

Conservation Easement Alteration Requests and Board Policy

December 20, 2017

RIM Reserve Rule Affecting Alteration Requests

MN Rule 8400.3610 - Alteration, Release or Termination of Conservation Easements

The Board may alter, release, or terminate a conservation easement after consultation with the commissioners of agriculture and natural resources. The Board may alter, release, or terminate an easement only if the Board determines that the public interests and general welfare are better served by the alteration, release, or termination.

The Board must be provided the following information at least 30 days prior to a Board meeting, before the Board will consider a request to alter, release, or terminate a conservation easement:

- A. a copy of the letter from the landowner to the district Board justifying the change and identifying how the public interest and general welfare will be better served;
- B. a letter from the district Board recommending either approval or disapproval of the proposed change;
- C. a letter from the Department of Natural Resources area wildlife manager recommending either approval or disapproval of the proposed change; and
- D. other supporting documents, including:
 - 1) an aerial photo identifying the requested change;
 - 2) a soil survey map of the area;
 - 3) cropping history information; and
 - 4) other pertinent documentation that will support the request.

The Board reserves the right to require special provisions to ensure at least equal resource value as a condition of approving the request. The Board must be compensated by the landowner for all damages and loss of benefits to the conservation easement and the Board may also require reimbursement for administrative expenses and costs incurred in the alteration, release, or termination of a conservation easement.

Policy Developed by RIM Committee and adopted by the BWSR on 12/20/2017

This policy applies to all state RIM, PWP and CREP easements currently in place and all future state conservation easement acquisitions. The purpose of this policy is to provide a framework for the BWSR Board and staff on how to implement MN Rule 8400.3610 to ensure consistent and fair treatment of easement alteration requests, conservation benefits are not diminished, and ensure that rule requirements are met.

All easement alteration requests that come to BWSR will be accompanied by a \$500 processing fee per easement. Checks should be made payable to the BWSR. For alterations where actual costs to amend the easement exceed \$500 the Board reserves the right to charge the applicant the actual cost.

Public benefitted projects -

Easement staff has the authority to tentatively approve of releases for public infrastructure projects. However, releases are not considered final until after the release request is presented to and approved by the Board and all fees have been paid.

In addition to the fee as outlined above, public entities must pay:

- 1) Two times the current RIM payment rate for acres released, and
- 2) An amount equal to all state funds dispersed as reimbursement for costs incurred to establish cover on the land being released.

Private landowner requests

All alteration requests that come to the BWSR must contain all the information items requested in Section 8400.3610 of RIM Reserve Rule (items A – D as listed above), plus the \$500 per easement processing fee in the form of a check made payable to the BWSR.

All requests must also meet the following conditions for BWSR approval:

- 1) The resource protection, conservation and habitat benefits for which the easement was originally acquired will remain the same or be enhanced by the proposed alteration. For example;
 - restored wetland acres will not be drained or filled by the proposal
 - riparian buffers will be preserved or enhanced
 - easement configuration will preserve or enhance wildlife benefits (larger blocks of habitat, not fractured puzzle-like boundaries).

- 2) Replacement acres will increase by a minimum factor as follows:
Released cropland acres replaced with cropland acres: A minimum of 2:1 (replacement acres to released acres)

Released cropland acres replaced with non-cropland acres: A minimum of 4:1
(replacement acres to released acres)

Released non-cropland acres to non-cropland acre: A minimum of 2:1 (replacement acres to released acres)

Released non-cropland acres to cropland acre: A minimum of 2:1 (replacement acres to released acres)

- 3) Replacement cropland acres proposed as replacement acres must meet crop history requirements, cropped 2 of last 5 years.
- 4) Replacement acres should be adjacent to or as near as possible to the existing easement.
- 5) The ratios above may, in rare circumstances, be altered based upon a best professional judgement recommendation by easement staff that the conservation benefits of the replacement acres significantly outweigh the conservation benefits being impacted.
- 6) Landowners will be required to pay necessary title insurance and recording fees, and all costs associated with establishment of conservation cover practices on replacement acres according to an approved conservation plan.

Meeting the criteria outlined above for private requests does not guarantee that the Board will approve of the request for release and alteration of a conservation easement.