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A. GETTING STARTED

The RIM Reserve and PWP programs require a number of actions by both the SWCD and landowner to successfully complete a conservation easement transaction. Since easements affect the land title by restricting the use of the property, it is absolutely necessary that the landowner have a full understanding of the easement acquisition process and the obligations under the terms of the easement.

The application stage is a critical part of the conservation easement process. Information will be collected to determine landowner and site eligibility, possible title problems and payments. In addition, it is at this stage that the district must determine if the land offered for enrollment is compatible with local and state resource protection goals. SWCDs should not pursue applications that offer minimal resource protection.

Please refer to the *Processing Framework* section of the handbook for information on when to hold a sign-up and when the BWSR will accept applications for funding consideration. Whenever the program requirements or materials are not clearly understood, or the instructions do not cover the situation, call your board conservationist for assistance.

A.1 Landowner Information Sheet

In early discussions, landowners will want to know how much the state will pay for a conservation easement. However, it is equally important that they understand their obligations under the terms of the easement. The Landowner Information Sheet should be used as the basis for discussions with landowners, and a copy should be given to them for their reference. Also explain program eligibility requirements and resource protection priorities. Be frank about the time required for processing the application, and to process the easement should the application be funded. It's in the district's best interest to take applications from individuals who fully understand the process and the terms of the easement. This will help to avoid the work of processing applications from marginally interested landowners who later cancel or wish to enroll areas that are low priority in terms of resource protection.

Program information and fact sheets are available on BWSR's website, www.bwsr.state.mn.us.

A.2 Easement Eligibility

A determination of eligibility must be made early in discussions with the landowner. Both the landowner and the site must meet certain requirements, depending on the program. Before proceeding with the application procedures, refer to RIM or PWP Eligibility sections to determine if the landowner and the land meet eligibility requirements.

A.3 Land in More Than One District

If an application involves land in more than one district, the districts may jointly delegate the responsibility of reviewing and prioritizing that application to one of the districts. If the application is accepted for enrollment, the affected districts may also jointly delegate the responsibility of completing all of the tasks necessary for the acquisition of the conservation easement to one of the districts.

A.4 Access

The state and its representatives must be able to access the easement area from a public road adjacent to the land contained on the same deed as the conservation easement.

Careful consideration must also be given to the need to access other lands not contained in the easement in the future. When delineating the easement boundaries make sure that an access exists to areas not under easement, such as fields, woodlots and potential building sites. When deciding whether or not to exclude land that provides access to an area not under easement, remember the terms of the easement require that the conservation practices identified in the conservation plan must remain intact and wildlife habitat must not be altered. Any prolonged travel over the same area would damage vegetation and could result in the landowner not being in compliance of the easement terms.

A.5 SWCD Checklist

After the application has been deemed eligible, an *SWCD Conservation Easement Checklist* should be started. Part I of the checklist identifies the components of the application package that need to be submitted to the BWSR. It also documents SWCD board action, BWSR funding action and landowner notification.

A.6 Record of Landowner Contact

A record of landowner contact should be started at the time of the initial expression of interest in a conservation easement by the landowner. No standard form exists, but the record should summarize conversations and include other information for reference. An accurate and up-to-date record will allow other staff to work with the landowner in the absence of the person who routinely works with the easement programs. The record of contact will be an essential aid to the board conservationists when they perform a program review.

B. APPLICATION PROCEDURES

B.1 Conservation Easement Application

The *Conservation Easement Application* documents landowner interest in a conservation easement and supplies the information necessary to begin the application package. Be sure the landowner and parcel information is complete and accurate.

SWCD Application No.

This space is for the interim number the SWCD assigns to track applications before they are assigned their permanent easement ID number (see the next bullet). Use any numbering system that meets the district's needs.

Easement

The easement number will be the permanent identification used for the easement and all forms and files related to it. Assign an easement number to each application being submitted for approval using four, two digit sets of numbers.

EXAMPLE: 34-06-94-02

34 = County code number

06 = Application ID #

94 = Calendar yr. of the sign-up

02 = Sign-up # for that year

Note: counties with multiple SWCDs use the following identifier after the sign-up number:

[E] East Otter Tail, East Polk; [W] West Polk, West Otter Tail;

[N] North St. Louis; [S] South St. Louis

[MB] Marshall-Beltrami;

Priority

This space is used to identify the priority number assigned for this application after the SWCD board has accepted the applications based on the local screening committee recommendation. Priority numbers are assigned in sequence without regard to type of conservation easement. The district's highest priority is assigned #1 whether it is RIM Reserve or Permanent Wetlands Preserve. The priority number will be considered by the BC when determining which application to recommend for funding.

Landowner's or Entity's Full Name

Enter the landowner's name or, in the case of multiple owners, enter the name of the owner that will be representing the group. In the case of partnerships, corporations, trusts, etc., enter their official name in this space. In the adjacent box enter the name of the individual who will be applying on behalf of the entity. The specified address will receive all non-monetary correspondence.

