

Conservation Easement Alteration Requests and Board Policy

RIM Reserve Rule Affecting Alteration Requests

8400.3610 Alteration, Release or Termination of Conservation Easements

The state 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 state board determines that the public interests and general welfare are better served by the alteration, release, or termination.

The state board must be provided the following information at least 30 days prior to a state board meeting, before the state 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 state board reserves the right to require special provisions to ensure at least equal resource value as a condition of approving the request. The state board must be compensated by the landowner for all damages and loss of benefits to the conservation easement and the state board may also require reimbursement for administrative expenses and costs incurred in the alteration, release, or termination of a conservation easement.

Policy Developed by Easement Alteration Subcommittee and adopted by the BWSR on 5-24-06

This policy applies to all state RIM, PWP and CREP easements currently in place and all future state conservation easement acquisitions.

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

Public initiated projects (public road and utility projects, etc.)

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 average township assessed market value (ATAMV) 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 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) Replacement acres will increase by a minimum factor of 2:1 (replacement acres to released acres). Replacement acres proposed on easements must meet crop history requirements, cropped 2 of last 5 years, if land proposed for release was cropland at the time the easement was granted.
- 2) The resource protection and habitat benefits of the original easement 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).
- 3) The SWCD Board and/or the DNR Area Wildlife Manager approve of the proposed alteration.
- 4) 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.
- 5) Any alteration proposed would not allow or enable any land development projects to occur on lands currently under easement. Land development projects include, but are not limited to, such things as new homes, cabins, storage buildings, livestock facilities, cell phone towers, wind generators, sewage treatment systems, private roads and drives, and mining operations.

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.