



## Fact Sheet

March 2009

## Emergency Watershed Protection Program -Floodplain Easements (EWPP-FPE)

### **Overview of the American Recovery and Reinvestment Act of 2009 (Recovery Act)**

The Recovery Act was signed into law by President Obama on February 17, 2009. It is an unprecedented effort to jumpstart our economy, create or save millions of jobs, and put a down payment on addressing long-neglected challenges so our country can thrive in the 21st century. The Act is an extraordinary response to a crisis unlike any since the Great Depression, and includes measures to modernize our nation's infrastructure, enhance energy independence, expand educational opportunities, preserve and improve affordable health care, provide tax relief, and protect those in greatest need. Learn more on [recovery.gov](http://www.recovery.gov) <http://www.recovery.gov/>.

### **Background**

Section 382 of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104-127, amended the Emergency Watershed Protection Program (EWPP) to provide for the purchase of floodplain easements as an emergency measure. Since 1996, the Natural Resources Conservation Service (NRCS) has purchased floodplain easements on lands that qualify for EWPP assistance. Floodplain easements restore, protect, maintain, and enhance the functions of the floodplain; conserve natural values including fish and wildlife habitat, water quality, floodwater retention, groundwater recharge, and open space; reduce long-term federal disaster assistance; and safeguard lives and

property from floods, drought, and the products of erosion.

### **Land Eligibility**

NRCS may purchase EWPP-FPE on any floodplain lands that have been impaired within the last 12 months or that have a history of repeated flooding; that is, flooded at least two times during the past 10 years. Lands that will be inundated or adversely impacted as a result of a dam breach are also eligible.

### **Easement Payments**

Under the floodplain easement option, a landowner voluntarily offers to sell to the NRCS a permanent conservation easement that provides the NRCS with the full authority to restore and enhance the floodplain's functions and values. In exchange, a landowner receives the least of one of the three following values as an easement payment: (i) a geographic rate established by the NRCS state conservationist, (ii) a value based on a market appraisal analysis, or (iii) the landowner offer.

### **Restoration of the Floodplain**

The easement provides NRCS with the authority to restore and enhance the floodplain's functions and values. NRCS may pay up to 100 percent of the restoration costs. To the extent practicable, NRCS actively restores the natural features and characteristics of the floodplain through re-creating the topographic diversity, increasing the duration of inundation and saturation, and providing for the re-establishment of native vegetation.

### **Landowner Use**

Landowners retain several rights to the property, including quiet enjoyment, the right to control public access, and the right to undeveloped recreational use such as hunting and fishing. At any time, a landowner may obtain authorization from NRCS to engage in other activities, provided that NRCS determines it will further the protection and enhancement of the easement's floodplain functions and values. These compatible uses may include managed timber harvest, periodic haying, or grazing. NRCS determines the amount, method, timing, intensity, and duration of any compatible use that might be authorized. While a landowner can realize economic returns from an activity allowed for on the easement area, a landowner is not assured of any specific

level or frequency of such use, and the authorization does not vest any right of any kind to the landowner.

### **Applying and More Information**

Landowners should visit their local USDA Service Center to apply. Local NRCS offices will forward all EWPP-FPE applications to the Kansas NRCS State Office for ranking. More information is available on the Internet at [www.ks.nrcs.usda.gov/programs/ewp/](http://www.ks.nrcs.usda.gov/programs/ewp/) and click on National EWP Floodplain Easement.