Amendment

In the Easement ID box at the top of the application form enter the ID number of the existing easement for which the amended is requested. Check the appropriate box indicating that the landowner wishes to increase the acres or the duration of the easement. In the case of increasing acres, calculate the payments associated with the expansion acres only. Please contact the BWSR for assistance in calculating payment rates associated with increasing the duration of an easement. Even though the application is to amend an existing easement, the application must be assigned an ID number for the current sign-up.

Eligible Land Type

Indicate the easement program and the land type for which the proposed easement area qualifies.

Easement Duration

Indicate the duration of the easement. To check the "limited" box an SWCD must have prior approval from the BWSR. For information on when limited easement applications are permitted please refer to the *RIM Eligibility* section of the handbook.

Easement and Practice Payments

Transfer the easement acres and easement payment from part B of the Conservation Easement Financial Worksheet (CEFW). Transfer the total cost-share dollars from column five of part C of the CEFW.

Terms and Conditions

After reviewing the four statements above the signature block with the applicant, have the application signed and dated.

SWCD Board Action

The SWCD board will need to approve and sign applications after the screening committee has provided its recommendations.

Landowner Questionnaire (back page)

Carefully go over the ten questions on the back of the application with the landowner to assure they understand the questions before answering them. The landowner should answer all ten

questions, and provide explanations where appropriate. The SWCD should conduct a courthouse search, when appropriate, based on the completed landowner questionnaire.

B.2 AERIAL PHOTOGRAPH

Each easement application must include an original aerial photograph with the following information identified:

- ✚ Boundaries of the proposed easement area. Use a red pen so the boundary can be easily identified. (Refer to A.4 for information relating to easement boundaries and access.)
- ✚ All rivers, streams, ditches, lakes, etc. Include the name or number designation.
- ✚ Dimension and distance information. This is especially important when easement boundaries do not follow existing field and property boundaries.
- ✚ Section corners and/or center of section clearly identified.
- ✚ All known utilities including: pipelines (natural gas, petroleum, etc.), power lines and telephone lines or cable that run across, or along the edge of, the proposed easement area. If possible, include the names of the companies associated with the utilities.
- ✚ Building sites, inhabited or abandoned, adjacent to or within the easement.
- ✚ Boundaries of wetland basins within the proposed PWP easement areas.
- ✚ Conservation easement numbers of any existing BWSR conservation easements on adjoining properties.
- ✚ Other information you believe is important to include on the photo.

B.3 EASEMENT AREA ASSESSMENT SHEET

Complete the appropriate conservation [Easement Area Assessment](#) form for RIM or PWP and submit it with the application for funding consideration. The assessment form provides information about the resource features of the proposed easement, the environmental condition of the area and the environmental protection an easement would provide. Check marks are used to indicate items that apply. Sections of the form ask for brief narrative descriptions concerning the proposed easement. Please use the narrative to explain the local priority placed on the application.

You must complete and sign the environmental assessment portion of the form after an on-site inspection. The inspection is required to assure due diligence has been taken to protect the state from obligations for expenses to clean-up contamination that could be present on the site. The environmental assessment has serious implications and must be carefully conducted.

The board conservationist will use the information on the assessment form to assist in regionally prioritizing and selecting conservation easement areas consistent with the BWSR's long range plan.

If you have questions, or want explanation about entries on the assessment form, contact your board conservationist. The board conservationist may contact you for additional information concerning the application and assessment.

B.4 Land Use and Soils

Crop history is required for all easement types that are paid at the cropland rate. Also, for land to be enrolled under "marginal agricultural cropland" the area must meet crop history requirements and at least 50% of the soils must be identified on the eligible soils list compiled by BWSR. (See the *RIM Eligibility* section of the handbook for more information.)

The Land Use & Soils Certification form is used to document crop history and eligible soils. On an aerial photo, outline the proposed easement boundaries. Within the boundaries, identify areas that will correspond to column one. These areas may or may not match FSA fields. History may be established by using FSA or landowner records with verification.

For RIM Reserve "marginal agricultural cropland" easements, the soils portion of this form must be completed. Using the soil survey, complete the soils eligibility portion of the form. Use the *BWSR Eligible Soils List* to verify eligibility.

B.5 The Conservation Easement Financial Worksheet (Part A & B)

Part A and B of the *CEFW* are used to develop payment amounts for the easement. Part C on the *CEFW* calculates conservation practice payments as instructed in *Conservation Plan Development* subsection of the *Agreement Stage* section. This form identifies the amount of compensation to be received and should be the basis for discussions concerning payments. Payment amounts given on these forms should be as accurate as possible as the state reserves the funds required for the easement based on the information supplied via this form.

