



**US Army Corps
of Engineers** ®
Omaha District

DRAFT ENVIRONMENTAL ASSESSMENT
EXCHANGE OF FEDERAL AND PRIVATE LANDS
GARRISON DAM/LAKE SAKAKAWEA PROJECT
SEPTEMBER 2013



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FINDING OF NO SIGNIFICANT IMPACT
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In accordance with the National Environmental Policy Act (NEPA) and implementing regulations, this Environment Assessment (EA) has been prepared for the Federal and Private Land Exchange proposal located at Garrison Dam/Lake Sakakawea Project in North Dakota. The purpose of this action is to provide cohesive habitat for migratory birds, especially waterfowl, threatened and endangered species, and resident wildlife and to promote compatible public use and recreation, including hunting, ice fishing, wildlife observation, and photography. In addition this exchange would provide an opportunity to greatly improve the NWR boundary for management purposes and to address public and private access issues.

Two alternatives were considered: Alternative 1: No Action and Alternative 2: Land Exchange. No other alternatives were considered for this project because no other alternative would meet project goals and objectives of the proposal.

The preferred alternative (2) consists of exchanging two small Corps-owned parcels, totaling approximately 11.4 acres, with two small, privately-owned parcels, totaling approximately 5.9 acres.

This EA was used to determine whether the proposed action would require the preparation of an Environmental Impact Statement. All environmental, social, and economic factors relevant to the proposal were considered in this EA. No significant adverse impacts to these resources would be expected to occur. The proposed action would be in compliance with applicable environmental statutes.

It is my finding, based on the EA that the proposed Federal action will not have any significant, adverse impacts on the environment and will not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an Environmental Impact Statement will not be prepared.

Date:

Joel R. Cross
Colonel, Corps of Engineers
District Commander

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Section 1. Introduction and Background

The U.S. Army Corps of Engineers (Corps) has prepared this Environmental Assessment (EA) to evaluate the affects of a proposal to exchange land owned by the Corps and managed by the U.S. Fish and Wildlife Service (USFWS), with a private land owner.

In March 2008 a letter from the USFWS requested a land exchange between the Corps and local landowners within the Garrison Dam/Lake Sakakawea Project area in North Dakota. The reason for this request was that these parcels are fragmented from the NWR. Fragmentation makes these parcels impractical to manage and limits their biological value.

The Corps' decision to approve or disapprove the proposed land exchange constitutes a federal action pursuant to the National Environmental Policy Act of 1969 (NEPA). This EA was prepared to comply with the NEPA by informing the Corps' decision with regard to the environmental effects that would result from the proposed land exchange. While this action is relatively minor, it cannot be categorically excluded from NEPA. Engineering Regulation (ER) 200-2-2 provides a categorical exclusion from NEPA for minor land exchange activities that encompass disposal OR acquisition of lands, but not for both. In addition, the categorical exclusions do not apply to exchanges between the Corps and private entities. As such, development of an EA was deemed appropriate.

Section 2. Project Location

The properties described are located in west-central North Dakota on the eastern-most edge of Lake Audubon on the Audubon National Wildlife Refuge (NWR), McLean County, North Dakota (Figure 2-1). Currently two small, Corps-owned parcels (B&D in Figure 2-2), totaling approximately 11.4 acres, lie east of County Road (CR) 23 and are isolated from the main body of the NWR. The private parcels (A&C in Figure 2-2) lie on the NWR side of the road. The specific land parcels are described in more detail in Sections 7.1 and 7.2. Figure 2-2 provides a general overview of the site locations.

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Figure 2-1. Project map – general location

