



# Unlocking the Mystery of Title Insurance



## Presenters

Kristie Mack, Luke Anderson,  
Polly Remick & Heather Staff

Title insurance can be complicated!



Why do I need title insurance?





# How do I obtain title insurance?

- ▶ Fill out the “Title Request Form” found on the **BWSR website**
- ▶ Determine if an updated abstract is needed
- ▶ Contact a title agent in your area and meet with them....
- ▶ Get off on the right foot!



# Agreement Approval Letter

10/21/2014

John Smith  
1234 County 24  
Cannon Falls, MN 55009

RE: Approval of Conservation Easement Agreement #12-34-56-78

Dear Mr. Smith:

I want to thank you for your interest in enrolling in the conservation easement program. Enclosed is a copy of the fully executed Agreement for Conservation Easement for your files. Please take some time to review the Agreement and the attachments. *Do not* record this document.

If you have not already done so, please check with your SWCD regarding the need for an updated abstract. Further processing of your easement cannot take place until you provide this document to your SWCD office, if required. You will be billed directly by the abstractor for the update. Your abstract will be returned to you when the easement process is complete.

If you have any questions, please contact your local SWCD office.

Sincerely,

*/s/ Tim Fredbo*

Tim Fredbo  
Conservation Easement Specialist

kjm  
enclosure

cc: Goodhue SWCD – Easements located in counties with computerized tract records may not require an updated abstract. Check with your title agent regarding the requirement for an updated abstract.

<b>Bemidji</b>	<b>Brainerd</b>	<b>Duluth</b>	<b>Fergus Falls</b>	<b>Marshall</b>	<b>Mankato</b>	<b>New Ulm</b>	<b>Rochester</b>
701 Minnesota Ave., Suite 234 Bemidji, MN 56601 (218) 333-8024	1601 Minnesota Drive Brainerd, MN 56401 (218) 828-2383	394 South Lake Ave., Room 403 Duluth, MN 55802 (218) 723-4752	1004 Frontier Drive Fergus Falls, MN 56537-2505 (218) 736-5445	1400 East Lyon St., Box 267 Marshall, MN 56258 (507) 537-6060	1160 Victory Drive S., Suite 5 Mankato, MN 56001-5358 (507) 389-1967	261 Highway 15 South New Ulm, MN 56073 (507) 359-6074	2300 Silver Creek Rd N.E. Rochester, MN 55906 (507) 206-2889

Central Office / Metro Office 520 Lafayette Road North Saint Paul, MN 55155 Phone: (651) 296-3767 Fax: (651) 297-5615

**IMPORTANT**

## SWCD Staff Responsibilities – Title Insurance

**IMPORTANT!!!!** If this is a RIM/WRP Partnership Agreement, NRCS will be working directly with the landowner on the steps below.

