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**FINAL**  
**PROGRAMMATIC ENVIRONMENTAL ASSESSMENT FOR**  
**VOLUNTARY PUBLIC ACCESS HABITAT INCENTIVE PROGRAM**  
**STATE OF SOUTH DAKOTA**

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**United States Department of Agriculture**  
**Farm Service Agency**

**February 2011**

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## **Finding of No Significant Impact**

### **Voluntary Public Access and Habitat Incentive Program State of South Dakota**

**February 2011**

#### **Introduction**

The United States Department of Agriculture Farm Service Agency proposes to implement a new program authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) in the State of South Dakota. The Voluntary Public Access and Habitat Incentive Program (VPA-HIP) provides grants to State and tribal governments to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting, fishing, and other compatible recreation and to improve fish and wildlife habitat on their land. The VPA-HIP is administered by the State or tribal government that receives the grant funds.

The State of South Dakota, through the South Dakota Department of Game, Fish, and Parks (SDGFP), proposes to use VPA-HIP funds to expand its existing Walk-In Area (WIA) public access program to provide the public with more opportunities to hunt on private lands in South Dakota. South Dakota's WIA program was created in 1988 with the sole purpose of providing unlimited free public access to private land for hunting recreation. The program is completely voluntary and started with an ultimate goal of providing sportsmen access to over 1,000,000 acres of private land. This goal has since been accomplished, and now SDGFP has a new goal of enrolling an additional 50,000 acres of private lands already enrolled in the Conservation Reserve Program (CRP), Wetlands Reserve Program (WRP), and Wildlife Habitat Incentives Program (WHIP) into WIA.

#### **Preferred Alternative**

With VPA-HIP grant funds SDGFP proposes to expand enrollment in WIA by offering a one-time signing incentive payment (SIP) for multi-year WIA access contracts to qualified landowners of either \$2.50 or \$5 per acre per contract year, depending on location. Lands eligible for the SIP must already be enrolled in the CRP, WRP, or WHIP. The \$5 per acre per contract year SIP would be made for qualified lands that are enrolled in Region 3, which is located in the Southeast portion of the State. This initiative targets Region 3 because approximately 50 percent of the State's population resides here, but there are only around 20,000 acres of private land leased for public hunting. Landowners who enroll outside of Region 3 would receive a SIP of \$2.50 per acre per contract year. Along with the SIP, private landowners who enroll their CRP, WRP, or WHIP lands would also receive annual rental payments of \$1 per acre for hunting access and \$5 per acre of undisturbed wildlife habitat. VPA-HIP funds would only be used for SIPs, and not for any habitat improvement projects or annual rental payments.

#### **Reasons for Finding of No Significant Impact**

In consideration of the analysis documented in the Programmatic Environmental Assessment (PEA) and in accordance with Council on Environmental Quality regulations 1508.27, the preferred alternative would not constitute a major State or Federal action affecting the human and natural environment.



## **COVER SHEET**

**Proposed Action:** The United States Department of Agriculture (USDA) Farm Service Agency (FSA) and the State of South Dakota have agreed to implement a new Voluntary Public Access – Habitat Incentive Program (VPA-HIP). USDA is provided the statutory authority by the provisions of the Food Security Act of 2008, and the Regulations at 7 Code of Federal Regulations (CFR) 1410. VPA-HIP provides grants to State and tribal governments to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting, fishing, and other compatible recreation and to improve fish and wildlife habitat on their land. The VPA-HIP is administered by the State or tribal government that receives the grant funds.

**Type of Document:** Programmatic Environmental Assessment

**Lead Agency:** USDA, FSA

**Sponsoring Agency:** South Dakota Department of Game, Fish, and Parks

**Cooperating Agency:** None

**Comments:** This Programmatic Environmental Assessment was prepared in accordance with USDA FSA National Environmental Policy Act (NEPA) implementation procedures found in 7 CFR 799, as well as the NEPA of 1969, Public Law 91-190, 42 United States Code 4321-4347, 1 January 1970, as amended.

A Notice of Availability was released on March 4, 2011 announcing a 30-day public comment period. A copy of the document can be found on the USDA FSA website: [www.fsa.usda.gov](http://www.fsa.usda.gov). Comments will be accepted until April 5, 2011. Comments may be submitted via e-mail to: [dhbanwart@tecinc.com](mailto:dhbanwart@tecinc.com)

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## **EXECUTIVE SUMMARY**

The United States Department of Agriculture Farm Service Agency proposes to implement a new program authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) in the State of South Dakota. The Voluntary Public Access and Habitat Incentive Program (VPA-HIP) provides grants to State and tribal governments to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting, fishing, and other compatible recreation and to improve fish and wildlife habitat on their land. The VPA-HIP is administered by the State or tribal government that receives the grant funds.

### **Proposed Action**

With VPA-HIP grant funds the South Dakota Department of Game, Fish, and Parks (SDGFP) proposes to expand enrollment in the Walk-in Area (WIA) public access program by offering a one-time signing incentive payment (SIP) for multi-year WIA access contracts to qualified landowners of \$2.50 or \$5.00 per acre per contract year, depending on location. Lands eligible for the SIP must already be enrolled in the Conservation Reserve Program (CRP), Wetlands Reserve Program (WRP), or Wildlife Habitat Incentives Program (WHIP). SIPs of \$5.00 per acre per contract year would be made for qualified lands that are enrolled in SDGFP Administrative Region 3, located in the Southeast portion of the State. This initiative targets Region 3 because approximately 50 percent of the State's population resides here, but there are only around 20,000 acres of private land currently leased for public hunting. Landowners who enroll outside of Region 3 would receive an SIP of \$2.50 per acre per contract year. Along with the SIP, private landowners who enroll their CRP, WRP, or WHIP lands would also receive annual rental payments of \$1.00 per acre for hunting access and \$5.00 per acre of undisturbed wildlife habitat. VPA-HIP funds would only be used for SIP payments, and not for any habitat improvement projects or annual rental payments.

### **Purpose and Need**

The purpose of the Proposed Action is to use VPA-HIP funds to increase the amount of high quality habitat enrolled in the WIA program. The need for the Proposed Action is to increase the availability of hunting recreational opportunities in South Dakota, specifically in the Southeastern area of the State.

### **Environmental Consequences**

This Programmatic Environmental Assessment has been prepared to analyze the potential environmental consequences associated with implementing the Proposed Action (Preferred Alternative) or the No Action Alternative. Under the Proposed Action, SDGFP would utilize VPA-HIP funds to expand enrollment in WIA. Under the No Action Alternative, WIA would continue as it is currently administered. The potential environmental consequences of implementing the Proposed Action would be beneficial overall to the natural environment and increase hunting recreational opportunities in the state. A summary of environmental consequences is provided in Table ES-1.

**Table ES-1 Summary of Environmental Consequences**

<b>Resource</b>	<b>Proposed Action (Preferred Alternative)</b>	<b>No Action Alternative</b>
Biological Resources (Wildlife and Protected Species)	Expanding hunting opportunities could potentially result in increased pressure on game populations. However, these impacts would be minimized through current SDGFP hunting permitting and regulation. No adverse impacts to protected species are anticipated. Although no habitat improvement would occur with VPA-HIP funds, increasing land available for hunting recreation would result in additional land maintained in its natural state, thereby improving wildlife habitats.	The current public access program would continue; however, the additional benefits associated with expanding acreage in the program would not occur.
Recreation	Potential for increased private land enrollment would lead to increased recreational opportunities for hunting. Only positive beneficial impacts would occur to recreational resources.	The current public access program and recreational opportunities would continue; however, beneficial impacts from expanded recreational opportunities from the Proposed Action would not occur.
Socioeconomics and Environmental Justice	Potential for slight direct economic benefits for those landowners with eligible lands that voluntarily enroll. Slight indirect economic benefits to the local economies from traveling sportsmen and any purchase of necessary goods and/or services near enrolled lands. No environmental justice impacts would occur.	No socioeconomic or environmental justice impacts would occur. However, the slight beneficial impacts from the Proposed Action would not be realized.