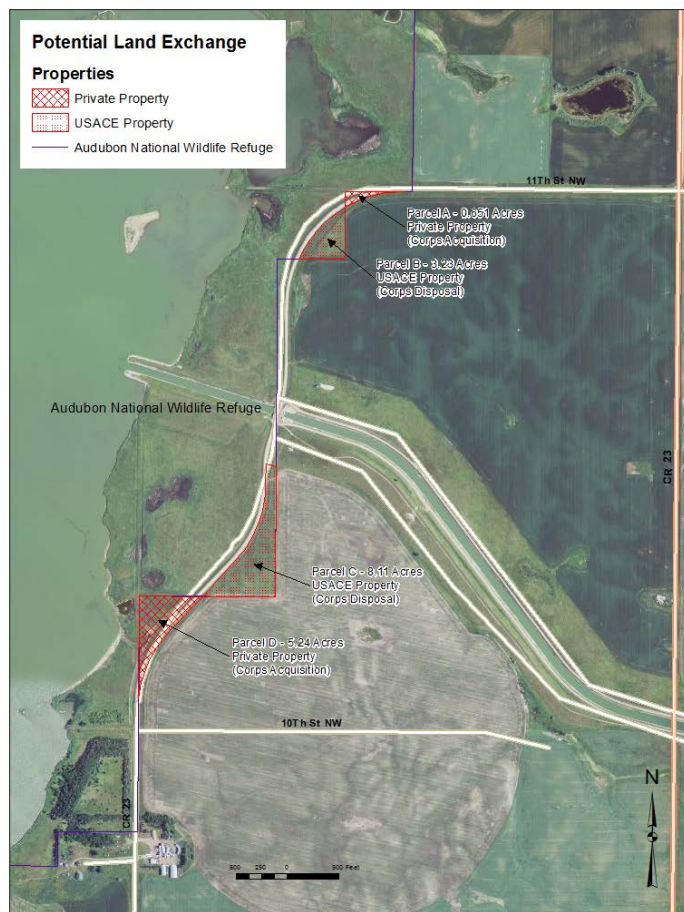


Figure 2-2. Project map – detailed location

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Section 3. Authority

The exchange of lands by the United States is under and by virtue of the authority vested in the Secretary of the Army by Section 2 of the Act of Congress approved June 20, 1938 (52 Stat. 804, 33 U.S.C. 558b), as made applicable to flood control projects by Section 3 of the Act of August 11, 1939 (53 Stat. 1414, 33 U.S.C. 558b-1) generally known as the Exchange of Lands Act.

Section 4. Purpose and Need for the Proposed Action

In the Garrison Dam/Lake Sakakawea Master Plan (GSMP) the NWR is classified as a Multiple Resource Management area: Wildlife Management General. These lands are designated for wildlife management; however, these lands are also managed for other uses. Wildlife management lands contain valuable fish and/or wildlife habitat that is maintained and/or improved to be suitable for a designated species, a group of species, and/or a diversity of species. The GSMP contains resource purposes for each land unit and the following are directly related to the land management purposes of the land exchange proposal;

- 1) Provide [cohesive] habitat for migratory birds, especially waterfowl, threatened and endangered species, and resident wildlife;
- 2) Protect and enhance natural ecological communities;
- 3) Promote compatible public use and recreation, including hunting, ice fishing, wildlife observation, and photography;
- 4) Maintain, conserve, and monitor aesthetic, ecological, historic, paleontological, and other scientific resources while meeting other project resource objectives.

The need for a land exchange would be to provide benefits to the Corps and the private property owner by establishing boundaries that are more practical and understandable to the public. The Corps will benefit from this land exchange by receiving lands that are on the NWR side of CR 23, and conferring lands on the private ownership side of CR 23 that are segmented from the NWR. The final outcome of the exchange of these Corps-owned parcels for the two privately-owned parcels would be to resolve long-standing management issues.

Section 5. Other Environmental Reports

Several reports exist that provide background information with regard to the area considered in this land exchange. They include:

1. USFWS Environmental Site Assessment (ESA) Level I Survey Checklist. May 10, 2010
2. North Dakota Department of Health Concurrence letter of USFWS Level I Survey. May 09, 2012
3. USACE Anderson Land Swap Environmental Conditions of Property (ECP) Supplement to the USFWS Level I Survey. September 08, 2013
4. USACE Anderson Land Swap Cultural Resources Assessment

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5. Garrison Dam/Lake Sakakawea Master Plan with Integrated Programmatic Environmental Assessment Missouri River, North Dakota. Update of Design Memorandum MGR-107D. December 14, 2007

Section 6. Alternatives

6.1. Alternative 1: No Action Alternative

Under the “No Action” alternative, the Corps would not exchange land with the private landowner. This alternative would hinder the Corps’ efforts to (1) resolve long-standing management issues, (2) reduce trespassing issues, and (3) consolidate NWR lands to establish cohesive borders and allow the general public to easily distinguish the boundary between private and public land. The No Action Alternative would not satisfy the project’s purpose and need.

