

A black and white photograph of a grassy field with trees in the background. The image is used as a background for the title page.

Dakota
COUNTY

Conservation Easement and Natural
Resource Management Summary

Dakota County Easements

- A. **Agricultural:** 68 totaling 7,758 acres - includes 1,291 acres of habitat and 49 miles of shoreline
- No industrial, commercial, residential or recreational development allowed
 - No new utilities, roads or parking areas
 - Existing natural areas must be retained
 - 150-foot wide vegetative buffer along rivers and streams, 75-foot wide buffer surrounding most wetlands required
 - Existing and future erosion issue remediation required
 - Cultivation and grazing allowed on non-habitat portions
 - Buildings and other farm facilities not included, but new farm-related facilities may be allowed with written approval
 - Stewardship Plan required (voluntary Irrigation, Nutrients and Manure, Pasture, Pest and Natural Area Management best practice implementation)
 - Annual monitoring by County and/or contracted staff
- B. **Natural Area:** 39 totaling 1539 acres - includes 31 miles of shoreline
- No industrial, commercial, residential or recreational development allowed
 - No new buildings, utilities, roads or parking areas, with the exception of educational-related facilities
 - Natural Resource Management Plan (NRMP) required
 - Required NRMP Implementation with landowner contribution (initially voluntary)
 - Annual monitoring by County and/or contracted staff
- C. **Regional Greenway:** Two totaling 38.1 acres
- No industrial, commercial or residential development
 - Recreational development, including paved trails, are allowed
 - NRMP required
 - Voluntary NRMP Implementation
 - Annual monitoring by County and/or contracted staff
- D. **Regional Park:** Two, totaling 11.6 acres
- No industrial, commercial or residential development
 - Recreational development, including paved trails, are allowed
 - NRMP required
 - Voluntary NRMP Implementation
 - Annual monitoring by County staff
- E. **Park Development Buffer:** Three, totaling 1.5 acres
- Restricted residential development such as sheds, vehicle parking, structures, etc.
 - Landscape tree and shrub planting and maintenance plan
 - Annual monitoring by County staff

Easement Valuation

- Use of formula/assessed easement value for less than \$20,000. **Would like to increase.**
- Independent appraisers for easement values greater than \$20,000, based on approved appraisers from RFQ
- County-chosen review appraisers required for project values greater than \$500,000
- DNR-chosen review appraisers required for project values greater than \$1,000,000

Natural Resource Management Plan Template

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Dakota County Natural Area Conservation Easements

Summary of Allowed, Discretionary and Restricted Activities – May 20, 2015

Note: NRMP means Natural Resource Management Plan.

General Description	Examples	Potential Impact with the Easement	Easement Section
Agricultural Use	Cultivation of Crops (e.g., corn, soybeans, alfalfa, peas)	<u>Restricted</u> , unless included in the NRMP as a part of a use transition, wildlife food plots, or other purposes	4.3
	Pasture (e.g., cattle, horses, goats, llamas)	<u>Restricted</u> , unless included in the NRMP, or for conservation grazing	
	Horses and Pets	<u>Allowed</u> for family or guest use	
Buildings/Other Constructed Improvements	Utilities and Related Facilities (e.g., electric, gas, water, sewer, septic, telephone, cell tower, other communication services)	<u>Allowed</u> : Maintenance, repair, replacement, removal, and relocation of existing facilities and structures <u>Restricted</u> : New utilities/improvements	4.7A
	Roads and Parking Areas	<u>Allowed</u> : Existing facilities may be maintained or improved. <u>Discretionary</u> : Widening or relocating existing facilities <u>Restricted</u> : New facilities	4.7B
	Trails and Paths	<u>Allowed</u> : Existing facilities may be maintained and improved; <u>Discretionary</u> : New, widened or relocated facilities	4.7B
	Fences	<u>Allowed</u> : Existing fences may be maintained, repaired, replaced, improved or removed. New fences may be installed.	4.7C