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## **ACRONYMS AND ABBREVIATIONS**

CEQ	Council on Environmental Quality	SDGFP	South Dakota Department of
CFR	Code of Federal Regulations		Game, Fish, and Parks
CO	Conservation Officer	SIP	Signing Incentive Payment
CREP	Conservation Reserve Enhancement Program	U.S.	United States
CRP	Conservation Reserve Program	USCB	U.S. Census Bureau
EOs	Executive Orders	USDA	U.S. Department of Agriculture
FSA	Farm Service Agency	USFWS	U.S. Fish and Wildlife Service
GPS	Global Positioning System	VPA-HIP	Voluntary Public Access and Habitat Incentive Program
NEPA	National Environmental Policy Act	WHIP	Wildlife Habitat Incentives Program
PEA	Programmatic Environmental Assessment	WIA	Walk-In Area
		WRP	Wetlands Reserve Program

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## **CHAPTER 1.0 INTRODUCTION**

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The United States (U.S.) Department of Agriculture (USDA) Farm Service Agency (FSA) proposes to implement a new program authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) in the State of South Dakota. The Voluntary Public Access and Habitat Incentive Program (VPA-HIP) provides grants to State and tribal governments to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting, fishing, and other compatible recreation and to improve fish and wildlife habitat on their land. The VPA-HIP is administered by the State or tribal government that receives the grant funds.

The VPA-HIP is a competitive grants program that is only available for State and tribal governments. The grant funding may be used to expand existing public access programs or create new public access programs, or provide incentives to improve wildlife habitat on enrolled lands. Overall program objectives are to:

- Maximize participation by landowners;
- Ensure that land enrolled in the program has appropriate wildlife habitat;
- Provide incentives to improve wildlife habitat on Conservation Reserve Enhancement Program (CREP) lands, if available;
- Supplement funding and services from other Federal, state, or tribal government or private resources; and
- Inform the public about the location of public access land.

The State of South Dakota, through the South Dakota Department of Game, Fish, and Parks (SDGFP), proposes to use VPA-HIP grant funds to expand its existing Walk-in Area (WIA) public access program to provide the public with more opportunities to hunt on private lands.

### **1.1 BACKGROUND**

#### **1.1.1 Existing Public Access Program**

South Dakota's WIA program was created in 1988 with the sole purpose of providing unlimited free public access to private land for hunting recreation. During the first year of the WIA program, landowners voluntarily enrolled approximately 23,000 acres into the program. The amount of total acreage enrolled in the program has increased every year since its inception, and currently there are over 1.2 million acres of private land enrolled in WIA (Table 1-1). The program is completely voluntary and started with an ultimate goal of providing sportsmen access to over 1,000,000 acres of private land. This goal has since been accomplished, and now SDGFP has a new goal of enrolling an additional 50,000 acres of private lands already enrolled in the Conservation Reserve Program (CRP), Wetlands Reserve Program (WRP), and Wildlife Habitat Incentives Program (WHIP) into WIA.

The WIA program is currently funded with State and Federal funds. SDGFP uses these funds to compensate landowners and also to provide signs, posts, and fencing material needed to designate

boundaries, parking areas, or trails on property enrolled in WIA. Currently, landowners are paid between \$.40 and \$6 per acre enrolled per year depending on habitat quality, hunting opportunity, and the size of the property.

**Table 1-1 Private Lands Enrolled in WIA and Number of Contracts**

<b>Year</b>	<b>Number of Contracts</b>	<b>Acreage Enrolled</b>
1988	26	23,161
1989	95	112,169
1990	129	142,154
1991	217	219,245
1992	401	331,731
1993	504	409,288
1994	576	444,820
1995	609	475,097
1996	653	522,700
1997	661	534,520
1998	663	535,535
1999	757	619,479
2000	1,005	781,016
2001	1,048	821,627
2002	1,049	901,966
2003	1,021	903,035
2004	1,062	935,163
2005	1,138	1,025,873
2006	1,187	1,079,707
2007	1,130	1,152,100
2008	1,075	1,192,732
2009	1,081	1,244,982
2010	1,150	1,279,227

**1.1.2 Current WIA Enrollment**

As shown in Table 1-1, enrollment in WIA has increased steadily since the program began. For administrative purposes, South Dakota is divided into four regions (1-Western, 2-Central, 3-Southeast, 4-Northeast) by SDGFP (Figure 1-1). Each region has multiple Conservation Officers (COs), as well as other department representatives that are responsible for enrolling private landowners into the WIA program. They are also responsible for ensuring that each area enrolled contains, or has the potential to have, high quality land cover. Enrollment begins when a CO or another department representative meets with a prospective landowner to discuss possible land eligibility. The CO, or other department representative, then sends the completed application to the SDGFP central office in Pierre. Once the application is received, the WIA administrator reviews it and renders a decision on whether to sign a contract or reject the application. Once the decision is made, the WIA administrator returns a signed contract or unsigned application back to the landowner.

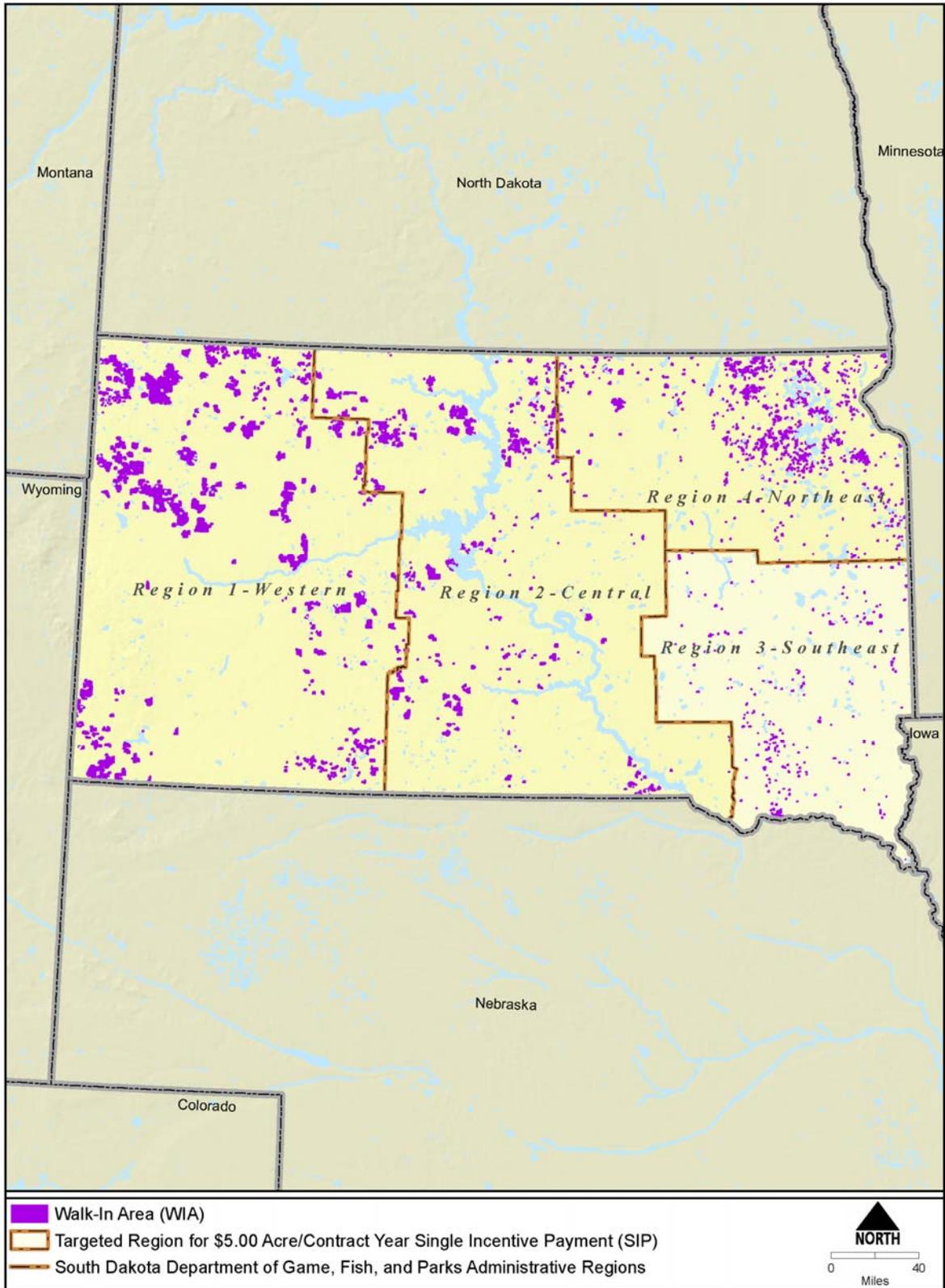


Figure 1-1. SDGFP Administrative Regions

Payment rates are determined based on the quality of the habitat on enrolled acres. Landowners may receive payments between \$.40 and \$6 for every acre enrolled in WIA. Land can be enrolled for a minimum of one year; however, enrollment emphasis is given to landowners who are willing to sign long-term contracts.

