impacts to the protected area. The manager must consider such things as possible alternative locations, potential impacts to critically-needed habitat, and the integrity of the easement area. After these things have been considered, development is typically allowed to proceed provided that a decommissioning plan and restoration requirements are specified. The Service will then partially relinquish its easement rights to the wind company for the specific purpose of constructing and operating the wind turbines. Once operation of the wind farm ceases, the area must be restored to grass and the easement will be reinstated.

**Can I develop oil, natural gas and coal on my property?** Yes. The easement is purchased subject to all mineral rights. You should contact us before any development occurs so that we can work with you and the development company to minimize surface impacts.

**Can I sell or lease sand and gravel on the easement area?** Yes. The person(s) owning these subsurface resources can sell or lease them without a permit; however, we prefer the activity to be done in a way that will minimize the surface disturbance and recommend that as new areas are opened up, previous mined areas are reclaimed. (The surface owner may not own the gravel right in all states, or it may specifically be reserved through a deed).

**Can clay, black dirt, fill or scoria be developed?** No. These are other subsurface resources and are restricted by the easement document.

**Can a utility company buy a new easement on my property?** Yes; however, the utility company would be responsible for obtaining a permit from the Service to allow for the burial or construction of utility lines.

**Will a new farm/ranch site, retirement home, trailer house or hunting lodge ever be allowed?** By policy, active farmsteads and building sites are not included in the easement contract. If you think you might want to build a house at some point in the future, then an area to accommodate this activity should be **excluded** from the easement contract. Once an area is protected by a grassland easement, then authorization from a refuge manager is needed to build

or otherwise destroy the vegetation, and this authorization is not guaranteed. Current policy does allow for limited development of easement in order to continue a Bona Fide farming and ranching operation, but requires that requests involving new buildings or structures be associated with either an existing building site (encumbered by the easement) or on or near a former building site (old farmstead). The rationale is that the grassland easements are established to not only preserve grass, but also to prevent fragmentation of habitats. Authorizing needed buildings or structures, on or adjacent to existing or previous building sites, keeps fragmentation to a minimum.

The building must also be similar to what is (or had been) present, and be consistent with an existing land management operation. Buildings related to farm/ranch needs would qualify and would likely be approved as long as there are no reasonable alternatives on a non-easement area, and provided there are no impacts to critically-needed habitat. Requests for buildings not related to the existing operation of the land, such as convenience stores, go-cart tracks, strip malls, etc. will not be approved.

## **EASEMENT PROCESS**

**Is the document recorded?** The easement is recorded in the county courthouse.

**How soon before I get paid?** The easement is a 12 month option which begins the day you sign the document and allows the Service 12 months to accept the agreement. After signature we request title commitment from the abstract company, complete additional documents and then send the case to Denver for Regional Office review. They in turn send the case to the Department of Justice for review. The case is then returned to the Regional Office to be accepted and signed by the Realty Chief. The Service has 12 months to do this.

After acceptance the case is sent to Huron, SD and a check is requested and also sent to Huron. The documents are then sent to the abstractor to be recorded and a title policy issued stating that the US Government has an easement interest on this property. After all the documents are recorded and we receive the title policy, we can release the check. Typically, it takes 6 to 9 months for payment.

**What if there is a mortgage on the property?** Lenders are required to sign a subordination agreement that puts our easement interest ahead of the mortgage. In the event the property is foreclosed upon then our easement interest would remain. Lenders may require a portion of the money, but dispersion of the check is between the landowner and the lender. The Service will not release a check until all parties are in agreement as to the distribution of funds.

**Are there any costs to me?** You are not responsible for any costs associated with recording documents, obtaining title commitments or title policies. If there is a lender subordination fee you will be reimbursed. We will not reimburse lawyer fees.

## **GENERAL QUESTIONS**

**How does the payment affect my taxes?** The payment is reported to the IRS and you will receive a 1099-S in the year that you receive the money. The payment needs to be reported, however, it may not be considered taxable income. You are advised to talk to a tax consultant who can provide you information relevant to your situation.

**Will my CRP or other FSA conservation contracts be affected?** Your current FSA contracts will not be affected. However, the property encumbered by a grassland easement will not be eligible for re-enrollment once the CRP contract expires.

**Are there signs placed on the property showing an easement has been sold?** There are no signs on the property identifying that an easement is in place.

**How long is the easement?** The easement is a perpetual agreement. Any new landowners, heirs, successors, assigns, or lessees are bound by the terms of the easement.

**Can the easement rights be bought back?** No. Once the easement is recorded and you have been paid, the easement rights will remain with the Service in perpetuity. On rare occasions there may be a need to exchange the easement rights. This determination is made by the Manager.

**How much money will I get?** Payments are based on the assessed land value as reported in the county Treasurer's Office. That value is used along with other land sales and a multiplier to determine your property's adjusted assessed land value (AALV). A percentage is then applied to the AALV to arrive at the easement payment. Generally the payments are 30% the tax assessed value.