6.2. Alternative 2: Land Exchange (Recommended Alternative)

Parcel A and D would become part of the NWR and will replace the land lost on the other side of CR 23. This exchange will reduce the management challenges of the NWR area by making the boundary cohesive as CR 23 will not be a separation point. In addition, exchanging these parcels will allow sportsmen, wildlife observers and the general public to easily recognize the boundary between private and public land as CR 23 would become the boundary in this area.

Parcel A has the most rural residential and recreational appeal of the four subject tracts as it is contiguous with the NWR and has unobstructed views of the refuge lands and Lake Audubon. It is the larger of the two properties the Corps will take control of and would increase the total acreage of the NWR, which would provide additional benefits to wildlife in this area.

Parcel B and C will become private property, which will reduce management difficulties and increase the cohesion of the NWR. The reduction of trespass issues will be a benefit for all parties involved.

Parcel C is already being utilized by the private landowner as an irrigation access point; the exchange will remove the USFWS mandate currently in place, which does not allow the private landowner to have an irrigation intake on the NWR.

Section 7. Affected Environment

The properties described are located in west-central North Dakota on the eastern most edge of Lake Audubon on the Audubon National Wildlife Refuge (NWR), McLean County, North Dakota. The refuge is part of a landscape marked by numerous wetlands or “potholes” that remained after glaciers melted more than 10,000 years ago, typically called the “Prairie Pothole Region.” The Prairie Pothole Region extends into Canada, Minnesota, western Iowa, South Dakota, and eastern Montana. The refuge encompasses 14,735 acres of native prairie, planted

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grasslands, and wetlands. These lands are managed to provide food, water, shelter, and space to meet the needs of waterfowl and other migratory birds, threatened and endangered species, and resident wildlife. The refuge is home to 243 bird, 34 mammal, 5 reptile, 4 amphibian, and 37 fish species.

Currently two small Corps-owned parcels, totaling approximately 11.4 acres, lie east of CR 23 and are isolated from the main body of the NWR. The specific land parcels are described in Sections 7.1 and 7.2. In effect these sections of land are fragmented from the NWR and have limited biological value and are small, isolated and impractical to manage. Two small, privately-owned parcels, totaling approximately 5.9 acres, lie west of CR 23 and are adjacent to the main body of the NWR. The proposed land exchange is an opportunity to greatly improve the NWR boundary for management purposes and to address public and private access issues. Currently, the disjunct land ownership of private and public lands on either side of CR 23 makes management and public use and understanding very difficult.

The two private tracts on the west side of CR 23 and the two Corps-owned tracts on the east side of CR 23 make for an unbalanced and fragmented boundary in this area.

- 1) Corps-owned lands on the opposite side of the road from the NWR appear to the public to be part of the adjacent farm while private land on the Corps side of the road appears to be part of the refuge system. There are private property trespass issues on one side of the road and Corps lands not being utilized on the other side. The exchange would benefit both the Corps and the private landowner from a land management perspective. In addition, the public would benefit from having a clear understanding of the Corps-managed lands to include the public use that is allowed for activities such as access to Lake Audubon.
- 2) Adjacent to Parcel A is a well-used USFWS ice fishing access point that was originally designed to be on public lands; however, a portion of the entrance ended up on private land. While the private landowner has permitted access, acquisition of this tract would move the access back over to public lands.
- 3) The two Corps-owned tracts on the east side of CR 23 are of little use with respect to the waterfowl and wildlife missions because they are fragmented from the NWR. The two Corps-owned tracts on the west side of CR 23 share a border with the NWR and are currently either in the U.S. Department of Agriculture's (USDA) Conservation Reserve Program (CRP) or not being utilized.

On Parcel C the local landowner currently has an above ground irrigation pipe which passes through Corps-owned land. This is further compounded by new mandates which preclude the USFWS from allowing the private landowner to have an irrigation intake on the refuge. Once the exchange takes place the intake will no longer be on the refuge. The proposed exchange will facilitate a long-term and mutually beneficial irrigation system whereby the landowner will continue to draw water for irrigation of his/her private lands, and NWR will continue to provide water to refuge wetlands in the vicinity which need periodic recharging.