Once a contract is agreed upon and signed, the property is posted with boundary signs that indicate that the land is available for public hunting. All lands enrolled in WIA are published in the annual printing of South Dakota's *Hunting Atlas*. The *Hunting Atlas* is available in print or online. SDGFP also posts interactive maps online that include all property locations, along with other pertinent information such as the habitat type and the types of game species present. Public service announcements are issued throughout the hunting seasons that include updates to the locations of areas enrolled in WIA. SDGFP also offers downloadable layers of private lands open for public hunting for Garmin, Lowrance, and Magellan global positioning systems (GPS) on their website.

## **1.2 THE PROPOSED ACTION**

With VPA-HIP grant funds SDGFP proposes to expand enrollment in WIA by offering a one-time signing incentive payment (SIP) for multi-year WIA contracts to qualified landowners of \$2.50 or \$5.00 per acre per contract year, depending on location. Lands eligible for the SIP must already be enrolled in the CRP, WRP, or WHIP. SIPs of \$5.00 per acre per contract year would be made for qualified lands that are enrolled in SDGFP Administrative Region 3, located in the Southeast portion of the State. This initiative targets Region 3 because approximately 50 percent of the State's population resides here, but there are only around 20,000 acres of private land currently leased for public hunting. Landowners who enroll outside of Region 3 would receive an SIP of \$2.50 per acre per contract year. Along with the SIP, private landowners who enroll their CRP, WRP, or WHIP lands would also receive annual rental payments of \$1.00 per acre for hunting access and \$5.00 per acre of undisturbed wildlife habitat. VPA-HIP funds would only be used for SIP payments, and not for any habitat improvement projects or annual rental payments.

## **1.3 PURPOSE AND NEED FOR PROPOSED ACTION**

The purpose of the Proposed Action is to use VPA-HIP funds to increase the amount of high quality habitat enrolled in the WIA program. The need for the Proposed Action is to increase the availability of hunting recreational opportunities in South Dakota, specifically in the Southeastern area of the State.

## **1.4 REGULATORY COMPLIANCE**

This Programmatic Environmental Assessment (PEA) has been prepared to satisfy the requirements of the National Environmental Policy Act (NEPA) (Public Law 91-190, 42 U.S. Code 4321 et seq.); implementing regulations adopted by the Council on Environmental Quality (CEQ) (40 Code of Federal Regulations [CFR] 1500-1508); and FSA implementing regulations, Environmental Quality and Related Environmental Concerns – Compliance with NEPA (7 CFR 799). The intent of NEPA is to protect, restore, and enhance the natural and human environment through well-informed Federal decisions. A

variety of laws, regulations, and Executive Orders (EOs) apply to actions undertaken by Federal agencies and form the basis of the analysis presented in this PEA.

## **1.5 ORGANIZATION OF EA**

This PEA assesses the potential impacts of the Proposed Action and the No Action Alternative on potentially affected environmental and economic resources.

- Chapter 1.0 provides background information relevant to the Proposed Action, and discusses its purpose and need.
- Chapter 2.0 describes the Proposed Action and alternatives.
- Chapter 3.0 describes the baseline conditions (i.e., the conditions against which potential impacts of the Proposed Action and alternatives are measured) for each of the potentially affected resources and the potential environmental impacts to those resources.
- Chapter 4.0 describes potential cumulative impacts and irreversible and irretrievable resource commitments.
- Chapter 5.0 discusses mitigation measures utilized to reduce or eliminate impacts to protected resources.
- Chapter 6.0 contains a list of the persons and agencies contacted during the preparation of this document.
- Chapter 7.0 lists the preparers of this document.
- Chapter 8.0 contains references.
- Appendix A provides the Programmatic Agreement.
- Appendix B provides agency correspondence.

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## **CHAPTER 2.0 DESCRIPTION OF PROPOSED ACTION AND ALTERNATIVES**

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### **2.1 PROPOSED ACTION**

SDGFP proposes to use VPA-HIP grant funds of \$1,566,965 and supplemental State and other Federal funds to expand enrollment in the WIA program thereby increasing hunting recreational opportunities in South Dakota. Specifically, SDGFP would use VPA-HIP funds to offer a one-time SIP for multi-year WIA contracts of \$5.00 per acre per contract year in the priority area (Region 3) and \$2.50 per acre per contract year in the rest of the State to provide public hunting access to private lands already enrolled in CRP, WRP, or WHIP. Along with the SIP, private landowners who enroll their CRP, WRP, or WHIP lands would also receive annual rental payments of \$1 per acre for hunting access and \$5 per acre of undisturbed wildlife habitat; however, VPA-HIP funds would only be used for SIP payments, and not for any habitat improvement projects or annual rental payments.

The public would be made aware of all WIA lands through South Dakota's annual *Hunting Atlas*. The *Hunting Atlas* is available in print or online. SDGFP also posts interactive maps online that include all property locations, along with other pertinent information such as the habitat type and the types of game species present. Public service announcements are issued throughout the hunting seasons that include updates to the locations of areas enrolled in WIA. SDGFP also offers downloadable layers of private lands open for public hunting for Garmin, Lowrance, and Magellan GPS systems on their website.

### **2.2 ALTERNATIVES**

CEQ regulations (40 CFR §1502.14) require the lead agency to identify all reasonable alternatives for implementing a Proposed Action. The Federal Register notice announcing the rule for VPA-HIP (Vol. 75(130), page 39135) explicitly states the purpose of VPA-HIP is to provide grants to State and tribal governments to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation and to improve fish and wildlife habitat on their land. Each VPA-HIP application received by USDA FSA underwent a selection screening process to identify those proposals that met the program objectives (listed in Introduction Section 1.0).

SDGFP considered other alternative strategies for the VPA-HIP grant in which the funds would be used for habitat management as well as WIA enrollment expansion. However, it was determined that the best use of these funds would be to expand enrollment only. This would assist SDGFP in reaching its goal of providing an additional 50,000 acres of private lands for hunting that are already enrolled in CRP, WRP, or WHIP. Targeting CRP, WRP, and WHIP lands that have already had approved conservation practices applied to them eliminates the need for habitat improvements, thereby allowing SDGFP to efficiently utilize the grant funds as incentive for expanding enrollment in WIA. CREP lands are not targeted for the WIA program because the State of South Dakota already requires mandatory public access for hunting and fishing to any CREP lands for the life of the contract.

### **2.3 NO ACTION ALTERNATIVE**

Under the No Action Alternative, the VPA-HIP would not be implemented in the State of South Dakota. Expansion of WIA through the use of VPA-HIP grant funded SIPs to private landowners already enrolled in CRP, WRP, or WHIP would not occur. The WIA program would continue as it is currently administered utilizing other funding sources for WIA contracts and would be limited by fund availability. Under the No Action Alternative, SDGFP would not be able to meet its goal of providing the public with access to 50,000 additional acres of quality wildlife habitat enrolled in CRP, WRP, or WHIP for hunting recreation. Opportunities for hunting in South Dakota would not be maximized, especially in the Southeastern portion of the State where 50 percent of the population resides and recreational hunting opportunities are currently limited. The No Action Alternative does not meet the purpose and need of the Proposed Action, but is being carried forward in accordance with CEQ regulations to serve as the baseline against which potential impacts of the Proposed Action are measured.

### **2.4 RESOURCES ELIMINATED FROM ANALYSIS**

CEQ regulations (40 CFR §1501.7) state that the lead agency shall identify and eliminate from detailed study the issues which are not important or which have been covered by prior environmental review, narrowing the discussion of these issues in the document to a brief presentation of why they would not have a dramatic effect on the human or natural environment.

As described above, the Proposed Action consists of expanding WIA enrollment in private lands already enrolled in CRP, WRP, or WHIP by offering a one-time SIP of \$2.50 or \$5.00 per acre, depending on the geographic location of the proposed lands. The overall impacts to the human and natural environment would be from increased human presence on private lands for hunting. No habitat improvement projects would be funded with VPA-HIP grant funds; therefore, there would be no ground disturbing activities undertaken by this Proposed Action. Thus, from a programmatic level, the Proposed Action would have little to no impact on the following resource areas:

*Air Quality.* The Proposed Action would have no potential for impacts to regional or local air quality. Increasing the land available for enrollment into WIA would not require any activities that impact air quality.

*Noise.* The Proposed Action would not create any new permanent sources of noise to the environment. Expanding WIA enrollment to new areas may introduce gunfire noise on lands where public hunting may not occur. This noise would be intermittent and occur during daylight hours during specified hunting seasons. In addition, the requisite size of land needed for safe hunting would reduce the potential for gunfire noise to be heard outside the property.

*Human Health and Safety.* No components of the Proposed Action would directly impact human health or safety. The goal of the Proposed Action is to increase public access to privately-held land that supports an abundance of wildlife, thereby allowing hunting recreation. While hunting does pose a slight safety risk, this activity would occur on private land with controlled access. South Dakota hunting regulations require

hunters to receive the appropriate education and meet minimum age requirements before a permit can be issued.

