

Mortgage Subordination Tips

BWSR and the State Attorney General's Office require subordination for all active mortgages which affect a proposed conservation easement. Subordination results in the mortgage lender's security interest in the property becoming subject to and of a lower priority than the conservation easement. This is accomplished by the landowner and SWCD coordinating with the mortgage lender to sign one of BWSR's standard Mortgage Subordination Agreement forms. Here are some helpful tips for completing this process:

- 1) The Mortgage Subordination Agreement form must be on legal (8.5x14) sized paper.
- 2) The RIM legal description AND Exhibit 'A' map must be attached to the mortgage subordination agreement when given to the bank for signature. The legal description and Exhibit 'A' map should never be removed from the form and should also be on legal sized paper.
- 3) If your title agent notes on the title commitment that a mortgage has been modified or there has been an assignment, all additional language must be inserted into the subordination agreement. This may require you to change formatting of the document so that all information fits on one page. If you cannot get all information on one page and you cannot unlock the form, save the subordination agreement to your desktop and unlock. When changing formatting, only change text size (minimum 9 point) or shrink space in between paragraphs.

IMPORTANT NOTE: If you unlock the form to make information fit on one page, **NEVER** change the margins of the document. Three inches must always remain at the top of the form for recording purposes. One-half inch must remain on the left and right margins, as well as one-half inch at the bottom.

- 4) It may appear everything fits on one page. If it doesn't, correct by following the guidance in #3 above.
- 5) Information filled in on the subordination agreement should match EXACTLY with what is shown on the title commitment. For instance, if it says "Jenny Jones and Josh Jones, husband and wife", insert that exact language into the first line of the form, without leaving off "husband and wife".
- 6) It is highly recommended that you, the SWCD, provide this guidance to the Landowner and/or the Lender along with the link to the appropriate mortgage subordination agreement form.
- 7) If a mortgage is held by a bank, use the [Mortgage Subordination Agreement - Entity](#) form (most common). If the mortgage is held by an individual, use the [Mortgage Subordination Agreement – Individual](#) form. There are also versions tailored for mortgage modifications and assignments.
- 8) Keep the original signed subordination agreement in your file to be given to your title agent to record AT THE SAME TIME they record the RIM easement. Do not record the mortgage subordination agreement ahead of easement recording. A COPY of the signed subordination agreement should be sent to BWSR with the title commitment when possible.

NOTE: Mortgage subordination agreements recorded ahead of time with errors, or without map and legal attached, will have to be re-recorded.