

# NEBRASKA NRCS CONSERVATION EASEMENT QUESTIONS AND ANSWERS



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# CONSERVATION EASEMENT OVERVIEW

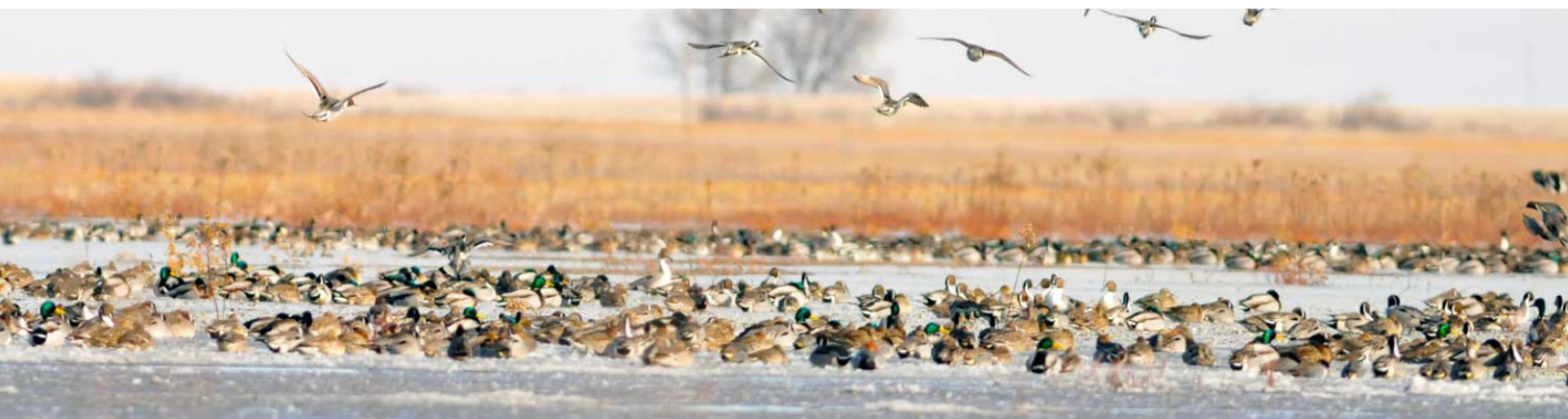
This document addresses frequently asked landowner questions about Natural Resources Conservation Service (NRCS) administered easements. NRCS wetland easements in the Agricultural Conservation Easement Program (ACEP) include the Wetland Reserve Easement (WRE) and the Wetland Reserve Enhancement Partnership (WREP) easements. WREP easements in Nebraska provide additional flexibility in the easement deed. These easements allow the landowners to retain the water right and pass pivot irrigation systems over restored playa wetlands enrolled in the easements. The precursor to WRE and WREP easements were NRCS's Wetland Reserve Program (WRP) easements.



A conservation easement is a voluntary legal agreement between a landowner and a government agency or qualified conservation organization that acquires specific realty rights of a property for a specified period of time. The purpose of NRCS wetland easements is to protect the natural resource value of the land, which includes agriculture, forestry uses, wildlife habitat, water quality, and/or water quantity.

## Key Aspects of Conservation Easements:

- **Voluntary:** The landowner chooses to enter into the agreement.
- **Duration:** The restrictions on the land use are outlined at the time of the easement acquisition and WRE and WREP are either 30 year or perpetual (i.e., forever).
- **Private ownership:** The landowner retains ownership of the land and can continue to use it within the restrictions of the easement deed. The landowner can sell the property or pass it on to their heirs. The easement stays in effect for all subsequent landowners for the term of the easement.
- **Access:** The landowner controls access. Easements are not open to the public unless the landowner provides access.
- **Land deed:** The easement deed outlines the terms and conditions of the easement and is recorded in the county where the land is physically located. The deed runs with the land, regardless if the property is sold.
- **Eligibility:** To be eligible for WRE and WREP enrolled wetland acres must be restored to the extent possible on the site.
- **Management and Maintenance:** WRE and WREP easements require collaboration with NRCS to complete management and enhancement activities. Activities that improve the wetland and easement, like management are permitted through the Compatible Use Authorization (CUA) process.



A conservation easement is a realty transaction and is not a landowner agreement or contract used to provide cost-share like most other voluntary incentive-based conservation programs (e.g., EQIP or CSP). As a result, there are some misconceptions about the enrollment process, duration, and allowed uses. The remainder of this document focuses on answers to questions frequently asked by landowners before enrolling in a conservation easement administered by NRCS. Specifically, this document is focused on WRE and WREP easements acquired through ACEP in Nebraska, based on the 2025 application guidelines.