*Land Use.* The Proposed Action would not result in any changes to land use designations. The Proposed Action would occur on private lands on a voluntary basis and would not require the alteration of land use.

*Transportation.* No aspect of the Proposed Action entails any alteration of the current transportation system in the State of South Dakota. Increasing acreage available for enrollment in WIA could cause an increase in the number of vehicles traveling to a new WIA area. However, it is highly unlikely this would be considered an impact to the transportation system, but rather a redistribution of vehicular traffic.

*Cultural Resources.* The Proposed Action would not directly or indirectly impact any cultural resources, either architectural or archaeological. The Proposed Action does not allow for purposeful destruction of any cultural resources and no ground disturbance would occur. Therefore, no impacts to cultural resources would occur. SDGFP has a Programmatic Agreement in place with the Advisory Council on Historic Preservation and the South Dakota State Historic Preservation Officer that provides a list of activities allowable without consultation. Since the Proposed Action does not allow for alteration of any structures or ground disturbance, this action is covered under that agreement and does not require Section 106 consultation (Appendix A).

*Soils.* Under the Proposed Action, no direct soil disturbance would occur. Increasing enrollment in WIA could increase foot traffic through new areas, but this impact to soils would be extremely minimal. The WIA program stipulates that no new roads or trails would be constructed and that vehicular travel would occur only on existing roads and trails. Therefore, no direct adverse impacts to soils would occur.

*Water Resources (Surface Water Quality, Wetlands, Groundwater, and Floodplains).* The Proposed Action would have no direct impacts to water resources. The Proposed Action would involve lands already participating in CRP, WRP, or WHIP. These programs seek to improve native habitat and water quality, as well as reducing soil erosion. Increasing public access to private lands for hunting recreational purposes would not have any direct, adverse impacts on water resources.

*Coastal Zones.* The State of South Dakota has no coastal zones, as it is a land-locked state. However, lakes and reservoirs do exist. No direct impact to coastal zones would occur.

*Other Formally Classified Lands.* The Proposed Action can only be implemented on privately owned lands. The only formal classification applicable on private land would be Prime and Unique Farmland or Farmland of Statewide Importance. The Proposed Action would not include removing these lands from agricultural production. Therefore, there would be no impacts to any other formally classified lands.

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## **CHAPTER 3.0   AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES**

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This chapter provides a description of the existing environmental conditions that have the potential to be affected from implementation of the Proposed Action and the potential environmental impacts that may occur to those resources. Resource areas potentially impacted by the Proposed Action and covered in this PEA include:

- Biological Resources (Wildlife and Protected Species)
- Recreation
- Socioeconomics and Environmental Justice

As described in Chapter 2, this PEA describes the potential impacts from implementing VPA-HIP funds in the State of South Dakota on a programmatic level. Site-specific analysis for all proposed properties would be undertaken by a SDGFP CO or other department representative. The site-specific analysis in combination with the programmatic level analysis provided in this PEA serves as the full NEPA documentation.

Environmental consequences to each resource area are described for the Proposed Action (Preferred Alternative) and the No Action Alternative:

- **Proposed Action (Preferred Alternative):** utilize VPA-HIP funds to expand enrollment of WIA by offering a one-time SIP for newly enrolled lands that are already enrolled in CRP, WRP, or WHIP.
- **No Action Alternative:** continuation of WIA as it is currently administered. SDGFP would continue to use current funding sources for WIA contracts and would not be able to offer the additional financial incentive provided by VPA-HIP grant funding.

### **3.1   BIOLOGICAL RESOURCES**

Biological resources are any living features of the natural environment that add to the intrinsic value of the local area. In this PEA, biological resources include wildlife and protected species. Biological resources are included in this PEA because an increase in enrollment acreage throughout the state has the potential to result in long-term positive improvements to the natural environment. Also, expanding the WIA program and increasing hunting opportunities may increase the potential for impacting game populations. As such, wildlife species discussed are only those game species that may be potentially impacted through increased hunting.

#### **3.1.1   Affected Environment**

The Proposed Action covers the entire state. A brief overview of the wildlife that could potentially be impacted by increased hunting is described in Section 3.1.1.1 and protected species that could be impacted are described in Section 3.1.1.2.

### 3.1.1.1 Wildlife

South Dakota contains an abundance of wildlife species that are spread throughout the diverse habitats found within the state. For planning and management purposes, South Dakota is divided into four main ecological regions: the Great Plains Steppe, the Eastern Prairie Ecoregion, the Missouri River Ecoregion, and the Black Hills Ecoregion (SDGFP 2006).

These four ecological regions support a wide variety of terrestrial wildlife, which include numerous game species. Some of these species occur throughout the state, while others are limited to specific habitat types. Game species in South Dakota are categorized as big game; small game; waterfowl; or a grouping that includes predator, varmint, and furbearer species. Big game species in South Dakota include deer, elk, mountain lion, mountain goat, antelope, turkey, and bighorn sheep. Small game species are American crow, Bobwhite quail, common snipe, cottontail rabbit, mourning dove, partridge, pheasant, grouse, and tree squirrel. Waterfowl species include various ducks, geese, tundra swan, and sandhill crane. Predator, varmint, and furbearer species include coyote, prairie dog, gopher, ground squirrel, jackrabbit, porcupine, marmot, badger, beaver, red fox, gray fox, skunk, opossum, bobcat, muskrat, mink, weasel, and raccoon (SDGFP 2011).

### 3.1.1.2 Protected Species

The State of South Dakota contains numerous species that are protected under the Federal or State Endangered Species Act. The SDGFP website lists all threatened and endangered species that occur throughout the State, and also contains various agency plans for the management and protection of special status species. The only group of protected species that can be hunted in South Dakota are migrating waterfowl, which are protected under the Migratory Bird Treaty Act (MBTA) of 1918, as amended. Specifically, the MBTA prohibits the “taking” of any migratory bird species, unless permitted by another regulation, in this case South Dakota hunting regulations. The hunting of these migratory bird species in the state is controlled through specific licensing and is regulated by SDGFP (SDGFP 2011).

## 3.1.2 Environmental Consequences

Impacts to biological resources would be considered significant if activities resulted in reducing the wildlife populations to a level of concern or the incidental take of a protected species or its habitat.

### 3.1.2.1 Proposed Action (Preferred Alternative)

#### *Wildlife*

Under the Proposed Action, SDGFP would use VPA-HIP funds to expand enrollment of WIA by offering a one-time SIP to landowners already enrolled in CRP, WRP, and WHIP. The increase in land enrollment in the WIA program would open more private land in South Dakota to public hunting. An increase in hunting on public land is not likely to impact game species populations because of their abundance. The hunting of less abundant species is regulated by SDGFP through limited licenses, which only allow the

take of a certain number of individuals each year based on population sizes. Therefore, there would be no negative impact to wildlife under the Proposed Action.

### *Protected Species*

Federal and state laws prohibit the killing of most protected species, so these species would not be impacted by the Proposed Action. The hunting of some migratory birds is allowed in the state; however, a limited issue license is required to hunt certain migratory birds, which allows SDGFP to regulate the number of these birds that can be hunted in a given year. Since limits and regulations exist on the hunting of migratory bird species, South Dakota is in compliance with the MBTA, and there would be no negative impact to protected species under the Proposed Action.

#### 3.1.2.2 No Action Alternative

Under the No Action Alternative, there would be no use of VPA-HIP funds to increase enrollment in WIA. There would be limited expansion of WIA related hunting opportunities on private lands in South Dakota; therefore, under the No Action Alternative there would be no impacts to biological resources. WIA would continue as it is currently administered.

## **3.2 RECREATION**

Recreation includes those outdoor activities that take place away from the residence of the participant. The State of South Dakota offers a wide variety of recreational opportunities to its residents and non-resident visitors. Recreational activities that are common in South Dakota include hunting, fishing, wildlife viewing, camping, boating, water sports, hiking, and biking (South Dakota 2011). For this PEA, recreation focuses on hunting opportunities available to the public in the State of South Dakota.

### **3.2.1 Affected Environment**

Hunting in the State of South Dakota is regulated by SDGFP, and a valid hunting license is required to hunt within the state. Hunting the various game types in the State requires specific licenses. South Dakota also requires the purchase of limited issue licenses in order to limit the take volume of big game species and certain migratory birds. Licenses can be obtained online, through an SDGFP office, or at local retail stores. Each year, some limited issue licenses can only be acquired through public drawings (SDGFP 2011). See Section 3.1.1.1 for a list of game species in South Dakota.