*For all others.....*

**The following steps are important to keep the easement acquisition process moving along as efficiently as possible.**

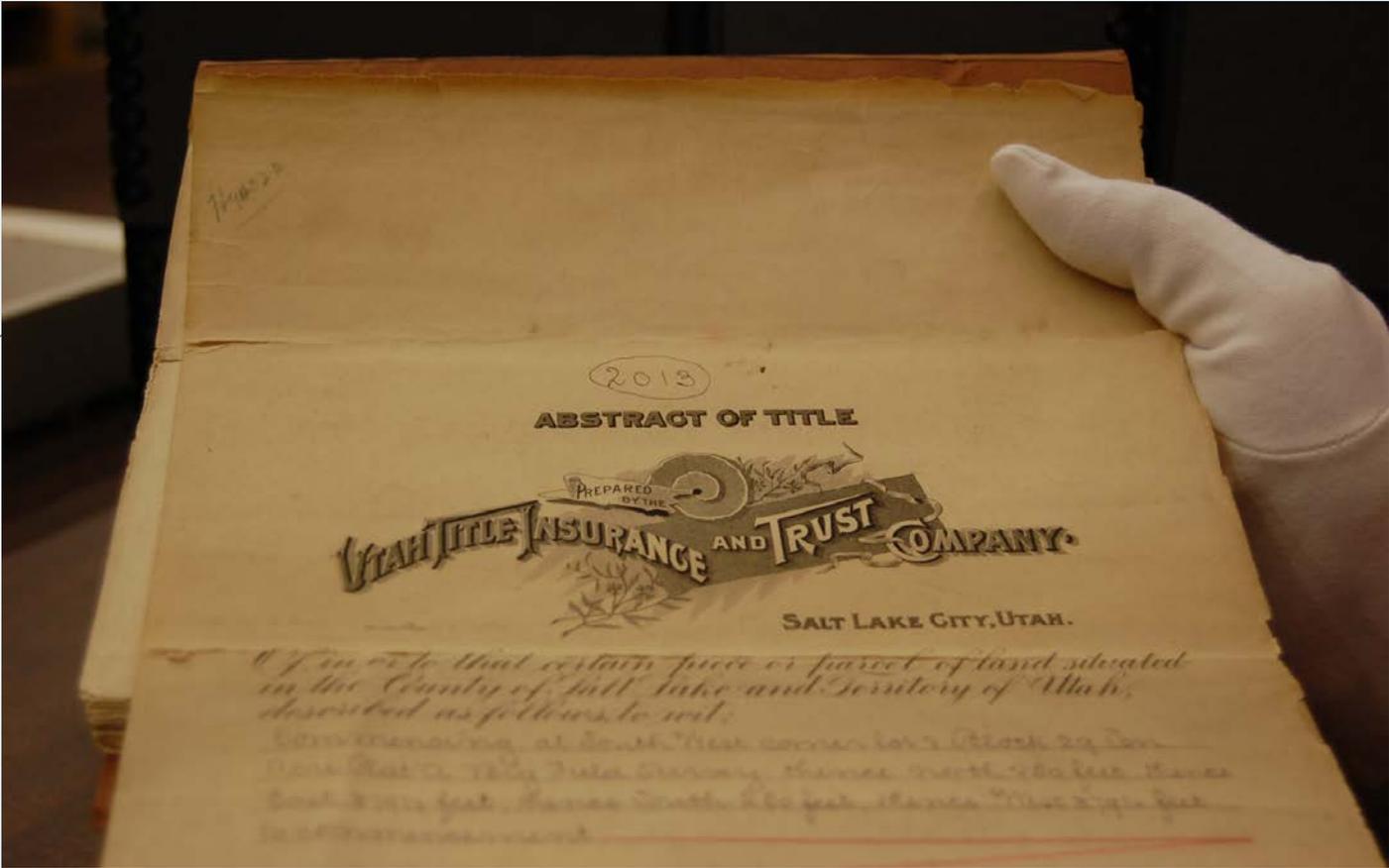
1. Work with landowner to get his/her property abstract updated. If your county has electronic tract records you may not need to have abstracts updated, so please check with your title agent. Inform agent of the need for a title search to go back to **land patent.**
2. Order Title Insurance. Complete the Title Insurance Request Form and deliver it, along with the updated abstract, to your local title agent (again check with agent for the need for an updated abstract).
3. Review the Title Insurance Commitment – IMPORTANT – Start working to clear the Schedule B Exceptions before sending commitment in to BWSR. Mortgage consents and documentation required to satisfy exceptions should be completed and sent in with the commitment as a package.

Please do not send the title commitment to BWSR without first reviewing it, and without working on clearing exceptions on Schedule B. **The sooner you start to work on clearing title exceptions, the quicker the easement will get processed and landowners paid.**

Please refer to our online Easement Handbook, for more complete instructions:

<http://bwsr.state.mn.us/easements/handbook/tiprocedures.pdf>

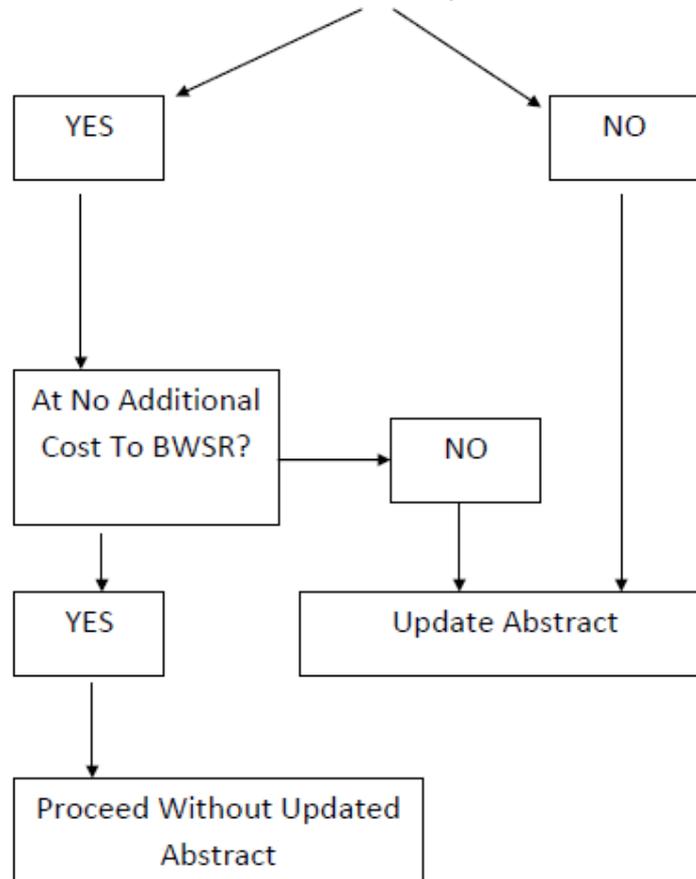
# Abstract Updating



# Is an updated abstract required??

## *Title Insurance-Abstract Updating*

Question to Title Agent: Can you provide a title insurance commitment and final insurance policy that meets BWSR's requirements?



# The Title Commitment

## Schedule A



### SCHEDULE A ALTA COMMITMENT

Effective Date: November 14, 2012 at 8:00 a.m.	File Reference: 3818-12-W139
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1. Policy or Policies to be issued:

a. A.L.T.A. Owner's Policy (ALTA form 6/17/06) Amount of Policy: \$ 52,844.80 ✓

Proposed Insured: State of Minnesota, Board of Water and Soil Resources ✓  
520 Lafayette Road, St. Paul, MN 55155

b. A.L.T.A. Loan Policy (ALTA form 6/17/06) Amount of Policy: \$

Proposed Insured:

# Schedule A

(continued)

2. The estate or interest in the Land described or referred to in this Commitment and covered herein is an estate or interest designated as follows: Fee Simple. ✓
3. Title to the estate or interest in the Land described or referred to in this Commitment and covered herein (and designated as indicated in No. 2 above) is, at the effective date hereof, vested in: John *Robert Smith*, life estate interest; and Denis *Peters*, remainder interest ✓
4. The Land referred to in this Commitment is in the State of Minnesota, County of Redwood and described as follows: ✓

SEE ATTACHED LEGAL DESCRIPTION

Property Address: Rural Redwood County, Minnesota

By: Frank *Anderson*

  
Authorized Signatory

Frank *Anderson* #3818  
315 S. Washington, PO Box 377  
*Somewhere, MN* 56283  
507-637-5721