Buildings/Other Constructed Improvements	Small Structures (e.g., deer stands, wildlife blinds, docks, bridges, benches, small shelters)	<u>Allowed:</u> Existing structures <u>Discretionary:</u> New structures	4.7D
Commercial Use	Commercial Use/Development (e.g., stores, offices, storage sites, for-profit businesses of any kind)	<u>Allowed:</u> Forest management, minimal recreational, home business, or incidental <u>Restricted:</u> Ingress/egress for other commercial use	4.2
Industrial Use	Industrial Use/Development	<u>Restricted</u>	4.1
Mining	Mining, Drilling, Exploring or Extraction (e.g. minerals, sand, gravel, or rock)	<u>Restricted</u> <u>Allowed,</u> if mineral rights are severed from ownership	4.11
Motorized Vehicles	Motorized Vehicle Use (e.g., trucks, cars, tractors, all-terrain vehicles, snowmobiles, motorcycles)	<u>Allowed:</u> Use by family members and guests as long as use does not cause degradation; safety, law enforcement, maintenance	4.14
Outdoor Lighting	Permanent Fixtures	<u>Restricted</u>	4.17
Public Access	General Public Use	<u>Not Required</u> unless landowner agrees	4.8
Recreation	Low-impact, Non-intensive Recreational Activities (e.g., hunting, fishing, hiking, cross-country skiing, horseback riding, tent camping, nature observation)	<u>Allowed:</u> provided activities do not negatively impact the property	5.3
Residential	Inclusion of or Future Construction of Homes and Associated Structures	<u>Allowed:</u> pre-determined division of easement for future lot <u>Restricted:</u> all constructed improvements	4.4/5.2
Signs	Commercial Signs (billboards or outdoor advertising)	<u>Restricted</u>	4.13

Signs	Information Signs (e.g., boundary, interpretation, landowner, directions, name of Grantee, funders, and allowed activities)	<u>Allowed</u> , with approval by Grantee and Grantor	4.13
Topographic Changes	Ditching, Draining, Re-contouring, Filling or Excavating Soil	<u>Allowed</u> : if incidental to other allowed activities <u>Restricted</u> , unless included in the NRMMP	4.7
Vegetation Management	Timber Resources	<u>Allowed</u> : Selective harvesting, use as fuel and other small scale uses, in accordance with NRMMP	4.12A
	Plant Products (e.g., nuts berries, fruits, specialty crops, vegetables, ornamentals)	<u>Allowed</u> : Selective harvesting, and other small scale uses, in accordance with NRMMP	4.12A
	Harmful or Invasive Species	<u>Allowed</u> : Prevention and management <u>Restricted</u> : Introduction	4.12B
	Pesticides and Herbicides	<u>Allowed</u> : If there is a threat to human or ecological health <u>Restricted</u> , unless included in NRMMP	4.12C
Waste	Mixed Municipal Solid and Industrial Waste, Unserviceable Vehicles, Equipment, Hazardous or Toxic Substances	<u>Restricted</u>	4.15
Water	Alteration of Rivers, Streams, Creeks, Lakes, Ponds and Wetlands	<u>Restricted</u> , unless included in NRMMP	4.9
	Stormwater (from easement exception areas and adjoining properties)	<u>Allowed</u> : Volumes and flows from existing sources <u>Restricted</u> : New or increased volumes or flow	4.9

Native Prairie Bank Conservation Easement

Administered by the DNR Scientific & Natural Area Program

Minnesota Statute 84.96 authorizes Native Prairie Bank conservation easements and defines “native prairie” as “land that has never been plowed, with less than 10 percent tree cover, and with predominantly native prairie vegetation.”

