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October 19, 2015

Subject: LTP-Easement Compensation Procedure for Fiscal Year 2016 Agricultural Conservation Easement Program (ACEP) Wetland Reserve Easements (WRE) Applications

TO: Washington State Technical Advisory Committee (STAC)

In accordance with the ACEP-WRE statute, regulations, and policy, NRCS must determine whether eligible lands may be enrolled in ACEP-WRE based on the likelihood of successful restoration of wetland functions and values, taking into considering the cost of acquiring the easement and the cost of the restoration, protection, enhancement, maintenance, and management.

Each fiscal year the State Conservationist, in consultation with the State Technical Advisory Committee (STAC), must establish a process to determine easement and 30-year land use contract compensation values. ACEP-WRE policy guidance is found in the ACEP manual, Section 528.122. The basis for the compensation offer for an easement or 30-year contract enrollment will be the lowest of the following: (i) The fair market value (FMV) of the land using either of the following: a Uniform Standards for Professional Appraisal Practices (USPAP) individual appraisal or an area wide market analysis (AWMA) or survey, (ii) The geographic area rate cap (GARC), or (iii) An amount voluntarily offered by the landowner.

For fiscal year 2016 NRCS Washington is proposing to use a Geographic Area Rate Cap (GARC) to establish easement and 30-yr contract compensation values. This GARC value will be applied to the results of an individual USPAP appraisal of the property value. This is the same method used for FY2015 ACEP-WRE enrollment offers. Due to lower enrollment expectations in FY2016 it is more cost effective to only appraise properties that we will be enrolling rather than evaluating the real estate market of the entire state.

Under NRCS policy, GARC values must always be less than appraised fair market values (FMV). The GARCs must result in an easement compensation value that is fair compensation for the rights being acquired through the easement or 30-year contract. Under NRCS easements certain interests of the real estate are purchased and certain interests are reserved to the landowner. Therefore, the easement compensation should always be less than the fair market value (FMV). NRCS may use a percentage of the FMV that provides a fair compensation. This percentage is arrived at in consultation with the State Technical Advisory Committee (STAC). Washington NRCS appreciates the review and comments from the STAC and will incorporate them to the extent possible.

It is proposed that the FY2016 ACEP-WRE GARC value for permanent easement offers will be 85% of the individually appraised fair market value of the subject property, not to exceed \$5,000/acre, unless there are federal or state T&E species present or if the site is considered essential habitat for species recovery. In those cases there will be a hold down of \$10,000/acre. (The \$5,000/acre figure is the maximum set forth in policy, unless the state establishes a justification for a higher amount).

It is further proposed that the FY2016 compensation for 30-yr easements, 30-yr tribal land use contracts and WRE-reserved grazing rights easements be set at 75% of the GARC for permanent easements, not to exceed \$5,000/acre, without any exceptions. WRE-reserved grazing rights easement compensation on 30-year easements and 30-year tribal land use contracts will be 75% of the calculated 30-year compensation value, not to exceed \$5,000/acre, without exceptions.

Example ACEP WRE compensation calculations.

Appraised Fair Market Value	GARC	Permanent Easement	30-Year Easement or Tribal Land Use Contract (75% of GARC= 63.75% FMV)	Reserved Rights** on Permanent Easement (75% of GARC= 63.75%) FMV	Reserved Rights ** Easement on 30-yr Easement or Tribal LUC (75% of 30-yr GARC= 75%*63.75%=47.8% FMV)
\$100,000	85% FMV	\$85,000*	\$63,750*	\$63,750*	\$47,800*

* Actual compensation will also be calculated on a per acre basis to ensure that it does not exceed the \$5,000/acre cap (or the \$10,000/acre cap if appropriate). For example, if the FMV for a permanent easement is \$100,000 for a 12-acre parcel, the FMV value is \$8,333.3333/acre. The GARC compensation would be 85% of that, or \$7,083.3333. If there are no T&E or special habitat considerations the actual offer will be capped at \$5,000/acre, or \$60,000 for the entire easement. If there are T&E species or special habitats involved, then the final compensation could be \$7,083.3333/acre, or \$85,000 for the entire easement (rounded up).

** Reserved Rights enrollments are offered only in the Channeled Scablands area of eastern Washington. These are reserved grazing rights interests retained by the landowner in the warranty easement deed. This option was put forth as a special Wetland Reserve Enhancement Program (WREP) initiative approved by the Washington STAC in 2011. The WREP proposal was approved for use by NRCS in 2012. A copy of the approved WREP proposal and map of the WREP Channeled Scablands area is attached to this document

Justification for methodology

Washington is choosing to utilize individual appraisals to determine Fair Market Values (FMV) and Geographic Rate Caps (GARCs) to establish ACEP-WRE compensation.