### **3.2.2 Environmental Consequences**

Impacts to recreation would be considered significant if they drastically reduced, increased, or removed available public lands designated for recreation or significantly degraded the quality of the recreation. Impacts to environmental conditions such as air, water, or biological resources within or near public recreational land in such a way to affect its use would also be considered significant.

#### 3.2.2.1 Proposed Action (Preferred Alternative)

The Proposed Action has the potential to provide long-term, beneficial impacts to recreational resources in the State of South Dakota. Increasing enrollment in WIA by an additional 50,000 acres would allow

more opportunities and venues for hunting on private property. By targeting CRP, WRP, WHIP lands WIA would provide high quality wildlife habitat for use by recreational hunters. Offering the greater SIP for eligible lands in Region 3 would increase recreational hunting opportunities in an area of South Dakota with a lack of available public lands for hunting. Therefore, the Proposed Action would have long-term, beneficial impacts to recreational resources in South Dakota.

#### 3.2.2.2 No Action Alternative

Under the No Action Alternative, VPA-HIP funds would not be used to increase WIA enrollment. There would be limited expansion of WIA related recreational opportunities in South Dakota; therefore, under the No Action Alternative there would be no change to existing recreational resources. Without VPA-HIP funds, South Dakota would not be able to meet its new enrollment goal for WIA; furthermore, recreational opportunities in the southeast of South Dakota would not increase to meet current demand. WIA would continue as it is currently administered.

### **3.3 SOCIOECONOMICS AND ENVIRONMENTAL JUSTICE**

Socioeconomics for this PEA includes an investigation of population and demographic statistics as well as a discussion on the potential income from SIPs from enrollment in WIA.

EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, requires a Federal agency to “make achieving environmental justice part of its mission by identifying and addressing as appropriate, disproportionately high human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” A minority population can be defined by race, by ethnicity, or by a combination of the two classifications.

According to CEQ, a minority is defined as being one of the following groups: American Indian or Alaska Native, Asian or Pacific Islander, Black, not of Hispanic origin, or Hispanic. A minority population is defined as one of these groups exceeding 50 percent of the population in an area or the minority population percentage of the affected area is meaningfully greater than the minority population percentage in the general population (CEQ 1997). The U.S. Census Bureau (USCB) defines ethnicity as either being of Hispanic origin or not being of Hispanic origin. Hispanic origin is further defined as “a person of Cuban, Mexican, Puerto Rican, South or Central America, or other Spanish culture or origin regardless of race” (USCB 2001).

Each year the USCB defines the national poverty thresholds, which are measured in terms of household income and are dependent upon the number of persons within the household. Individuals falling below the poverty threshold are considered low-income individuals. USCB census tracts where at least 20 percent of the residents are considered poor are known as poverty areas (USCB 1995). When the percentage of residents considered poor is greater than 40 percent, the census tract is considered an extreme poverty area.

### **3.3.1 Affected Environment**

#### **3.3.1.1 Population and Demographics**

The State of South Dakota had an estimated population of 814,180 as of July 2010. This represented an approximate 7 percent increase in population from the 2000 Census. South Dakota's economy has historically been rooted in agriculture, but is moving to provide more manufacturing and professional services. As such, just over half of South Dakota residents now reside in urban areas (51.9 percent) while the remaining 48.1 percent still live in rural areas. South Dakota is one of the least densely populated states within the U.S. (South Dakota 2011).

South Dakota's population is predominately white, with 87.9 percent of residents claiming this ethnicity. American Indian or Alaskan Native persons ranked second at 8.5 percent, making it the largest minority group in the state. African American, Asian, and Native Hawaiian or Pacific Islander ethnicities make up small portions of the population: 1.2 percent, 0.9 percent, and 0.06 percent, respectively. 1.5 percent of residents claimed to be two or more races, while Hispanics made up 2.9 percent of the population (South Dakota 2011).

In 2008, 12.7 percent of people in South Dakota were below the poverty level, slightly lower than the U.S. as a whole (13.2 percent) (USCB 2011). Of the current population in South Dakota, 88.2 percent have attained a high school degree with 25.0 percent of persons over 25 years old having attained a bachelor's degree or greater (South Dakota 2011).

#### **3.3.1.2 Income and Employment**

In June of 2009, South Dakota had an unemployment rate of 4.7 percent, which was better than the 9.3 percent unemployment for the nation as a whole. Household median income for 2008 was estimated at \$46,244 as compared to \$52,029 for the nation. Per capita personal income was \$38,208 for 2009 (South Dakota 2011, USCB 2011).

The Proposed Action has the potential to directly impact South Dakota's privately-held farms, ranches, and forest land, specifically those that are enrolled in CRP, WRP, and WHIP. In 2007 there were 31,500 farms in South Dakota, comprising 43,700,000 acres within the state, which yields an average farm size of 1,401 acres (USDA 2007). The average net cash farm income in 2007 was \$71,160 per farm (USDA 2007). In 2009, South Dakota's WIA program had 1,081 contracts, comprising 1,244,982 acres of private land. The payout to those participants totaled \$2,136,440 for 2009 (personal communication, Norton 2011).

### **3.3.2 Environmental Consequences**

Significance of an impact to socioeconomics varies depending on the setting of the Proposed Action, but 40 CFR 1508.8 states that effects may include those that induce changes in the pattern of land use, population density, or growth rate.

Environmental justice is achieved when everyone, regardless of race, culture, or income, enjoys the same degree of protection from environmental and health hazards and has equal access to the decision-making process. Significant environmental justice impacts would result if access to decision-making documents was denied or if any adverse environmental effects occurred that would disproportionately affect minority or low-income populations.

#### 3.3.2.1 Proposed Action (Preferred Alternative)

Under the Proposed Action, a total of \$8,164,152 in State, private, and Federal funds would be spent over three years to expand South Dakota's WIA program. Specifically, SDGFP would use \$1,566,965 (\$558,325 the first year and \$504,320 per year for the following two years) in VPA-HIP grant funds to increase enrollment in WIA by offering an SIP of \$2.50 or \$5.00 per acre per contract year of eligible land, depending on location. This program would only enroll suitable habitat on privately held farms, ranches, and forest lands in South Dakota, and would specifically target lands already enrolled in other Federal conservation programs (i.e., CRP, WRP, or WHIP).

Ultimately, the SIP would offer a slight, one time, direct economic benefit to eligible landowners. The amount of monetary compensation would depend on the total acreage enrolled. However, using a conservative estimate based on the average farm size (1,401 acres) and the maximum payout of \$5.00 per acre per contract year, and assuming that the entire farm acreage could be enrolled, the maximum average payout would be approximately \$7,005 per contract year (approximately 9 percent of average net cash income per farm). This could total up to \$21,015 if the acreage were enrolled for the 3 years of the VPA-HIP availability. The SIP would most likely be considerably less when factoring in that SDGFP is targeting only CRP, WRP, and WHIP lands.

Indirectly, increased hunting on these private lands would be beneficial to local economies wherever these new enrolled lands may be. Traveling sportsmen would potentially spend dollars at local eateries, hotels for lodging, gas stations, and for any other goods and supplies that might be necessary for the hunting trip.

Under the Proposed Action, there would be no disproportionate impact to minorities or low income populations in South Dakota. The WIA program is voluntary and would only target landowners with suitable habitat. Once enrolled, WIA participants must give equal access to all sportsmen with a valid hunting license.

#### 3.3.2.2 No Action Alternative

Under the No Action Alternative, SDGFP would not receive funding under the VPA-HIP. The No Action Alternative would not allow for any of the positive economic impacts from the introduction of the VPA-HIP funding into the economy. WIA would be administered as it is currently and expansion of hunting opportunities on private lands would be limited, as would the economic benefits via lodging and purchase of goods and supplies from increased hunting opportunity.

## **CHAPTER 4.0 CUMULATIVE IMPACTS AND IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES**

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### **4.1 CUMULATIVE IMPACTS**

CEQ regulations stipulate that the cumulative impacts analysis within an Environmental Assessment should consider the potential environmental impacts resulting from “the incremental impacts of the action when added to past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions” (40 CFR 1508.7). Recent CEQ guidance in considering cumulative impacts involves defining the scope of the other actions and their interrelationship with the Proposed Action. The scope must consider geographical and temporal overlaps among the Proposed Action and other actions. It must also evaluate the nature of interactions among these actions.

Cumulative impacts are most likely to arise when a relationship or synergism exists between the Proposed Action and other actions expected to occur in a similar location or during a similar time period. Actions overlapping with or in proximity to the Proposed Action would be expected to have more potential for a relationship than those more geographically separated.