# RIM Legal

Easement Number 90-15-12-09

STATE OF MINNESOTA  
BOARD OF WATER AND SOIL RESOURCES  
CONSERVATION EASEMENT  
LEGAL DESCRIPTION

*This is not a legal survey and not intended for use as a survey plat.*

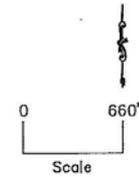
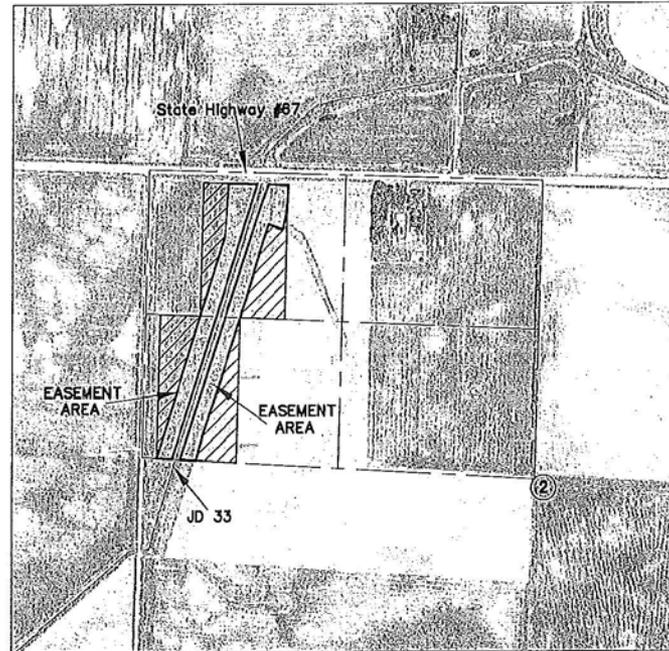
That part of the West 570 feet of the East 950 feet of the NW1/4 of the Northwest Fractional Quarter lying Southerly of the State Highway #67 right-of-way and Northwesterly and Southeasterly of the banks of JD 33, and that part of the West 540 feet of the East 1220 feet of the SW1/4 of the Northwest Fractional Quarter lying Northwesterly and Southeasterly of the banks of JD 33, all in Section 2, T. 112 N., R. 37 W., and shown as the "Easement Area" on the Exhibit 'A' attached to and made a part of this Conservation Easement.

STATE OF MINNESOTA  
BOARD OF WATER AND SOIL RESOURCES  
CONSERVATION EASEMENT  
EXHIBIT 'A'

This map delineates the easement area(s) referred to in the attached easement conveyance. *This is not a legal survey, and not intended for use as a survey plat.*

Section 2 T. 112 N., R. 37 W., \_\_\_\_\_ County

# Exhibit 'A' Map



Prepared By:

Board of Water and Soil Resources

Dated:

September 25th, 2012

### LEGEND

-  Center of Section
-  Boundary of Described Lands
-  Lands Included in Easement
-  Lands Not Included in Easement
-  Section/Quarter/Sixteenth Line

# Schedule B-I



## SCHEDULE B-I ALTA COMMITMENT

### Requirements

File Reference: 3818-12-W139

The following are the requirements to be complied with:

1. Payment of the full consideration to, or for the account of, the grantors or mortgagors.
2. Instruments creating the estate or interest to be insured which must be executed, delivered and filed for record:
  - a. Perpetual Conservation Easement to be conveyed to the State of Minnesota by landowner.

Where the legal description for a parcel, or portion thereof, contained in the recorded easement is a general description and does not specifically identify or locate either the servient real estate or the specific boundaries of the easement which is being insured hereunder, the coverage of this policy expressly excludes those matters causing loss or damage which are occasioned by the use of the general description. This exception applies only to parcels, or portions thereof, having a general description, and other parcels are not subject to this exception. Notwithstanding the foregoing and without limitation thereof, the Company hereby ensures the insured that the fee owner referenced at Schedule A hereof is the recorded owner of the property described at Schedule A hereof.

- b. Affidavit of Owners executed by John *Robert Smith*, and Bernice *Smith*, husband and wife, and Denis *Peters* and Cynthia *Peters*, husband and wife.

# Schedule B-II



WFG National Title Insurance Company  
a Williston Financial Group company

## SCHEDULE B-II ALTA COMMITMENT

### Exceptions

File Reference: 3818-12-W139

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
2. Real estate taxes for 2012 and prior years have been paid in full. Real estate taxes for the year 2012 on parcel 64-002-2040 are in the amount of \$3,106.00.  
The Land is assessed as full homestead
3. Rights or claims of parties in possession not recorded in the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance that would be disclosed by an inspection or an accurate and complete survey of the Land and inspection of the Land.

# Schedule B-II

## (continued)

- ~~5.~~ Easements or claims of easements, not recorded in the Public Records.
- ~~6.~~ Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not recorded in the Public Records.
7. Levied and pending assessments: There are no levied or pending special assessments, except a 1-year ditch lien in the amount of \$323.20.
- OK* 8. Drainage Ditch Easement and Agreement dated December 15, 1948, and filed December 29, 1948 in Book 43 of Misc., page 589, Doc. No. 156459, which allows a drain tile line to run across the subject property from neighboring property and outlet into Ramsey Creek.
- OK* 9. Drainage Ditch Easement and Agreement dated December 9, 1959, and filed May 26, 1960 at 11:05 a.m. in Book 54 of Misc., page 138, Doc. No. 183528, allowing neighboring property to use the tile drainage system on the subject property.

