



Easement Acquisition Processing Framework

RIM Handbook

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A. EASEMENT ACQUISITION PROCESS

A.1 The Three Stages To Conservation Easement Acquisition

The process of acquiring a conservation easement involves three distinct stages:

Application

Agreement

Easement

The [Easement Acquisition Process flowchart](#) creates a visual picture of the easement acquisition process by showing the major steps involved in each stage of the process. Use the flowchart to explain the easement acquisition process to landowners inquiring about the program. The entire process can take from several months to several years, depending on the problems encountered during the process. Although every attempt is made to complete the process within 6- 18 months, it is better not to provide the landowner with estimates regarding how long it will take to complete the acquisition process since so many variables can affect the outcome.

Application Stage

Important steps of this stage include determining eligibility for both the landowner(s) and the land(s) being offered for enrollment. In the case of wetland restoration applications, technical feasibility should also be determined. If an applicant and the associated land are determined eligible, and the SWCD feels the area ranks high in terms of meeting state and local resource protection goals, the next step will be gathering the information required to submit the parcel for funding consideration. In some cases the SWCD may be asked to rank the resource protection priority of the parcel in relation to the other applications. This is dependent on specific program signup requirements and SWCDs will receive direction from BWSR as to when this applies.

If the proposed easement area meets local and state resource protection goals, and the landowner understands and consents to the terms and conditions of the easement, an application package should be completed as instructed in the [Application Stage](#) section of this handbook.

Applications that the SWCD approves to submit to the state for funding consideration are forwarded directly to the BWSR Conservation Easement Section in St. Paul. The BWSR Engineering Section will review wetland restoration applications prior to funding approval. SWCDs can generally expect to hear which applications will be funded two to four weeks after the sign-up period ends.

Agreement Stage

If the SWCD is aware of mortgages or liens on land submitted for enrollment they should contact, either directly or through the landowner, the holders of mortgages and liens to determine if they will provide a consent to the conservation easement, or release the easement acres from the terms of the mortgage or lien. If the landowner(s) are unable to provide a land title that is clear of objectionable encumbrances, the SWCD must notify the landowner that the funding for the application has been withdrawn (see item B.2 of this section).

Any environmental problems identified in the application stage must be addressed before preparing the agreement package. Abandoned wells will need to be sealed, and junk piles and/or structures will need to be removed from the easement area prior to recording the easement.

BWSR will develop the legal description for the easement area based on the ArcGIS shapefile submitted by the SWCD, and send it back out for review and approval by the landowner prior to developing the legal RIM

Agreement for landowner signatures. The shapefile boundary may have changed slightly due to section lines, road right-of-ways, or ownership, so it is advisable to stake the boundaries of the easement area (as delineated in the BWSR revised GIS shapefile) and make sure the landowner understands and is comfortable with the easement area boundaries.

If it appears as though clearing the title and cleaning up existing environmental problems will be accomplished, and the easement boundaries area acceptable to the landowner, the SWCD should complete the steps identified in the [Agreement Stage](#) section. The conservation easement agreement documents will be developed by the BWSR upon receipt and review of the agreement package from the SWCD. Once completed, the agreement will be sent to the SWCD for landowner signature. Please refer to the [Conservation Easement Agreement](#) subsection of the [Agreement Stage](#) section in the handbook for further clarification.

Developing the conservation plan is a very important part of the agreement stage. The successful establishment of conservation practices is paramount to achieving the desired environmental benefits associated with the easement. Please refer to the [Conservation Plan Development](#) subsection of the [Agreement Stage](#) section in the handbook for further clarification.

Easement Stage

The final stage of easement acquisition begins after the conservation easement agreement has been signed by all parties (landowners and state departments). Once the landowner(s) receive the completed and signed conservation easement agreement, they should proceed to have the abstract to their property updated. At the same time the SWCD should initiate the title insurance process by submitting a written request to the title agent with whom they will be contracting. Please refer to the [Easement Stage](#) section the handbook for further clarification and instructions relating to title insurance.

The conservation easement will be developed by the BWSR upon receipt and acceptance of the title insurance commitment. Once completed, the easement will be sent to the SWCD for landowner signature and recording. The conservation plan will require the principal landowner's signature at this time; however, it does not get recorded. The BWSR will make payment to the landowners upon receipt of the recorded easement, the final title insurance policy, and the signed Conservation Plan signature page.

Please refer to the [Easement Stage](#) section of the handbook for more detailed information.

A.2 Conservation Easement Processing Checklists

[Processing checklists](#) have been developed for SWCDs and the BWSR Easement staff. Checklists help accomplish the required steps to an easement in a timely manner. Check off the components of each stage (as illustrated in the flowchart) and fill in the date when all the items are complete.