In this PEA, the affected environment for cumulative impacts includes all of the State of South Dakota since the WIA program is available statewide; therefore, the new lands for enrollment could occur anywhere in the state on private land. Specifically, the Proposed Action would target those lands already enrolled in other Federal conservation programs (i.e., CRP, WRP, WHIP). Wildlife conservation in the State of South Dakota is a multi-agency coordinated effort. Though wildlife conservation and management is generally administered by SDGFP, there are many conservation partners that work with SDGFP to promote conservation. These partners include Federal, State, and non-governmental organizations and agencies across the State that all have an interest in promoting environmental stewardship.

By utilizing VPA-HIP funds solely for enrollment in WIA, SDGFP could potentially reallocate other non-VPA-HIP funding sources to be used for habitat improvement projects throughout the state. Ultimately this could provide increased quality habitat and therefore overall long-term benefits to wildlife in the State of South Dakota. VPA-HIP funding would provide for environmental benefits greater than the simple program goal of providing sportsmen access to private lands. Cumulative impacts are expected to be beneficial to the natural environment.

### **4.2 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES**

Irreversible and irretreivable commitments are related to the use of nonrenewable resources and the effect that the use of these resources has on future generations. Irreversible effects primarily result from the use or destruction of a specific resource that cannot be replaced within a reasonable time frame. Irretreivable resource commitments involve the loss in value of an affected resource that cannot be restored as a result of the action. Under the Proposed Action, long-term beneficial impacts are expected to wildlife

populations, game species, and their habitats. There would be no irreversible or irretrievable commitment of resources.

## **CHAPTER 5.0 MITIGATION MEASURES**

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The purpose of mitigation is to avoid, minimize, or eliminate significant negative impacts on affected resources. CEQ regulations (40 CFR 1508.20) state that mitigation includes:

- Avoiding the impact altogether by not taking a certain action or parts of an action.
- Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- Compensating for the impact by replacing or providing substitute resources or environments.

CEQ regulations state that all relevant reasonable mitigation measures that could avoid or minimize significant impacts should be identified, even if they are outside the jurisdiction of the lead agency or the cooperating agencies. This serves to alert agencies or officials who can implement these extra measures, and will encourage them to do so. The lead agency for this Proposed Action is FSA. The state partner agency is SDGFP.

There are no expected long-term, significant negative impacts associated with implementation of the VPA-HIP in South Dakota. State employed COs or department representatives must complete site specific environmental evaluations prior to all private land enrollment which would reveal any protected resources on the property. In those site specific instances where a wetland, threatened or endangered species, or a cultural resource may be present, consultation with the appropriate lead agency would identify specific mitigation measures required to eliminate or reduce the negative impacts to an acceptable level.

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## **CHAPTER 6.0 PERSONS AND AGENCIES CONTACTED**

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United States Fish and Wildlife Service

Pheasants Forever

Ducks Unlimited

National Wild Turkey Federation

Rocky Mountain Elk Foundation

South Dakota Bowhunters

South Dakota Izaak Walton League

Black Hills Sportsmen

South Dakota Wildlife Foundation

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## **CHAPTER 7.0 REFERENCES**

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## **CHAPTER 8.0 LIST OF PREPARERS**

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### **USDA Farm Service Agency**

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### **South Dakota Department of Game, Fish, and Parks**

Mark Norton, Farm Bill and Hunting Access Coordinator

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B.S. Biology

12 years related experience

Michael Harrison, Project Manager

M.S. Environmental Science

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Stephen Anderson, Technical Analyst

B.A. Environmental Science

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A.S. Science

8 years related experience

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## **APPENDIX A – PROGRAMMATIC AGREEMENT**

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## PROGRAMMATIC AGREEMENT

BY AND AMONG THE DEPARTMENT OF THE INTERIOR, THE UNITED STATES FISH AND WILDLIFE SERVICE, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, THE SOUTH DAKOTA DEPARTMENT OF GAME, FISH AND PARKS, AND THE SOUTH DAKOTA STATE HISTORIC PRESERVATION OFFICER REGARDING UNITED STATES FISH AND WILDLIFE HABITAT RESTORATION PROGRAMS, ENDANGERED SPECIES ACT GRANT PROGRAM (AND OTHER SMALL GRANT PROGRAMS ADMINISTERED BY THE UNITED STATES FISH AND WILDLIFE SERVICE).

WHEREAS, the United States Fish and Wildlife Service (Service) is responsible for administering the Federal Aid in Fish and Wildlife Restoration Acts, as amended [16 U.S.C. 669-669(i) and 16 U.S.C. 777-777 (k)] (Acts) and other small grant programs, awarding funds to States for habitat restoration, acquisition and development; and

WHEREAS, the Service has determined that funds provided to states for construction, including funds for acquiring, expanding, remodeling, or altering existing buildings, structures and/or terrain, may have effects on properties included in or are eligible for inclusion in the National Register of Historic Places (historic properties), and has consulted with the Advisory Council on Historic Preservation (Council) and the South Dakota State Historic Preservation Officer (SHPO), Tribes, and the public, pursuant to Section 800.14 of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, because the Acts and grant programs involve state-administration, the task of collecting information on the effects of proposed undertakings to enable the Service to comply with Section 106 lies with the State Game, Fish and Parks Department (GFP); and

WHEREAS GFP participated in consultation and has been invited to concur in this Programmatic Agreement;

NOW, THEREFORE, the Service, the SHPO, GFP, and the Council agree that the Acts will be administered in accordance with the following stipulations:

### STIPULATIONS

The Service shall ensure that the following measures are carried out:

#### 1. Guidance to GFP

The Service shall provide information to GFP regarding the Council's regulations and the Standards and Guidelines for Evaluation (49 FR 44723-44726 and subsequent editions), and other standards as appropriate, issued by the Secretary of the Interior.

## **2. Identification of Historic Properties**

A. Pursuant to 36 CFR § 800.4, GFP shall consult with the SHPO to identify historic properties within a proposed project's area of potential effects as defined by § 800.16(d). Such activities shall be undertaken early in the process of planning each project, and completed before the application for funding assistance is submitted to the Service. Structures that are 45 years old or older, including previously evaluated structures that were determined to be not eligible based solely on age, must be evaluated or re-evaluated for eligibility for listing in the National Register of Historic Places (NRHP) pursuant to 36 CFR 800.4(c)(1).

B. GFP shall notify the Service if GFP and the SHPO are unable to agree as to the eligibility of a property to be affected by a project. Upon receipt of such notification and relevant documentation from GFP, the Service will consult with the SHPO to resolve eligibility problems. If the Service determines that a consensus cannot be reached with the SHPO, the Service shall submit appropriate documentation to the Keeper of the National Register to obtain a final determination of eligibility-see § 800.4(c).

C. If, pursuant to § 800.4(d), there are no historic properties present or there are historic properties present but the project will have no effect on them, GFP shall notify the SHPO, the Service, and any consulting parties interested in the possible effects of the project on historic properties. If the SHPO does not object within 30 days of receipt of an adequately documented finding, the project may proceed with no further consideration under Section 106.

D. If historic properties are identified within the area of potential effects, the Service shall ensure that the project's effects are assessed in accordance with Stipulation 3.

## **3. Assessing Adverse Effects and Treatment**

A. Pursuant to 36 CFR § 800.5, GFP, in consultation with the SHPO and any Indian Tribe that attaches religious or cultural significance to identified historic properties, shall apply the Criteria of Adverse Effect (§ 800.5(a)) to historic properties that may be affected, giving consideration to the views of consulting parties and the public. In accordance with 50 CFR 80.5, GFP shall submit to the Service information regarding effects on historic properties as part of their funding application. Tribes may consult with the Service on a Government to Government basis.

B. If GFP and the SHPO do not agree that historic properties will not be adversely affected, or if GFP and the SHPO agree that the project will have an adverse effect (36 CFR § 800.5)), GFP shall notify and provide appropriate documentation to the Service of the effect, which shall, in consultation with the SHPO, apply the Criteria of Adverse Effect (36 CFR § 800.5(a)) to determine whether the effect of the undertaking should be considered adverse.

C. If the Service makes a finding of no adverse effect (36 CFR § 800.5(b)), in consultation with the SHPO, and if the SHPO agrees with the finding, the Service shall in accordance with 36 CFR § 800.5(d)(1) maintain a record of the finding and provide information to the public on request, consistent with the confidentiality provisions of § 800.11(c).

D. If the Service finds that the effect is adverse, the Service shall consult with the SHPO and the consulting parties in accordance with 36 CFR § 800.6 and invite the Council to participate in accordance with 36 CFR § 800.6(a)(1) to seek ways to avoid, minimize, or mitigate the adverse effects. GFP shall cooperate with the Service in providing appropriate information and documentation.