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7.1. Private Property

Parcel A: This lot contains 0.67 acres of land located in the Northwest quarter of Section 11, Township 147 North, Range 82 West. This parcel is currently not being utilized (see Figure 7-1).



Figure 7-1. Parcel A - currently Anderson property
Note: Picture oriented facing east; rock pile indicates prior site disturbance.

Parcel D: This lot contains 5.24 acres of land located in the Southwest quarter of section 11, Township 147 North, Range 82 West. This parcel is currently in CRP status (see Figures 7-2, 7-3, and 7-4).



Figure 7-2. Parcel D - currently Anderson property
Note: Picture oriented facing west; presence of honey bee hives.

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Figure 7-3. Parcel D - currently Anderson property
Note: Picture oriented facing west; current inlet channel to irrigation system.



Figure 7-4. Parcel D - currently Anderson property
Note: Picture oriented facing west; current location of irrigation pump, piping, and electrical facilities.

7.2. Federal Property

Parcel B: This lot contains 3.23 acres of land located in the Northwest quarter of section 11, Township 147 North, Range 82 West. This parcel is currently listed as part of the NWR (see Figure 7-5).

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Figure 7-5. Parcel B - currently Corps fee property
Note: Picture oriented facing north.

Parcel C: This lot contains 8.11 acres of land located in the Southwest quarter of section 11, Township 147 North, Range 82 West. This parcel is currently listed as part of the NWR (see Figure 7-6).



Figure 7-6. Parcel C - currently Corps fee property

Note: Picture oriented facing north; evidence of food plot cultivation and herbicide use.

Section 8. Environmental Consequences

8.1. Alternative 1: No Action

The No Action alternative will not meet the purpose and need of this federal action because it does not provide cohesive habitat for migratory birds, especially waterfowl, threatened and

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endangered species, and resident wildlife, promote compatible public use and recreation, including hunting, ice fishing, wildlife observation, and photography. In addition it will not provide benefits to the Corps and the private property owner to establish boundaries that are more practical and understandable to the public. The No Action alternative will not resolve long-standing management issues.

8.2. Alternative 2: Land Exchange

8.2.1. Cultural Resources

No Effect – A cultural resources review conducted by the Garrison Project, Archeologist concluded that the areas associated with proposed land transfer contain no cultural resources or historic properties located within the boundaries of either the currently private or federal lands being considered in this transfer. In accordance with 36 CFR Part 800.4[d][1], it was determined that this undertaking would have no effect on cultural or historic properties.

Since this transfer does not, in and of itself, propose to disturb the ground, and that it would have no effect to cultural or historic properties, the prescribed transfer is eligible for exemption from Programmatic Agreement (PA) review in the Omaha District's Operations Project Exemption List of the Programmatic Agreement. This transfer will not be forwarded on to the PA group for comment.

No additional investigations for this proposal are recommended. However, if project plans change to include areas not considered in this review, those changes would need to be reviewed by the Garrison Project archeological staff and resent to the members of the PA to determine if additional investigations are required.

8.2.2. Recreation

No Effect – The land exchange will actually have a beneficial effect by removing land management difficulties as well as land trespass issues, e.g. ice fishing access to Lake Audubon.

8.2.3. Fish and Wildlife Resources (including Threatened and Endangered Species)

Positive Effect – The land exchange will have a positive effect by removing management challenges of the NWR caused by small parcels of NWR lands being separated by CR 23 from the main NWR boundaries. This land exchange would increase land cohesion by offering a larger acreage of un-fragmented habitat.

Section 9. Conclusion

Currently these lands are being used as a wildlife refuge, enrolled in USDA's Conservation Reserve Program or not being utilized. As these lands will remain in the conservation status or be converted into a conservation status, there are no anticipated environmental impacts. All current land use, i.e. irrigation, will remain but will be removed from a non-compliant status by

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the transfer of lands. This action encompasses land title ownership only, and no construction, removal of structures or other land use change is expected.