B. SWCD ADMINISTRATION

B.1 Easement Files

Retain the following information in the easement file (not intended as an all-inclusive list):

- A record of contact with the property owners
- Application Package
- Easement Area Site Assessment Forms
- Aerial Photo of the easement area
- Land Use History & Soils
- Courthouse Search Data Sheet (if applicable)
- RIM Reserve Wetland Restoration Information Sheet
- Wetland restoration topographical survey & map
- Wetland restoration project design information
- Conservation Easement Agreement and referenced attachments -
- Agreement Information Form
- Exhibit "A" - (and aerial photo used to develop Exh. A)
- Legal Description
- Deed copy, Abstract legal copy, Govt. Lot Map, etc.
- W-9 Form (required IRS form) Conservation Easement Financial Worksheet
- Conservation Easement Practice Payment Worksheet
- Conservation Plan
- Conservation Practice Plan
- Conservation Plan Map
- Seeding Instructions
- Construction Plan and Notes
- Operation and Maintenance
- Cost-Share Vouchers and Practice Completion Certification
- Title Insurance
- Request for Title Insurance
- Documentation of Abstract Routing
- Copy of the Title Insurance Commitment
- Copies of Document Copies relating to pertinent exceptions listed on the T.I. Commitment
- Copy of the Final Policy
- Reimbursable RIM Reserve Invoice
- Easement
- Executed Easement and associated attachments and exhibits
- Other
 - Correspondence: SWCD, Landowner and State
 - Payment Notices from BWSR

- Receipts for mail, abstracts, etc...
- Easement Site Inspection forms
- Corrective Actions Transmittal and Landowner Response - Violation
- Corrective Action Plan and SWCD Certification - Violation
- Change of ownership information

B.2 Cancellation Procedures

For various reasons a landowner or the SWCD may wish to request that the BWSR cancel an enrolled applicant. The guidelines an SWCD should follow include:

Landowner Requests Cancellation

If the conservation easement agreement has not been signed no binding documents between the state and the landowner exist. If a landowner no longer wants to convey a conservation easement encourage him or her to officially notify the SWCD of this in writing. **The SWCD must notify the BWSR of the cancellation, either by forwarding a copy of the landowner's letter or sending an email.** The BWSR should be promptly notified so the funds can be applied to other applicants.

If the conservation easement agreement has been signed, a binding contract between the state and the applicant does exist. Therefore, a landowner is **required** to send the SWCD a letter requesting cancellation. The SWCD must forward this letter to the BWSR, along with a recommendation whether or not the applicant should be allowed to cancel. Because the conservation easement agreement is a binding document the BWSR can exercise the right to continue with the easement acquisition process. In most cases the BWSR approves the landowner's request to cancel. If the BWSR has not contacted the SWCD within 30 working days of the date the cancellation request was mailed to the BWSR the application has been cancelled.

SWCD Requests Cancellation

An SWCD may wish to request that the BWSR cancel an enrolled application in certain situations. Situations where it is appropriate to cancel an approved application include:

- The area has been signed up as a wetland restoration but it is determined that the restoration is not technically feasible, or will impact adjacent landowners who are unwilling to enter into a conservation or flowage easement.
- The landowner is unable to provide a title free of objectionable liens and encumbrances.
- The landowner is not completing the required steps in a timely manner.
- The conservation plan is not feasible or practical to implement.

A letter should be sent by the SWCD to BWSR requesting the approval to cancel an easement application. If the BWSR approves the cancellation request, the SWCD notifies the landowner in writing that his or her easement application will be cancelled in 15 working days and state the reasons for the cancellation. Inform the landowner that the cancellation may be appealed within the 15 working day period. If 15 working days have passed and the applicant has not appealed the cancellation, an official notification of cancellation should be sent by certified mail. A copy of this letter must be mailed to the BWSR so the easement can be deleted from our records and the associated funds applied to other applicants. If you have any questions please contact BWSR Easement Staff.

B.3 SWCD Reimbursable Expenses

Some of the costs associated with acquiring a conservation easement are reimbursable. For those expenses listed as reimbursable, or for those individually approved for reimbursement, SWCDs should submit an Invoice for [Reimbursable RIM Costs](#).

Reimbursable Expenses:

- Title Insurance Commitments
- Title Insurance Policies
- Flowage Easement: Abstract Updating
- Metal Posts used to mark easement boundaries
- Recording Fees

Potential Reimbursable Expenses (case-by-case BWSR easement coordinator approval necessary):

- Certain expenses associated with determining the technical feasibility of a project (e.g. tile investigation, soil testing).
- Other unusual circumstances (e.g. investigating/solving problems attributed to a completed conservation practice).