E. If previously unidentified historic properties are discovered or if known historic properties are affected in an unanticipated manner during construction activities, such activities shall cease immediately in the vicinity of the discovery. The Service shall be notified immediately of the discovery, and shall comply with 36 CFR § 800.13.

F. If human remains are discovered during the execution of project activities, pursuant to this Agreement, the project shall stop. Stipulations of the Native American Graves Protection and Repatriation Act (NAGPRA) will be implemented if the remains are located on federally purchased property. Additionally, the remains will be treated as per SDCL 34-27-25, Public Health and Safety.

#### **4. Project Activities Not Requiring Review By the SHPO or the Council**

Project activities not requiring review by the SHPO or the Council are enumerated in Attachment "A". If previously unsuspected archaeological remains are uncovered during these project activities, GFP will stop the project, notify the SHPO and the Service, and the project will be reviewed pursuant to the terms of this agreement. Activities not excluded in Attachment "A" will be reviewed pursuant to the terms of this Agreement.

#### **5. Monitoring and Review**

A. The SHPO and the Council may monitor any activities carried out pursuant to this Agreement, and the Council will review such activity if so requested. GFP and the Service will cooperate with the SHPO and the Council in carrying out these monitoring and review responsibilities.

B. The parties to this agreement shall consult in January each year to review implementation of its terms and to determine whether revisions are needed. Prior to the consultation, annual summaries of activities completed under this agreement will be reported. If revisions to the agreement are needed, the Regional Coordinator will initiate consultation in accordance with 36 CFR § 800.

#### **6. Dispute Resolution**

A. Should GFP, the SHPO or the Council object within 30 days to any plans provided for review or actions proposed pursuant to this agreement, the Service shall consult with the objecting party to resolve the objection. If the Service determines that the objection cannot be resolved, the Service shall request the comments of the Council pursuant to 36 CFR § 800.6. Any Council comments provided in response to such a request will be taken into account by the Service in accordance with 36 CFR § 800.5, with reference only to the subject of the dispute; the Service's

responsibility to carry out all actions that are not the subject of the dispute will remain unchanged.

B. At any time during implementation of the measures stipulated in this agreement, should an objection to any such measure or its manner of implementation be raised by a member of the public, GFP shall take into account and consult as needed with the objecting party, the SHPO, the Service or the Council, to resolve the objection.

#### **7. Professional Qualifications**

All historic preservation work carried out by GFP pursuant to this agreement shall be carried out by or under the direct supervision of a person or persons meeting, at minimum, the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9).

#### **8. Amendments**

Any party to this Agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR § 800.14 to consider such amendment.

#### **9. Termination**

Any party to this Agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to the termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the Service will comply with 36 CFR § 800 with respect to individual undertakings covered by this Agreement.

#### **10. Failure to Comply**

In the event that GFP does not act in accordance with the terms of this Agreement, the Service will request the Council's comments on the effects of projects on historic properties on a project-by-project basis, as provided in 36 CFR § 800. The Service will not take any action, knowingly sanction any action on the part of GFP seeking or administering project funding under the Acts, or make any irreversible commitment that would result in adverse effects on historic properties, until the terms of this agreement have been met.

#### **11. Duration**

This agreement will continue in full force and effect for a minimum of 5 years from the last date of signature, or until this agreement is terminated by any party pursuant to Stipulation 9 above. This agreement may be continued for additional 5-year periods, by mutual agreement of all parties.

**12. Miscellaneous Provisions**

A. Nothing in this agreement will be construed as limiting or affecting in any way the authority or legal responsibility of the SHPO, the Service or the GFP, or as binding any party to this Agreement to perform beyond the respective authority of each, or as requiring any party to this Agreement to assume or expend any sum in excess of the appropriations available and administratively allocated.

B. All provisions of this Agreement are subject to the laws of the State of South Dakota, the laws of the United States, and the regulations of the Secretary of the Department of the Interior.

C. This Agreement shall become effective upon last day of signature.

The duly authorized officers of the parties listed below have executed this Agreement on the dates shown with their respective signatures.

**UNITED STATES FISH AND WILDLIFE SERVICE**

By: *J. A. Blawie* Date: 3/19/02  
Regional Director, U.S. Fish and Wildlife Service

**SOUTH DAKOTA STATE HISTORIC PRESERVATION OFFICER**  
By: *Jay D. Vogt* Date: 01-18-2002  
State Historic Preservation Officer

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
By: *Ken McFadden* Date: 3/12/02  
Executive Director

**CONCUR:**  
**SOUTH DAKOTA DEPARTMENT OF GAME, FISH AND PARKS**  
By: *John H. Case* Date: 1/22/02  
Secretary, South Dakota Department of Game, Fish and Parks

ATTACHMENT 'A'  
TO THE  
U.S. FISH & WILDLIFE SERVICE  
AND  
SOUTH DAKOTA GAME, FISH & PARKS DEPARTMENT  
PROGRAMMATIC AGREEMENT

PROJECT ACTIVITIES NOT REQUIRING REVIEW BY SHPO OR COUNCIL

1. Buildings – Operation, maintenance and repair of previously determined non-historic structures, or buildings that are less than 45 years old. Buildings include office buildings, storage buildings and hatchery buildings. All structures 45 years old or older or previously determined non-historic based solely on age will be evaluated and/or reviewed for effects.
2. Dams and Dikes – Repair and maintenance of previously determined non-historic small dams and dikes, or structures that are less than 45 years old, where activities are confined to previously disturbed areas. All structures 45 years old or older or previously determined non-historic based solely on age will be evaluated and/or reviewed for effects.
3. Bridges, Culverts and Low Water Crossings – Repair, replacement, and maintenance of previously determined non-historic structures, or structures that are less than 45 years old, where activities are confined to previously disturbed areas. All structures 45 years or older or previously determined non-historic based solely on age will be evaluated and reviewed for effects.
4. Roads and Trails – Blading, graveling, installing culverts and auto gates, and mowing on and within existing “improved” roads and trails, except for those trails that are known to be historic. Activities impacting previously undisturbed areas will be reviewed for effects.
5. Fences – Construction of new boundary or interior fences, including installation of gates, and repair and maintenance of existing fences. These are standard 3 or 4 strand fences.
6. Maintenance and Operation Activities – Operation, replacement, repair and maintenance of existing developments/facilities including, blinds, parking lots, security lights, boat docks, boat ramps, drinking water wells, toilets, fish cleaning stations, pumpouts, hatchery raceways and grounds and fishing jetties, when there is no disturbance of soil in previously undisturbed areas. Repairs may include replacement, in kind, of building materials, gravel placement, mowing, signing and fencing.
7. Lake and Stream Improvements – Stream clearance of fallen timber and debris; maintenance and repair of wing dikes and deflectors, silt retention basins, deep water areas, fish attractors, spawning sites (constructed with natural materials to include soil, gravel, rock and other natural materials, such as fallen trees); aeration systems; and fertilization and edging; all on previously disturbed areas. Repairs exempted from review would include any work, including removal and or replacement, that does not affect areas previously undisturbed.

8. Signs and Boundary Markers – Installation and maintenance of boundary and information signs, including installation of sign posts.
9. Tree and Shrub Plantings – Replanting and care for existing tree plantings.
10. Herbaceous Seedings – Establishment of grass and legume nesting cover and wildlife food plots (except when plowing and planting at depths that have not been previously disturbed).
11. Vegetation Control and Range Rehabilitation – Use of chemical sprays, mowing, grazing or other common agricultural practices, that do not involve ground disturbance, to control noxious weeds or to improve vegetative cover. Use of controlled burns on lands that have a history of cultivation (does not include construction of firelines that disturb soils, or burns on uncultivated land that contains historic properties, including Traditional Cultural Properties (TCP's)).
12. Nest Structures – Installation and maintenance of artificial nest boxes and platforms.
13. Project Administration – Record keeping, project planning, contract management and related administrative duties.
14. Managed Public Hunting – Providing direction and guidance to hunters under a controlled system. Includes leasing of land for hunting and/or fishing purposes where vehicle travel is prohibited.
15. Custodial Functions – Inspection and protection of wildlife management areas.
16. Site Renovation – Major cleanup activities that are not associated with buildings or structures. This can include removal of junked automobiles, farm equipment, and fence and trash piles that are less than 45 years old. Disturbance to the area will be kept to the minimum necessary to accomplish cleanup activities. This exclusion does not apply to projects that involve soil disturbance.
17. Disease Control – Sanitation, collection and disposal of diseased animals.
18. Surveys of Use, Harvest and Populations – Observations, data collection, investigations and report writing.
19. Boundary Surveys – The delineation of the exact boundary of tracts of land. This activity is most often conducted for boundary fencing or land acquisition purposes.
20. Fish Stocking – Releasing various species of sport or forage fish into suitable waters as part of a fisheries management program.
21. Fish and Wildlife Research – Research activities undertaken by fisheries and/or wildlife biologists. Population sampling, census work, disease investigation and life history studies are examples of this type of activity.