The purpose of ACEP easements is to protect, restore, and enhance the benefits of wetlands to attain:

- Habitat for migratory birds and other wetland-dependent wildlife species of concern.
- Protection and improvement of water quality
- Reducing flood damage
- Recharge of groundwater
- Protection and enhancement of open space and aesthetic quality
- Carbon sequestration
- Contribution to educational and scientific scholarship

To achieve the above-mentioned ecosystem and societal benefits active management is critical. Playas, like other wetlands in the Great Plains, developed under an intense disturbance regime that included grazing by large herds of herbivores (e.g. elk, bison, deer), periodic wildfires, and extreme periods of drought and deluge. Without landowner and buy-in and commitment necessary management will not occur. To implement needed management the NRCS works with the landowner to develop a Compatible Use Authorization (CUA) that outlines guidelines for activities that are consistent with the goals of the easement. For example, a grazing CUA, will contain a grazing plan with guidelines for dates, duration, and stocking rates. The landowner can choose to graze with their own livestock or lease the site to achieve the grazing objectives. Ultimately, the landowner receives the economic benefits from the grazing . Other common maintenance and management practices authorized through CUAs include haying, prescribed fire, mechanical tree removal, supplemental water deliveries, and/or herbicide treatment.

Because of the importance of Nebraska's wetlands for wildlife habitat there are multiple partners (Ducks Unlimited, local Natural Resource Districts, Nebraska Game and Parks Commission, Pheasants Forever, and U.S. Fish and Wildlife Service) that work with NRCS and the landowner to support management. For example, a number of grazing infrastructure projects habitat been completed through 85% cost-share to facilitate prescribed grazing for wildlife habitat. According to the University of Nebraska - Lincoln Extension, landowners that engage in prescribed grazing on sites with WRE easements will have 3-year Return on Investment (ROI) for their 15% cost-share based on county average forage production and rental rates.





## OWNERSHIP

**Question:** Is NRCS my “landlord” if they have a conservation easement? Who controls what I can do?

**Answer:** Landowners retain title to their property and maintain the right to sell, lease, and borrow against their land. The Warranty Easement Deed will outline all rights reserved by the landowner and restricted activities. Landowners may request Compatible Use Authorizations (CUAs) for activities that are not listed as reserved rights in the deed. Only activities that are consistent with the long-term protection and enhancement of the easement area will be authorized. NRCS and landowner collaborate on the WRE Management Plan and associated CUAs to provide necessary flexibility to implement actions that achieve a shared management vision of the site. This supports the vision of the landowner, who has given up some development and land management rights with considerations to the family’s or individual’s long-term goals on their property. A landowner should never enter into an easement without certainty that it aligns with their long-term goals and objectives.

As described, the CUA process can allow the tract to remain as an active part of the farm/ranch operation for forage production to promote desired habitat conditions. Revenue from these activities can be used to offset property tax and infrastructure upgrades to ensure these acres are cost positive to the operation. By statute, NRCS staff are required to complete annual monitoring with a one-in-five year on-site monitoring assessment. This monitoring is meant to be collaborative to review habitat conditions, update the management plan and necessary CUAs, and address any potential violations.

## GOVERNMENT AGENCY ACCESS

**Question:** Do government staff have unlimited access to my property?

**Answer:** NRCS is the legal easement holder and has the right to access the easement to complete annual monitoring to ensure compliance with the terms of the easement deed. NRCS will contact the landowner prior to accessing the property. NRCS and the landowner have the option to work with a variety of partners to develop voluntary agreements to enhance habitat conditions (e.g., grazing infrastructure) on USDA held easements. These agreements are developed with the landowner and specifically outline any participating non-government organizations and/or local, state, and federal agencies who will have access, contingent on the landowner permission.



## FUTURE OWNERSHIP

**Question:** Does a conservation easement require that my land eventually be owned by a government entity?



**Answer:** No. The landowner retains the right to sell their property with a conservation easement, and they can sell the property to whomever they choose. NRCS requests that when a property with a WRE is sold they are notified so they can work with the new owner to ensure the terms of the warranty easement deed have been clearly conveyed.

## RESALE OPPORTUNITIES

**Question:** Lands with conservation easements don't sell on the open market.



**Answer:** Land with a conservation easement can be bought and sold as any other private property transaction. Sale of an easement will be dependent on the buyers' wants and needs. In Nebraska, easements with grazing infrastructure have resale values that align with range/grass/pasture lands in the respective counties. Other WRE easements in Nebraska have been sold as recreational lands and at times exceeded irrigated row-crop values.