- 1) **Easement valuation** – formula as per statute: 65% of the Non-crop Reinvest in Minnesota (RIM) rate as determined by the Board of Water and Soil Resources (BWSR) for the township where the prairie is located.
- 2) **Development prevention** – standard terms: “No residential, commercial or industrial use of the Protected Property, and no agricultural use of the Protected Property except for those uses expressly permitted by Section 5.1 of this Easement.” Building envelopes – it is very uncommon for our easements to include building envelopes, we have perhaps 5 easements that include them. One easement has the ability to have an envelope in 1 of 3 possible “edge of the prairie” locations (but no building has ever been built), another includes a shed, another is for a small pump-house, etc.
- 3) **Existing and future structures** – No permanent structures or improvements generally allowed, uncommon exceptions include pump-houses and sheds. Fences, temporary duck blind and temporary deer stands are allowed structures.
- 4) **Agricultural land and active agriculture** – Section 5.1 of terms includes allowance for grazing, haying, or seed collection if the landowner a) retains those rights, b) accepts a reduced payment and c) is under the guidance of a Prairie Stewardship Plan, which may include a grazing plan, a haying plan, or a seed collection plan. Grazing plans use the DNR Prairie Condition Ranking Guidelines for ascertaining if a prairie is losing diversity because of mismanagement and DNR staff can then require the landowner to reduce the stocking rate to help restore the vegetation to acceptable levels. Haying can only occur after July 15th, and bales or stacks must be removed within 2 weeks of when the hay was harvested. Only part of the prairie can be hayed in any year – whether that is 1/3, 1/2, or 3/4, depends on how the terms were negotiated with the landowner. Landowners who retain seed harvest rights can harvest seed on 1/3, 1/2, or 3/4 of the prairie, and must rest a different area each year. After seed harvest the landowner must wait at least 1.5 years before harvesting seed on that field again.
- 5) **Wildlife habitat prioritization** – the term that addresses this is the Definition of Conservation Values states: *“For the purpose of this Easement, the term “**Conservation Values**” means the scientific and educational opportunities, native prairie lands, native plants and animals (including without limitation rare species and communities), the ecological processes that support them, the water and soil quality, wetlands, riparian and aquatic habitats and the geologic features specifically identified in the Baseline Property Report.”*

- 6) **Allowed vs. prohibited uses.** (Grazing, haying, or seed collection will be allowed or prohibited depending on how the easement is written)

Allowed	Prohibited
Preserve and protect the Conservation Values of the Protected Property	Activities that impair or interfere with the conservation values
Research and education	Cutting, trimming, mowing, planting, removing vegetation unless a stewardship plan has been written and agreed to in writing
Long term sustainable management of the prairie	Bringing invasive species onto the Protected Property
Landowner retains all hunting, fishing, trapping rights	Expressed or implied uses that do not support or enhance native prairie
Landowner can manage prairie if a prairie stewardship plan has been written	Topographic changes
Temporary deer stands	Dumping of ashes, junk, rubbish, sawdust, garbage, offal
Motorized vehicle ONLY to retrieve a downed game animal, or to manage the property (mend fence, treat for invasive species) and only if that activity will not cause rutting.	Motorized vehicle use
SOME easement allow grazing	Drawing of water for irrigation
Prescribed burning	Camping or fires
SOME easements allow haying	Residential, commercial or industrial use
SOME easements allow prairie seed collection	Agricultural use (except when grazing haying or seed collection is allowed)
	Subdivision of the Protected Property

- 7) **Natural Resource Management Requirements** – Term 5.1.1 reads “Prior to conducting any management, the Landowner must submit a written Prairie Stewardship Plan for the Protected Property to the Commissioner, and the Commissioner must review and approve such a Plan in writing. The Landowner will not destroy, cut, trim, mow, plant, or remove trees, shrubs, bushes or plants, allow livestock to graze the prairie, or apply pesticides unless a Prairie Stewardship Plan has been approved by the Commissioner. The Commissioner may also approve a single management activity in writing without a Prairie Stewardship Plan existing for the protected property.” Term 6.2 gives the DNR the right to enter the Protected Property to undertake prairie management activities, to harvest seed (if the landowner has not retained that right or if they chose not to collect seed that year) and the right to monitor and inspect the Protected Property. Term 6.3 gives the DNR the right to enforce the terms of the easement.

Trout Stream Conservation Easement

(Administered by Division of Fish and Wildlife, Section of Fisheries)

Minnesota Statutes, section 97C.02 authorizes the acquisition of trout stream conservation easements.