22. Hunter Education – Hunter safety education activities, including instruction and administration, that do not involve soil disturbance on previously undisturbed areas.
23. Aquatic and Wildlife Resource Education – Classroom and outdoor education activities that do not involve soil disturbance on previously undisturbed areas.
24. Firebreaks – Plowing or rototilling strips (except in previously undisturbed soils and/or where archeological sites or TCP's may occur). Disturbance is limited to the area and depth of previous disturbance.
25. Wildlife Feeding Sites – Repair, replacement and maintenance of existing structures, and installation of new structures as long as the activities do not involve disturbance of soil in previously undisturbed areas. Feeding devices may be freestanding, temporary, and mobile units, however, feed may be placed directly on the ground.
26. Terraces and Waterways – Repair and maintenance of existing man-made soil and water conservation terraces and waterways on farmland as long as there is no disturbance of soil in previously undisturbed areas.
27. Potholes and Level Ditches – Creation of deep, open water areas in existing, vegetative-choked marshes through the use of explosives or machines, (except in areas where archeological sites or TCP's occur). Dredge disposal areas are not excluded from review under the terms of this agreement.
28. Aquatic Habitat Improvements – Chemical fish renovation, aeration, fish feeders, in-lake artificial structures, vegetation plantings and shoreline stabilization, when there is no disturbance of soil in previously undisturbed areas.
29. Timber Management – Post-storm cleanup and controlled cutting of woodlands to improve timber stands. Improvement activities in this agreement are limited to pre-commercial thinning only. Commercial cutting, including the cutting of posts is allowed on previously determined non-historic properties only. This does not include land that contains properties of religious and cultural significance to Tribes.
30. Boat Ramp Extensions - Adding additional boat ramp planks to existing ramps, where the extension occurs in the underwater portion of the ramp and only in cases where the extension does not require excavation in previously undisturbed soils.
31. Land Acquisition - Acquisition of land where no structures will be altered and no developments are planned. Future development will be subject to review pursuant to the stipulations in this agreement.
32. Applications for Funding When No Site Specific Projects are Identified/Planned. Future development will be subject to review pursuant to the stipulations in this agreement.

## DEFINITIONS

1. **HISTORIC PROPERTY** – Means any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

2. **PREVIOUSLY DISTURBED AREAS** – Those land areas which have been subjected to previous disturbance as a result of an activity by a previous owner of the property, a result of a previously approved activity, or activity prior to enactment of historic preservation laws.

To meet this definition, the proposed activity must be confined to the area of previous disturbance. For instance tillage will be confined to the area and depth that the land was previously worked, and construction activity will be confined to the area and depth of previous excavation, whatever depth that may be.

3. **PREVIOUSLY DETERMINED NON-HISTORIC STRUCTURES INCLUDING DAMS AND DIKES** – Structures which, under earlier reviews, were found not to meet the National Register's criteria for evaluation for any reason. Structures that are 45 years old or older must be evaluated or re-evaluated regardless of prior review decisions (refer to 36 CFR § 800.4(c)(1)).

4. **UNDERTAKING** – A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit license or approval; and those subject to state or local regulation administered pursuant to a delegation or approval by a Federal agency.

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**APPENDIX B – AGENCY CORRESPONDENCE**

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March 1, 2011

**United States  
Department of  
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Farm and Foreign  
Agricultural  
Services

Farm Service  
Agency

1400 Independence  
Ave, SW  
Stop 0513  
Washington, DC  
20250-0513

**TO:** USFWS - SD Field Office  
420 S. Garfield Avenue, Suite 400  
Pierre, SD 57501

**FROM:** Matthew T. Ponish  
United States Department of Agriculture, Farm Service Agency  
National Environmental Compliance Manager

**SUBJECT:** Final Programmatic Environmental Assessment/Finding of No Significant Impact for Voluntary Public Access Habitat Incentive Program in the State of South Dakota

The United States Department of Agriculture, Farm Services Agency on behalf of the Commodity Credit Corporation and the State of South Dakota's Department of Game, Fish, and Parks has prepared a Final Programmatic Environmental Assessment (PEA) and Finding of No Significant Impact (FONSI) to examine the potential environmental consequences associated with implementing a Voluntary Public Access Habitat Incentive Program in the State of South Dakota. The PEA examines the Proposed Action and the no action alternative environmental baseline on natural and socioeconomic resources.

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<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=ecrc&topic=nep-cd>.

The agency is accepting comments until **April 5, 2011**.

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Written comments may be mailed to:

TEC Inc.  
11817 Canon Blvd., Suite 300  
Newport News, VA 23606

We appreciate your review and look forward to receiving your comments.

Matthew T. Ponish

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Farm Service  
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1400 Independence  
Ave, SW  
Stop 0513  
Washington, DC  
20250-0513

**TO:** Pheasants Forever  
ATTN: Mike Blaalid, Wildlife Biologist  
1820 N. Kimball, Suite B  
Mitchell, SD 57301

**FROM:** Matthew T. Ponish  
United States Department of Agriculture, Farm Service Agency  
National Environmental Compliance Manager

**SUBJECT:** Final Programmatic Environmental Assessment/Finding of No Significant Impact for Voluntary Public Access Habitat Incentive Program in the State of South Dakota

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1400 Independence  
Ave, SW  
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Washington, DC  
20250-0513

**TO:** Ducks Unlimited-Great Plains Regional Office  
2525 River Road  
Bismarck, ND 58503

**FROM:** Matthew T. Ponish  
United States Department of Agriculture, Farm Service Agency  
National Environmental Compliance Manager

**SUBJECT:** Final Programmatic Environmental Assessment/Finding of No Significant Impact for Voluntary Public Access Habitat Incentive Program in the State of South Dakota

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1400 Independence  
Ave, SW  
Stop 0513  
Washington, DC  
20250-0513

**TO:** National Wild Turkey Federation  
13424 Stoney Creek Trail  
Sturgis, SD 57785

**FROM:** Matthew T. Ponish  
United States Department of Agriculture, Farm Service Agency  
National Environmental Compliance Manager

**SUBJECT:** Final Programmatic Environmental Assessment/Finding of No Significant Impact for Voluntary Public Access Habitat Incentive Program in the State of South Dakota

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1400 Independence  
Ave, SW  
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Washington, DC  
20250-0513

**TO:** Rocky Mountain Elk Foundation  
5705 Grant Creek  
Missoula, MT 59808

**FROM:** Matthew T. Ponish  
United States Department of Agriculture, Farm Service Agency  
National Environmental Compliance Manager

**SUBJECT:** Final Programmatic Environmental Assessment/Finding of No Significant Impact for Voluntary Public Access Habitat Incentive Program in the State of South Dakota

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1400 Independence  
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20250-0513

**TO:** South Dakota Bowhunters  
P.O. Box 641  
Parker, SD 57053

**FROM:** Matthew T. Ponish  
United States Department of Agriculture, Farm Service Agency  
National Environmental Compliance Manager

**SUBJECT:** Final Programmatic Environmental Assessment/Finding of No Significant Impact for Voluntary Public Access Habitat Incentive Program in the State of South Dakota

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1400 Independence  
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Washington, DC  
20250-0513

**TO:** SD Izaak Walton League  
1008 N. Huron Avenue  
Pierre, SD 57501

**FROM:** Matthew T. Ponish  
United States Department of Agriculture, Farm Service Agency  
National Environmental Compliance Manager

**SUBJECT:** Final Programmatic Environmental Assessment/Finding of No Significant Impact for Voluntary Public Access Habitat Incentive Program in the State of South Dakota

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1400 Independence  
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20250-0513

**TO:** Black Hills Sportsmen  
4422 Carriage Hills Drive  
Rapid City, SD 57702

**FROM:** Matthew T. Ponish  
United States Department of Agriculture, Farm Service Agency  
National Environmental Compliance Manager

**SUBJECT:** Final Programmatic Environmental Assessment/Finding of No Significant Impact for Voluntary Public Access Habitat Incentive Program in the State of South Dakota

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1400 Independence  
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20250-0513

**TO:** South Dakota Wildlife Federation  
P.O. Box 7075  
Pierre SD, 57501

**FROM:** Matthew T. Ponish  
United States Department of Agriculture, Farm Service Agency  
National Environmental Compliance Manager

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