Easement Payments

Easement payments are based on the acres of various land uses for the area included in the application. Calculations are to the nearest 1/10-acre. Tables of payment rates by county, by program and by land use are distributed yearly by the BWSR. If a payment rate for a particular township or city is missing the Assessor's Land Value Verification form will need to be submitted. Please contact your board conservationist or the BWSR easement staff for assistance.

Existing ditches and waterways should be included in the easement acres as donated acres. In the case of wetland restorations, these areas may be included as paid acres.

Conservation Practice Payments

To calculate the conservation practice payments refer to the *Conservation Plan Package Development* subsection of the *Agreement Stage* section of the handbook.

SWCD Acknowledgment

After the calculations are completed for the funding request, sign and date this form. Note the acknowledgment statement verifies that the information on this page has been conveyed to the landowner.

If you have problems with the tables or calculations, contact your board conservationist for help.

B.6 Courthouse Search

The courthouse search is not required for every application, but may be advisable in some cases. The conservation easement process can only be completed on lands with a clear title - one that is not subject to objectionable liens or encumbrances. The applicants must be the landowners of record, and any variations in names or the legal description must be accounted for or corrected. To complete the easement process, the holders of any mortgages or liens must consent to the easement or release the land being enrolled into the conservation easement. (For further

clarification refer to the discussion on title insurance in the *Easement Stage* section of the handbook).

Applicants for a conservation easement could have so many title defects and/or obligations on their property it is unlikely they will be able to obtain consents and/or releases without prolonged delays and expense. It is better to discover such problems early in the process and avoid processing applications that will not result in easements.

Conduct a courthouse search only if you have reason to believe one is necessary as a result of landowner questionnaire number ten, or personal knowledge of the landowner.




A courthouse search is a preliminary records search that should be done by the SWCD, or a representative, as part of the service grant obligation. Later in the acquisition process the state will purchase title insurance that will require a more formal search and opinion by the insurer. A final search will also be conducted by the SWCD or title insurance agent prior to recording the easement to assure no new obligations or changes have taken place during the process.

To conduct the courthouse search use the [Courthouse Search Data Sheet](#). Contact your county's administrative offices to determine where the required information is kept. Usually, the County Recorder's office will have the title and mortgage records., the County Clerk of Courts' office will have records of judgments and liens, and the County Auditor's office will have the records of back taxes due.

C. SPLITTING EASEMENT APPLICATIONS

If a landowner wishes to enroll physically separated areas into an easement, it may be advantageous or necessary to complete separate applications for each area. Parcels that have the potential of being sold separately should be split into two applications. Although splitting applications requires additional work initially, individual easements covering each area will simplify the title transfer at the time of sale for the seller, purchaser and the state. Splitting applications will not change the amount of the payments issued to the landowner.

Consider splitting an application when:

-  The areas are NOT part of the same abstract of title.
-  The areas are NOT in close proximity. Areas are on separate identifiable properties or tax parcels; are separated by a significant physical feature such as a river or highway; are in more than one section; or are in different townships.
-  The landowner has an intention to sell part of the property in the future.

If you have an application with separate areas that may need splitting contact your board conservationist or a BWSR realty specialist for approval before dividing the application.

D. WETLAND RESTORATIONS

Conservation easements for wetland restorations require additional application information because of the potential to temporarily or permanently affect land outside of the easement area. The information will be used by the BWSR engineering staff to determine feasibility of the project, level of design difficulty and involvement of adjoining lands to make sure all land rights are protected.

For wetland restorations, complete the *RIM Reserve Wetland Restoration Information form*. One Wetland Restoration Information form is completed and submitted per project area. Where multiple landowners and easements are involved, make copies of the forms, and include one copy with each separate application. Each wetland restoration project must include a topographical survey of the project area, identifying the wetland boundary and any other pertinent features. Contact the BWSR engineering section for help to complete the forms, and to arrange for engineering/surveying assistance, if necessary.

E. LOCAL PRIORITIZATION

Historically, the demand for easement dollars has exceeded the program funds available. Therefore, the district must rank the applications it intends to forward to the state for funding consideration.

E.1 Screening Committees

The purpose of local screening committees is to assist the district in implementing the conservation easement programs. The committee is chaired by a district board member and is composed of representatives of private, state and local organizations or clubs, and local, state and federal agencies with an interest in the conservation easement programs.

The program's administrative rules require an annual meeting of the screening committee. Please refer to the rules, *section 8400.3130 Priority Setting* for specific criteria the screening committee must consider when establishing local priorities. Local resource plans, such as the comprehensive water plan, and resource maps should be available at the meeting to guide the priority setting process.

At the district's discretion, post-sign-up meetings of the committee can be convened to prioritize individual applications.

E.2 District Board Action

The board shall take one of the following actions on each application:

- (1) Approve the application and submit to the state for funding consideration; or
- (2) Retain the application for further investigation; or
- (3) Deny the application because it is ineligible or it is not of sufficient local resource protection priority.

The district board shall notify all applicants in writing of their application status within 60 days of the end of the SWCD application period.