1. **Easement Valuation.** Trout stream easements are generally valued by formula set forth in Minnesota Statutes, section 84.0272. The payment under the formula equals the linear feet of the stream within the easement corridor times \$5; plus the easement corridor acres times the estimated market value.
2. **Development Prevention.** There are standard terms in DNR's trout stream easements that prevent development. They prohibit structures, buildings, excavating, filling, dumping, tree cutting, vegetation damage or removal, mowing, burning or changing the stream course without prior written approval of the grantee. In addition, the easements require existing tillage to comply with county shoreland setback standards and no new tillage within the easement corridor is allowed.
3. **Building Envelopes.** Most local ordinances require buildings to be set back far enough from the stream so they are not within the easement corridor. Any existing buildings within the corridor are typically excluded from the easement.
4. **Existing and Future Structures.** See numbers 2 and 3 above.
5. **Agricultural Land and Active Agriculture.** See number 2 above.
6. **Wildlife Habitat Prioritization.** The decision to acquire a trout stream easement is based on numerous parameters, most of which are relative to instream and stream bank conditions. But connectivity to larger blocks of terrestrial habitat is factored in, as well as records of any rare plants or animals.
7. **Allowed vs. Prohibited Uses.** In addition to the easement terms described above, trout stream easements are only for public angling access and do not permit other recreational uses. The easements also provide MNDNR staff, successors and assigns access for fish management purposes.
8. **Natural Resource Management Requirements.** Natural resource management within trout stream easements typically involves both instream and riparian management. Instream management can include projects that reduce erosion and sedimentation, provide additional habitat via natural materials and in cases of extreme flooding, reduce incising of the stream and reconnect the channel to the flood plain to restore natural flow. Riparian management can include control of invasive species and enhance overhead cover. Eroding stream banks are often restored to a stable condition and stream morphology restored to a more healthy condition through standard trout habitat improvement techniques. Operational Orders 113, 124, 130 and 131 are followed to ensure a mix of native species found within the immediate project area or within the watershed are planted to restore or establish woody cover and wildlife habitat within the easement area administered by MNDNR.

Minnesota Forests for the Future (MFF) Conservation Easement

(Administered by Division of Forestry)

Minnesota Statutes, Section 84.66 authorizes Minnesota Forests for the Future conservation easements.

1. **Easement Valuation**-Valuation is determined through fair market appraisal. The value of the easement is obtained by first determining the fair market value of the property without an easement, then subtracting the fair market value of the property with the easement restrictions in place.
2. **Development Prevention**- 2 provisions deal with development: One that prohibits residential, commercial or industrial uses. The second restricts structures, improvements and utilities. There are also restrictions on subdivision and conversion of forest to non-forest uses.
3. **Building Envelopes**- MFF does not typically include building envelopes, however in certain circumstances designated building sites may be inseparable from the land holding or the long-term values of the project could be better protected by establishing designated improvement areas within the easement, instead of allowing for unrestricted use within or adjacent to the FLP project area.
4. **Existing and Future Structures**- Existing and future structures need to be evaluated to determine if they are consistent with the purpose of the program. Existing structures are excluded from the easement footprint where they are deemed residential, commercial or industrial in nature, but others related to forest and wildlife management (deer stands, equipment storage, etc) may be documented in the baseline report and allowed to remain and/or be built. Existing structures can be rebuilt and maintained on the property but typically not expanded.
5. **Agricultural Land and Active Agriculture**- most of our easements focus on forest land, but in some areas of the state, agricultural fields are inseparable from the easement land and the long term values of the property are better served by allowing limited ag land within the overall easement property rather than creating the "donut hole" somewhere in the middle of an eased property that would have no restrictions.
6. **Wildlife Habitat Prioritization**- the scoring for MFF easements takes into consideration about 18 parameters, several of which relate to habitat. Specific wildlife prioritization factors include rare species, native plant communities, native vegetation, and watershed, riparian, aquatic and fish habitat values. Connectivity and relationship to other protected properties are also important considerations.
7. **Allowed vs. Prohibited Uses**- Allowed uses include forestry and wildlife management, recreational use and other uses not specifically restricted or that cause damage to the conservation values of the property. Prohibited uses include no residential, agricultural (including grazing), or commercial uses of the property. No mining or surface disturbance except limited gravel for on-site use. There is a general prohibition on uses that would or are likely to significantly impair or interfere with the Conservation Values of the property.
8. **Natural Resource Management Requirements**- Forest management plans (Usually a Forest Stewardship Plan) provides direction and oversight to natural resource management on the property. Such management has to be consistent with the state-approved forest management plan or Forest Stewardship Plan which is prepared by a qualified plan writer, approved by the DNR and reviewed and updated periodically. The Forest Stewardship Plan addresses forest and wildlife management activities including harvest, planting, thinning, exotic species control and other uses of the property. Additional site level plans are prepared for specific projects and are consistent with the overall management plan. Natural resource management activities are reviewed annually during the annual monitoring and inspection of the property.