1. Washington has limited WRE enrollment (last few years we've had less than 10 applications)

2. Areas within Washington have limited WRE enrollment and it is difficult to establish comparable sales of conservation easements used in an AWMA.
3. Washington has areas with significant complexity that do not allow for a more general evaluation—for example, property by property value differences due to water rights or extreme variability in values over a small area due to development pressure.
4. It is more cost effective to pay for a few USPAP appraisals than to procure a statewide AWAMA (AWMA’s cost around \$25,000 while individual appraisals may only cost \$2000-\$4,000 each).
5. Using an 85% of FMV percentage to establish easement compensation reflects the value of retained property rights to the landowner.
6. The exception to allow for a maximum of \$10,000/acre due to the presence of T&E species or unique habitats is based on the 2014 AWAMA that established the then highest per acre agricultural land values in the state. Where critical environmental benefits would accrue from the enrollment of an ACEP-WRE easement protecting and restoring habitats for T&E species the ACEP-WRE offer will have to be more competitive with prevailing open market values.

Discussion of regional and interstate differences

Neighboring states evaluated included Idaho and Oregon. The differences seem to be negligible and are reasonably consistent with each other. The use of individual appraisal to determine FMV reduces the chance for exceptional differences across state lines.

Idaho has a very similar FY2016 GARC methodology compared to Washington, with the exception of not offering reserve rights easements for grazing. The Idaho not-to exceed figure is \$5,400/acre with no exceptions.

FY2016 Idaho GARC

Appraised Fair Market Value	GARC	Permanent Easement	30-Year Easement or Tribal Land Use Contract (75% of GARC= 63.75%)
\$100,000	85% FMV	\$85,000	\$63,750

The Oregon FY2016 GARC is similar to Washington with the main difference being their GARC is calculated using 90% of the FMV. Oregon does allow for exceptions to the \$5,000/acre cap (up to \$10,000/acre) based on similar criteria related to the protection of rare habitats and threatened and endangered species,

FY2016 Oregon GARC

Appraised Value	GARC	Permanent Easement	30 Year Easement (75% of GARC=60%)	30 Year Reserved Rights Easement (75% of GARC=60% * 75%=45%)
\$100,000	90% FMV	\$90,000	\$67,500	\$50,625

WETLAND RESERVE ENHANCEMENT PROGRAM -RESERVED RIGHTS PILOT

This Exhibit of the warranty easement deed authorizes the Landowner to reserve grazing rights provided the Natural Resources Conservation Service (NRCS) determines that the reservation of the grazing right is:

- compatible with the land subject to the WRP easement; and
- consistent with the long-term wetland protection and enhancement goals for which the easement is being established

THE CHanneled SCABLANDS ECOSYSTEM

The Channeled Scablands of eastern Washington is a globally unique geological area created through scouring of massive Ice Age floods occurring 12,000 to 20,000 years ago (Houston and Vial 1995). The area exhibits some of the most dramatic erosional features on earth and supports an unusual pattern of deep permanent sloughs, semi-permanent potholes, seasonal wetlands, rock, ponderosa pine and aspen forests, grassland, and shrub-steppe habitat. The juxtaposition of all these contrasting habitats in close proximity is unique to the Channeled Scablands and creates conditions of exceptional wildlife and plant diversity.

Prior to settlement, ducks, geese, and other waterbirds nested in the area in large numbers. Many waterfowl also used the productive marshes and lakes during the spring and fall migrations. Because of its unique resources, this area was also important to local indigenous cultures. The Northern Plateau peoples frequented this vicinity in spring to dig the roots of camas, bitterroot, wild onion, and numerous species of Lomatium, and to gather waterfowl eggs.

Pioneers arrived in the late 1800s and rapidly began altering the landscape. Many of the marshes were drained to expand crop areas for hay. By the late 1920s few wetlands remained; instead a network of drainage ditches became the more common feature of the landscape. In addition, as in most developing communities, timber was harvested, native plant communities were grazed by livestock, exotic plants were introduced, and fire, a natural part of the ecosystem, was suppressed.