## TAX/MARKET EVALUATION

**Question:** Do conservation easements prevent appreciation of land value on property?



**Answer:** Land values, including easement values, fluctuate with market conditions. This is why a landowner that enrolls in a USDA Conservation Easement is compensated for this initial loss of realty equity through the easement payment. Use of the easement payment is the landowner's decision.



## PROPERTY EQUITY

**Question:** Can landowners continue to borrow against land with a conservation easement?

**Answer:** Banks will continue to offer loans collateralized by a property with a conservation easement, but the loan amount may be reduced depending on the property's value.

## PROPERTY RIGHTS

**Question:** When I enter into a conservation easement do I lose my property rights?

**Answer:** Although ACEP WRE easements have restrictions under the terms of a WRE easement deed the landowner retains four basic rights:

- The right to sell the property. The easement deed is tied to the land and transfers with the property when acquired by a new owner.
- The right to control access; no public access is required.
- The right to quiet enjoyment and recreational use including hunting, fishing, and trapping, and other quiet recreational uses.
- The right to subsurface resources, provided no drilling or mining takes place within the easement boundaries

## PROPERTY VALUE

**Question:** How does a conservation easement impact the value of your property? Will this impact future generations?

**Answer:** Landowners are compensated 95% of the appraised value by NRCS for the purchase of the easement. NRCS also pays 100% of the wetland restoration and costs to seed the upland buffers. A 2024 University of Nebraska Lincoln Extension assessment of net-farm income highlighted that transitioning flood-prone croplands to an idle state or habitat can and improve ROI over the field by 5% through mitigating lost inputs. Those tracts that were integrated into the operation for forage production can improve ROI by 17.5% over the field.

WRE may lower the land's property taxes, depending on the assessed land type before and after easement closing and restoration. This property tax benefit can also substantially reduce the estate taxes heirs will have to pay, making it easier and more affordable for them to keep the land intact and in the family. Talk to your local tax advisor for more specific information on how your property taxes might be impacted through a conservation easement.



## CONSERVATION EASEMENT LANDUSE

**Question:** Will a conservation easement on my property result in unusable “dead” space?

**Answer:** Conservation easements are unique opportunities that allow landowners to address low producing acres, facilitate generational transition, and provide important benefits like groundwater recharge and water quality enhancements, that benefit them personally, as well as local residents. The easement may be “a limited use area” but the easements and associated compensation has helped landowners transition flood-prone cropland to forage production that offset any loss in a net-farm income. In Nebraska, WRE easement payments have facilitated generational transition, allowing the next generation to come back to the operation. The lands with the WRE easement can also provide recreational opportunities, which allow some working farm and ranch operations to diversify with revenue from leased and/or guided hunting and fishing ventures. Wetlands restored through conservation easements provide significant benefits for local residents. Monitoring by local Natural Resource Districts has highlighted that one acre of wetland can recharge 1.14 million gallons annually with a 35-day hydroperiod. This recharge will support irrigation of 3.5 acres of cropland with a 6-inch allocation. In terms of drinking water this same recharge will provide potable water for 100 Nebraskans based on the United States Geological Survey estimate of municipal water consumption by an individual. Groundwater recharge through wetlands can also help reduce nitrate pollution into groundwater further benefiting Nebraska residents.

## PUBLIC ACCESS

**Question:** Does a conservation easement require public access?

**Answer:** Public access is not a requirement for conveying a conservation easement. As with any private property, the landowner chooses who to grant access to their land.

## EASEMENT COMPENSATION

### Question: How is easement compensation determined?



**Answer:** Easement compensation is based on certified appraisals. Appraisals are completed by local professionals who evaluate the value of the land based on comparable sales of lands with similar landuse (i.e. irrigated cropland, dryland cropland, range/grass/pasture). This ensures a consistent framework for compensation that the landowner can evaluate prior to enrolling in the program. Current U.S. Held Easement compensation provided by NRCS is:

- Perpetual Easement – - 95% appraised value
- 30-year Easement – 75% appraised value
- Perpetual Reserve Grazing Right – 75% appraised value
- 30-year Reserved Grazing Right – 56% appraised value

## EASEMENT BOUNDARY

### Question: How is the easement boundary determined?



**Answer:** The easement boundary must work for the landowner and property operations. NRCS and the landowner collaborate on the placement of the easement boundary throughout the process until the final easement closes. Generally the boundary is large enough to ensure wetland restoration, follows NRCS guidelines, and aligns with the needs of the landowner's operation. This process allows flexibility and when necessary, the landowner may apply for a waiver to address unique circumstances. This is most common when the wetland to upland ratio is greater than 1:1. Prior to conservation easement closure, NRCS and the landowner review the boundary three times, including after the legal survey with opportunities for adjustment as part of each review.

In Partnership With:



**United States  
Department of  
Agriculture**

Natural Resources Conservation Service