RIM Easements

Easement Working Group Presentation



October 4, 2016

Easement Valuation

RIM Wetlands & RIM Buffers

Approximate 90% (crop rate) and 60% (non-crop rate) of the land value for permanent easements. Uses Township Average Tillable Land Value as reported by the MN Dept. of Revenue via the University of Minnesota Land Economics website. This is based on local assessor's reporting of prior year land sales.

Wild Rice and LSOHC Army Compatible Use Buffer (ACUB)

Uses 60% of most recent assessed land value (excluding buildings) for acres enrolled at time of application.

Development Prevention

RIM Easements do not allow development on the easement itself. Adjacent areas outside of the easement boundary still retain development rights. See this excerpt from our Easement Terms below: "Shall not...erect or construct any type of structure, temporary or permanent, on the easement area..."

Building Envelopes

Prior to funding an application, we ensure we are achieving full protection of the targeted area. Areas of lesser importance are allowed to be excluded from the easement area. As an example, an appropriate area may be excluded for future plans to build a house, and this is negotiated up-front. We have denied funding certain high quality applications due to disagreement over building envelope location or size.

Existing & Future Structures

Future structures are barred from being placed on the easement, and existing structures are removed at landowner cost. Typically, structures and their associated building envelopes are excluded from the easement area.

Agricultural Land & Active Agriculture

Cropping can continue through the growing season in the year the easement is recorded. Native species restoration would then occur. Once vegetative restoration occurs, the agriculture-related activities that are allowed include:

- Pollinator plantings (e.g. early-spring blooming annuals that meet our 10% NTE 5 acre policy) or food plots (that meet our food plot policy-10% of easement area NTE 5 acres)
- Conservation haying or grazing, when used as a vegetation management, must have an approved management plan

Wildlife Habitat Prioritization

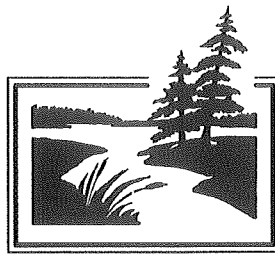
- Wildlife habitat prioritization is generally done as part of the site selection process using scoring systems weighted towards wildlife habitat and connectivity. Most of our programs favor wetland and grassland species.
- BWSR maintains Native Vegetation Establishment and Enhancement Guidelines. These Guidelines detail species diversity based on current site conditions and future project goals. They also show a seed source sequence used for obtaining species from as close to the site's ecological section as possible.
- Local Staff are familiar with site specifics, project goals, and landowner goals, and work with landowners to implement.

Allowed vs. Prohibited Uses

Landowners retain ownership and control of the property they enroll into the easement but the easement prohibits the following: 1) Cropping and grazing unless specifically approved by the BWSR for habitat management purposes, 2) Timber harvest, unless approved by the BWSR for forest management purposes, 3) Building or placing structures on the easement, 4) Mining activities, 5) Placement of wells and sewage disposal systems, 6) Grading and excavating or any activity that would alter the cover that has been established on the easement. Very generally speaking activities that do not affect destroy the cover are allowed and those that do are prohibited.

Natural Resource Management Requirements

Landowners receive financial assistance for the costs of establishing the conservation practices as outlined in a conservation plan developed by the SWCD in cooperation with the landowner. The landowner is responsible for maintaining the practices as well as controlling noxious weeds. Easements are inspected annually by the SWCD for the first five years and every third year thereafter. A copy of the inspection is provided to the landowner and to BWSR. If necessary, the SWCD provides direction to the landowner to assure compliance.



Minnesota Land Trust

The Minnesota Land Trust Conservation Easement Program

OVERVIEW

The Minnesota Land Trust's mission is to protect and restore Minnesota's most vital natural lands in order to provide wildlife habitat, clean water, outdoor experiences and scenic beauty for generations to come. The Land Trust completes this work through three primary program areas: land protection, habitat restoration and community engagement. The Land Trust's primary strategy for land protection is private land protection through conservation easements. We have accepted 508 conservation easements to date, protecting nearly 50,000 acres and a million feet of sensitive shoreline.

Each conservation easement completed by the Minnesota Land Trust (MLT) is unique. Each is crafted to protect the conservation values of each special parcel of land as well as meet the goals of each individual landowner, project funders and the Minnesota Land Trust.