In eastern Washington herbaceous wetland communities are commonly dominated by cattails, bulrush and a variety of sedges and common grasses. Herbaceous wetlands are maintained by hydraulic regimes that limit or exclude invasion by large woody plants. Although the Columbia Basin irrigation project has resulted in raising the water table and creating new wetland habitats in localized areas, herbaceous wetlands have steadily declined throughout eastern Washington since 1900, due to filling, draining, grazing, farming and trapping of beaver. Herbaceous wetlands are also especially susceptible to exotic, noxious plant invasions. Herbaceous wetlands are considered one of the most endangered habitat types in eastern Washington (Washington Steering Committee of the Intermountain West Joint Venture 2005).

Despite widespread hydrologic alterations, the Scablands remain an area of regional and national conservation importance, containing densities of wetland basins rivaling the Prairie Pothole region, and at intact sites, waterfowl production exceeding that of the Potholes region (U.S. Fish and Wildlife Service 2007). Most of the larger wetland basins, however, have been drained and very little of the original Channeled Scablands area is under any kind of public ownership or protected in any other fashion (U.S. Fish and Wildlife Service 2007).

DESCRIPTION OF COMPATIBLE EFFECTS OF GRAZING

Through the elimination or reduction of competing invasive vegetation, grazing in channel scablands wetlands can help maintain or restore herbaceous plant communities that are beneficial to breeding waterfowl. Grazing

Washington NRCS WRE Geographic Area Rate Caps - 2016

occurring in the margins of semi-permanent to permanent wetlands would be beneficial to herbaceous wetland plants and waterfowl as water levels drop throughout summer. These herbaceous wetland plants would then make these wetlands more attractive to breeding waterfowl the following spring. Currently, the number of breeding waterfowl in the project area is estimated at about 52,000 birds (Mikal Moore, Washington Department of Fish and Wildlife, personal communication).

Elimination or reduction of competing invasive vegetation through grazing would also benefit seasonally flooded wetlands that are wet only in spring. In these cases, grazing can prevent vegetation from becoming too rank, and/or facilitate the establishment of herbaceous wetland plants. Spring flooded habitats that are characterized by herbaceous vegetation (that is not too rank) are especially attractive to spring migrating waterfowl. Preliminary estimates suggest that up to 300,000 waterfowl may migrate through the project area in spring (Mark Petrie, Ducks Unlimited, personal communication).

A primary role grazing can play within the Project Area is in the management of an invasive grass species, reed canarygrass (*Phalaris arundinacea* L.). Although reed canarygrass, a circumboreal perennial grass species, is native to North America and the Pacific Northwest (Merigliano and Lesica 1998), a more aggressive European cultivar or hybrid has been widely used as a forage grass species. Seed for this cultivar has been commercially available since the late 1920's (Always 1931). It is likely that this cultivar of reed canarygrass was introduced into this portion of Washington State in the late 1930's. It was promoted because it is an aggressive perennial species well-adapted to poorly drained soils, it establishes readily from seed, spreads through an extensive rhizomatous root system and annually produces over 3 tons per acre of biomass.

Once established, however, this aggressive non-native cultivar either displaces native plant species or prevents them from reestablishing on disturbed areas (Maurer et. al. 2003, Paveglio and Kilbride 2000, Harrison et al 1998, Spuhler 1994, Emers 1990, Taylor 1990). Seasonal wetlands and wet meadow areas without intervention become a monotypic stand of this species (Figure 1 and 2). There are 100 species of native plants that should occur in habitats susceptible to invasion by reed canarygrass. Survey work on Turnbull National Wildlife Refuge has shown that plant species diversity of invaded stands has been reduced to 11 species on the average with some stands having 3 species or less. Usually one or more of these species are exotic invasive species such as Canada thistle. Nearly all wetland basins in the Channeled Scablands have at this time been invaded by canarygrass.

Pure stands of reed canarygrass are poor substitutes for the diverse native plant communities that provide foraging habitat for over 50 species of migratory and resident waterfowl, shorebirds and water birds both during spring migration and the breeding season. These seasonal wetlands are also important breeding habitat for 6 species of amphibians and the primary habitat for the threatened plant species, water howellia.



Figure 1. Reed

Canarygrass dominated seasonal wetland at Turnbull NWR.



Figure 2. Aspen stand at Turnbull NWR with understory dominated by reed canarygrass.

