



BWSR CONSERVATION EASEMENTS

LANDOWNER INFORMATION SHEET

Local contact:

When entering into a conservation easement many questions come to mind ranging from “what are the terms and requirements of the easement” to “how will this easement and its financial gains affect my operation?” This information sheet is not intended to answer all of your questions, but it will address some of the most commonly asked questions and draw attention to issues you will need to examine before deciding to convey an easement to the state. Soil and Water Conservation District (SWCD) staff will be able to provide you with some additional information related to the following issues. However, you are encouraged to contact the appropriate local, state or federal agency for further clarification.

LAND TITLE OBLIGATIONS

State law requires that good title exist for the property being enrolled in a conservation easement, and that the property be free of liens and encumbrances. The state purchases title insurance on the easement area to identify what encumbrances are associated with the property’s title. Be prepared to incur the expenses associated with updating your abstract and clearing undesirable liens or encumbrances from your property’s title (e.g., paying real estate taxes or fees to lenders to provide a written consent to the easement).

IRS REPORTING REQUIREMENTS FOR EASEMENT PAYMENTS

The IRS requires that the state report the entire amount of the easement payment to them on an IRS 1099S form (reported in the year the payment was issued). You are encouraged to discuss the IRS 1099S reporting requirements with your tax preparer or an attorney.

Where multiple grantors (landowners) are identified on the easement, forms will be provided to indicate the distribution of the easement payment among the grantors. Failure to return the distribution forms to the BWSR will result in delayed easements payments and/or reporting of the entire easement payment for **each** grantor to the IRS.

PROPERTY TAX ON EASEMENT ACRES

The diminished allowed uses of enrolled acres and the permanent nature of the easement often reduce the assessed value of the land. However, the decision to adjust land values is left to the discretion of the county. To find how the land values will be affected, please contact the county assessor’s office in the county in which the easement is located.

SALES TAX ON GOODS PURCHASED TO ESTABLISH CONSERVATION PRACTICES

As per the ***Agricultural Production Exemption***, any purchase of seed, trees, fertilizers and herbicides for use by the farms in the RIM Reserve or PWP programs is exempt from sales tax. A ***Certificate of Exemption form ST-3*** must be completed and given to the seller. The statutory authority for this exemption is *Laws in Minnesota 1991, Ch. 291, Art. 8, Sect. 17, subd. 9.*

EASEMENT ACRE TRANSACTIONS

The terms of the conservation easement require that you notify the Board of Water and Soil Resources when the property containing a conservation easement is transferred to a different owner. Notification in writing of the names, addresses and social security numbers of any new owners of all or part of the easement area is required within 30 days after the conveyance.

LANDOWNER PERMANENT COVERAGE OBLIGATION

All acres of the conservation easement must be protected by a permanent cover of vegetation or water. If one does not exist it must be established, generally with the help of state cost-share dollars. Once these conservation practices are established it is the landowner's obligation to ensure that they are maintained for the duration of the easement. This obligation transfers to each new owner, including all successors, heirs and assigns.

VEHICLE USE ON RECREATIONAL EASEMENT ACRES

Limited recreational vehicle use on easement acres is allowed. Any proposal for unlimited use, such as a traveled trail, must be addressed in the conservation plan and approved by the BWSR. Vegetative alteration or erosion problems caused by such activities as snowmobiling or other off-road vehicle use will result in a violation of the easement. The same restrictions apply to non-motorized activities that may damage or destroy vegetation.

PUBLIC USE OF EASEMENT ACRES

Easement acres need not be open to public use; that decision is the landowner's to make. If they are offered for public use there is state legislation that protects the landowner. Chapter 87 ***Private Lands and Waters, Public Use*** expressly provides that a landowner who permits, without charge, the use of his/her land for recreational purposes owes no duty of care to make sure the land is safe for such recreational uses, and does not assume responsibility for or incur liability for any injury to persons using the land which is caused by their own acts. For more information, please contact your legal counsel.

Because easement acres are no longer characterized agricultural land as defined in the state trespass law, the general prohibition against hunting or motor vehicle use may not apply. Therefore, those landowners not wishing to allow public use of their easement acres are advised to post their land.

LAND CONVERSION RESTRICTIONS

After entering into the Agreement for Conservation Easement the landowner may not convert owned or leased land that currently supports natural vegetation and has never been farmed to agricultural production or pasture. Conversion of such lands may result in the state terminating the acquisition of the conservation easement.

LAND USES ALLOWED DURING THE EASEMENT PROCESSING PERIOD

Cropping or grazing of the proposed easement area are allowed while the easement is being processed, and after the easement is recorded for the period necessary to harvest the crop or complete the grazing rotation. You must certify that all cropping or grazing has terminated in order to receive the easement payment. Payments will not be issued until this certification of termination is received by the BWSR.