PROJECT SELECTION

The Minnesota Land Trust accepts only permanent conservation easements. We select projects in multiple ways, but the primary mechanism today is through a competitive Request for Proposal (RFP) process in which proposals are submitted by landowners by a certain date and the MLT staff ranks and evaluates each project proposal to ensure that we are getting the maximum conservation impact at the most efficient cost possible. We currently have seven active easement program areas throughout the state, all focused on the unique wildlife habitat features of that particular region.

EASEMENT STEWARDSHIP

As a nationally-accredited land trust, The Minnesota Land Trust must monitor all of its conservation easements every year and maintain thorough records of all easement management activities. In addition, MLT participates in a national easement defense insurance program called Terra Firma which provides resources and expertise in the case of any significant violation. We have three full-time staff dedicated to the monitoring and enforcement of easements and more than 100 trained and certified volunteer monitors.

EASEMENT PROGRAM GUIDELINES

Each easement must meet several different guidelines or rules in order to satisfy state and federal law or the guidelines of each funding sources as outlined below:

FUNDING GUIDELINES: Each easement must meet the guidelines of individual funding sources, in particular the rules and guidelines established by the LCCMR and the LSOHC. .

MINNESOTA LAW: Each easement must also meet State easement enabling statute 84C, which follows the Uniform Conservation Easement Act adopted by many states.

FEDERAL INCOME TAX LAW: Because most MLT easements have a donation component, all easements must meet Federal income tax law 170h.

LAND TRUST STANDARDS AND PRACTICES/ACCREDITATION: The Minnesota Land Trust easements also must follow national accreditation standards, including drafting, documentation and monitoring.

LAND USE RESTRICTIONS

At the heart of every conservation easement are the detailed limitations on the landowner's use of the protected property. In each specific case, the restrictions are carefully selected to protect the specific conservation values of that land.

- Industrial or commercial use. These uses of the property are typically prohibited.
- Agricultural use. Agricultural use (cultivation) is typically prohibited unless: such a small area to be incidental to the overall habitat goals, includes conservation grazing as a habitat management goal, or is in a temporary status awaiting restoration.
- Residential use and development. Today, it is MLT's preference to exclude existing residential use. Occasionally, when exclusion is not possible, building "envelopes" are used to confine placement of structures and improvements. .
- Division of the property. Typically MLT easements will prohibit further division of the property except in unique circumstances.
- Roads and trails. Locations of existing roads, driveways or trails are documented and typically not allowed to expand. Unpaved paths or foot trails are often allowed.
- Vegetation and habitat management. Management of natural vegetation to improve its habitat values is always allowed, though subject to an approved management plan. These management plans are often developed and reviewed prior to closing the conservation easement.

VALUATION

Historically, most of MLT's conservation easements have been donated. Today, most are either still donated or have a partial donation. For purchased or partially purchased easements, MLT must secure a qualified appraisal through a RFP process. These appraisals must follow the state funding guidelines.

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Northern Tallgrass Prairie National Wildlife Refuge

NTP NWR Easements Acquired:

Form 1 – Haying and grazing allowed
Form 2 – Haying Only
Form 4 – Grazing Only

4 (15%)
6 (22%)
17 (63%)
27

Outcomes:

Total Acres: 2,929

- Acres Native Prairie 1,899 (65%)
- Acres with Sig Biodiversity of *Mod, High, Out (MNBs)* 1,859 (63%) – Includes 140 acres High Biodiversity Riparian Forest 373
- Acres Wetlands 11 miles
- Miles stream/lakefront 2,582 (88%)
- In Prairie Plan Priorities

Parcel Prioritization

1. Native prairie
2. Core and corridor areas
3. Near existing protected lands
4. Biodiversity

Easement Valuation

Adjusted Assessed Land Value (AALV): Estimate used to establish market value of land. Based on county's tax assessed value of the property

Form 1: Allows grazing and haying - 60% of AALV

Form 2: Allows haying only - 75% of AALV

Form 4: Allows grazing only - 65% of AALV

Restrictions on Development, Buildings, Agriculture

- Buildings may not be constructed on any portion of tract covered by the easement
- No Cultivation Allowed
- Existing buildings/inappropriate sites are excluded

Management Requirements

- No haying before July 15th
- Tree plantings are not allowed
- Weed control is responsibility of landowner. Broadcast spraying not allowed. Approved chemicals only.
- FWS encourages and provides support to manage lands as healthy grasslands