Reed canarygrass dominated wetlands have fewer food resources, as a result of simplified structure, coarser less digestible detritus, and the density of accumulated dead plant material. For early spring migrants such as the mallard, northern pintail, and American widgeon, food resources and their availability are limited by a thick thatch layer covering the soil surface. This thatch layer limits wildlife access to important foraging strata and shades the soil surface maintaining cooler temperatures which delays emergence of invertebrates (McMillan and Cook 2008). These shallow flooded areas are also important pairing habitat for many species of dabbling ducks especially the cinnamon and blue-winged teal. Other waterbirds affected by invasion of reed

canarygrass include several species of shorebirds; lesser and greater yellow-legs, long-billed dowitchers, western, least, and Baird's sandpipers, and Wilson's snipe, and marshbirds such as the sora and Virginia rail.

Although most research has found that grazing has little impact on the density of reed canarygrass in the short term, it can mitigate some of its impacts and create conditions more favorable to wildlife. Grazing in the early spring can act to open up monotypic stands of reed canarygrass reducing the amount of litter and increasing the amount of bare ground improving access to foraging substrates, improved habitat for invertebrates and potentially open the community for the germination and persistence of native wetland species (Hillhouse et. al. 2010). An experimental exclusion of grazing from reed canarygrass dominated areas on Turnbull NWR, and its evaluation in 1972 indicated that it provided some benefits (Bennington 1972). Areas where grazing took place, essentially keeping reed canarygrass down, had 40% more sedge and rush composition than the area where reed canarygrass was fenced off and left to grow "naturally".

In addition to the positive effect on reed canarygrass dominated wetlands, grazing can also open up areas of dense emergent plants such as burreed and cattail especially along the shallower wetland edges improving the interspersions of open water areas for waterfowl pairing and waterbird foraging habitat (Austin et. al. 2007 and Schultz et. al. 1994)

If improperly managed, grazing within an easement area could result in compaction and "hummocking" of saturated soils, reduction in the stem density and coverage of woody riparian vegetation and potential impacts to sensitive native wetland species such as camas. Potential increase in nutrient loading of wetlands could also occur resulting in eutrophication if livestock are allowed to stay too long within a wetland basin.

Grazing should be targeted to wetlands or portions of wetlands that are dominated by reed canarygrass or where dense, rank stands of emergents would benefit from grazing. Fencing should be erected to focus grazing to avoid unnecessary impacts to sensitive upland areas, healthy functioning wetland areas and woody riparian zones. Continuous season long grazing should be avoided in easement areas.

To specifically target reed canarygrass, grazing should occur from May to June when it is most palatable and livestock water is available. Stocking rate should be high enough to achieve at least 80% utilization of reed canarygrass within a month. Typically this would require approximately 1 Animal Unit per acre.

If stock water is available in late summer, cattle can be grazed into the fall on reed canarygrass sites previously grazed in spring to decrease height of regrowth providing conditions for very early spring use the following year by migrant waterfowl.

The Parties hereby agree that the grazing of the easement area is a management tool necessary to achieve the desired wetland functions and values. The Landowner agrees to conduct grazing activity in accordance with the terms and conditions identified in this Exhibit and the grazing management plan which is a component of the Wetlands Reserve Plan of Operations (WRPO) developed with NRCS.

To use grazing as a wetland and upland vegetation management tool, the grazing management plan must include the location, timing, intensity, frequency, and duration of grazing necessary to achieve the desired wetland functions and values of the WRP easement area as described herein. In particular, the grazing management plan will:

- a. contain the provisions necessary to further the identified habitat and species goals and objectives described in the WRP easement and this Exhibit herein;
- b. be compatible with the identified habitat and species goals and objectives, as described under NRCS practice standard Wetland Wildlife Habitat Management (644) and/or Upland Wildlife Habitat Management (645);
- c. include any livestock watering facilities or fencing. This infrastructure will include considerations for wildlife movement; and

Washington NRCS WRE Geographic Area Rate Caps - 2016

- d. include a plan map depicting grazing units, infrastructure (existing and proposed fence), and livestock watering facilities (existing and proposed locations).
- e. include criteria to evaluate the effect grazing has on the desired habitat and include the flexibility to make annual adjustments in the location, timing, intensity, frequency, and duration of grazing to account for seasonal climatic factors that result in changes in forage production and subsequent impacts of stocking rates on the desired habitat conditions.
- f. include periodic monitoring of the effects of grazing. NRCS may require changes to the grazing management plan to address appropriate habitat features such as nesting, open water, invasive species control, or other factors that were not adequately addressed in the original grazing management plan but are necessary to achieve the goals and objectives of the WRP easement and this Exhibit.

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Washington NRCS WRE Geographic Area Rate Caps - 2016

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Wetlands Reserve Enhancement Program with Reserved Grazing Rights
Proposed Pilot Area – Channel Scablands
November 2011

