Part 515 – Exhibits

Subpart G – Floodplain Easement Guidance Documents

515.60 Business Process Flow Chart

The following are details for the list of action items, in the order that they are to be completed.

Action 1 – Landowner submits application.

NRCS provides the landowner with a list of items that must be provided in order for the application to move forward**.**

Action 2 – Determine landowner eligibility, obligate funds for preliminary title search and records search.

1. Landowner provides the necessary information for NRCS to determine if the landowner is eligible to participate including**:**

   a. Copy of the deed.
   b. If an entity –
      - Proof that entity is a legal and valid entity in the State, usually a certificate of good standing from the Secretary of State.
      - Documents indicating who has the authority to sign contractual arrangements for the entity.
2. Conduct a preliminary title search to identify any title issues that could potentially delay or prevent closing the easement. Funds are obligated for this activity directly to an appropriate procurement document, not to the individual easement.
3. Conduct a records search to identify any potential hazardous substance issues that may exist that could potentially delay or prevent closing the easement. Funds are obligated for this activity directly to an appropriate procurement document, not to the individual easement.

Action 3 – Determine land eligibility.

This action item is conducted through an onsite investigation by the appropriate team of NRCS and partner specialists. Items that will be completed during the onsite investigation will include the following:

1 Determine if the land meets one or more of the requirements to be eligible for enrollment as listed in the EWPP statute, rule**,** and this manual.
2 Determine if there are any on site or off site issues that would make the land ineligible for enrollment.
3 Complete the environmental ranking worksheet.
4 Complete preliminary planning activities such that a cost estimate can be derived for the ranking and to ensure that the landowner agrees with the proposed restoration.
5 Complete the Hazardous Substance Checklist.
6 Complete the National Environmental Policy Act Environmental Assessment, Endangered Species Act (ESA), National Historic Preservation Act Assessment (NHPA), and consultation with the U.S. Fish and Wildlife Service.

7 Complete the Preliminary Certificate of Inspection and Possession.

Action 4 – Make tentative funding selections.

Select for tentative approval the applications that would be funded given the State's allocation levels.

Action 5 – Successful applicants receive a letter of tentative acceptance.

A letter of tentative selection will be provided to each selected application. The letter will indicate that this tentative selection does not bind NRCS or the United States to enroll the proposed project in the EWPP-FPE, nor does it bind the landowner to continue with enrollment in the program. It allows NRCS to determine if a landowner remains interested before any additional funds and time are expended.

Action 6 – Unfunded, eligible applicants receive deferral letter.

All eligible applicants not selected for funding will be deferred. It is possible, depending on the acceptance rate of selected applicants, that some of these could be selected for funding later.

Action 7 – Procure appraisal for easement applications, obligates appraisal funds.

Determine the value of the compensation to be offered to the landowner for the easement based on the guidance contained in this manual.

Action 8 – Provide Option Agreement to Purchase (OATP) (Form AD-1157) to landowner.

The OATP (Form AD-1157) is sent with a cover letter by certified mail with return receipt, to the landowner.

Action 9 – Landowner accepts offer.

If the landowner signs and returns the OATP (Form AD-1157) accepting the NRCS offer**,** proceed to Action 10. If the landowner rejects the offer, stop the acquisition process.

Action 10 – State Conservationist (STC) signs option, obligate acquisition funds.

If funds are available**,** the State Conservationist signs Form AD-1157. At this point**,** the acres are considered enrolled in the EWPP-FPE**,** and acquisition funds are obligated based on the Option Agreement to Purchase, with the landowner as the vendor. The landowner may provide a properly executed assignment of payment to NRCS to assign all or a portion of the proceeds to the closing agent.

If the landowner chooses to drop out of the program at any point after the State Conservationist signs Form AD-1157, but before closing, NRCS stops the acquisition process and initiates cost recovery.

Action 11 – Procure legal boundary survey, Obligate survey funds.

A legal boundary survey must be secured on all easements. Funds are obligated for this activity directly to the agreement used to procure the services, not to the individual easement.

1. Provide the surveyor with the following information:
    a. National scope of services that includes requiring a digital copy of the survey that can

be directly uploaded to the national shape file**.**

b. Map of the easement area**.**
c. Title and other ownership information**.**

2 Conduct an onsite visit with the landowner and surveyor to ensure that the proper area proposed for enrollment is identified for the surveyor.

3 When the survey is completed**,** NRCS will review the survey to ensure accuracy and acceptability.

Action 12 – Complete final engineering designs and surveys.

This action item should begin when the OATP is signed. Actual implementation of the restoration should not proceed until the easement is actually acquired (closed), as Action 14 is being completed.

Action 13 – Complete easement acquisition.

1. Obtain and review the title commitment.
2. Prepare the Certificate of Use and Consent.
3. Obtain preliminary title opinion from the Office of the General Counsel (OGC), sending any information required by your local OGC attorney advisor, including:
    a. Copy of preliminary title commitment
    b. Copy of the survey
    c. Copy of hazardous substance record search and checklist
    d. Copy of water rights information
    e. Copy of Preliminary Certificate of Inspection and Possession
    f. Copy of Certificate of Use and Consent
4. Provide closing instructions to closing agent. Funds are obligated for this activity directly to the agreement used to procure the services, not to the individual easement.
5. Conduct easement closing**.**
6. NRCS signs the deed to accept the easement.
7. NRCS completes the Final Certificate of Inspection and Possession.
8. Secure the final title opinion from OGC and have the closing agent record the deed.

Action 14 – Complete final restoration plan and develop contract documents.

This action is completed concurrently with Action 9 and 15. The final restoration plan is completed using the amounts and components resulting from the final engineering plans and designs.

The decision is made on the method which will be utilized to implement the restoration. The appropriate contract documents are developed.

Action 15 – State Conservationist signs contract, obligate restoration funds.

The State Conservationist approves the appropriate contract documents**,** and funds for the restoration are obligated directly to that agreement, not to the individual easement.

Action 16 – Implement restoration plan.

The following activities are included in this action:

1 Practice layout, installation, checkout**,** and certification**.**
2 Practice payment**.**
3 Conduct onsite complex NHPA and ESA activities as required**.**

Action 17 – Easement monitoring, management, and enforcement.

This action actually begins once the easement closing occurs, and is conducted during restoration as well as after. This will be implemented according to WRP policy and procedures.