# Mortgage with Modification

## SCHEDULE B-I ALTA COMMITMENT

### Requirements

File Reference: 3511-12-W1542

The following are the requirements to be complied with:

1. Payment of the full consideration to, or for the account of, the grantors or mortgagors.
2. Instruments creating the estate or interest to be insured which must be executed, delivered and filed for record:
  - a. Perpetual Conservation Easement to be conveyed to the State of Minnesota by *John and Jane Smith* husband and wife.

~~b. Subordination of mortgage to~~ conservation easement interest in State of Minnesota, which mortgage is given to secure an indebtedness of \$495,000.00, and any other amounts payable under the terms thereof, dated June 8, 2011, recorded June 9, 2011, as Document No. 360225 of official records. Said Mortgage was modified by Modification of Mortgage dated March 5, 2013, and filed March 12, 2013, as Document No. 367519.

Mortgagor: *John and Jane Smith, husband and wife*  
Mortgagee: MidCountry Bank (lender)

# Mortgage with Modification

4/16/2015

STATE OF MINNESOTA  
BOARD OF WATER AND SOIL RESOURCES  
MORTGAGEE'S CONSENT TO CONSERVATION EASEMENT  
CORPORATION

WHEREAS, John and Jane Smith, husband and wife  
is/are the fee owner(s) of the following lands:

**See attached legal description of the conservation easement area.**

AND WHEREAS, the undersigned MidCountry Bank (lender)  
(Name of Corporation)

is the mortgagee of a certain mortgage dated 6/8/11, and recorded in Book        of       , Page       , as document number 360225 in the Office of the County Recorder/Registrar of Titles for Renville County, Minnesota, on the 9th day of June, 2011. Said mortgage was modified by Modification of Mortgage dated 3/5/13 and recorded as document number 367519 in the Office of the County Recorder/Registrar of Title for Renville County, Minnesota, on 3/12/13. Which mortgage covers all or part of the lands described above.

AND WHEREAS, fee owner(s) intend to convey to the State of Minnesota, acting through its Board of Water and Soil Resources, a conservation easement pursuant to Minnesota Statutes Section 103F.501 et seq., or Section 103F.516 et seq. upon all or part of the lands described above.

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the above named Corporation as mortgagee, hereby consents to the conveyance of said conservation easement and agrees that the lien of the above described mortgage shall be subject to and subordinate in lien priority to the conservation easement to be conveyed to the State of Minnesota by the fee owner(s) and agrees that any foreclosure of said mortgage or other sale of the property subject to said mortgage under judicial proceedings shall be subject to the conservation easement.

# Mineral Reservations

- ▶ **Ideally**, landowners own their mineral rights
- ▶ Mineral rights held by Agribank = Non-Disturbance Agreements
- ▶ Mineral rights held by Bureau of Land Management?
- ▶ Mineral rights held by State of MN = OK



**Utility  
Confinements  
and/or  
Releases**





# Utility Confinement Letter

SWCD

October 20, 2015

(Utility Name and Address Here)

Re: Request to Confine or Partially Release the Blanket Easement conveyed to (enter name of utility here) per Requirements of Minnesota Statute Section 301B.03

To Whom It May Concern:

In assisting a landowner participating in a State of Minnesota Conservation Easement Program, I am making a request pursuant to your duty as a Public Service Corporation under Minn. Statute Section 301B.03 to confine or partially release the blanket easement you now hold as more fully described in the **enclosed copy of your company's recorded Easement.** I have **also enclosed a copy** of the map and legal description of my conservation easement so that you can see where my easement is located in relation to your utility easement.

Once you have prepared and recorded the new document, presumably releasing all of your present easement except for the new more specifically described easement you will retain, please send me a copy so that the State can proceed with their easement process.

Sincerely,

# Title Insurance Policy





DATE: October 22, 2015

TO: Aitkin SWCD

FROM: Kristie Mack, Easement Acquisition Specialist, Sr.

RE: Easement #00-00-00-00

#### Schedule A of Commitment

Exact copies of the Legal Description and Exhibit A Map, that are attached to the easement document, must be attached to the final title policy.

#### Schedule B of Commitment

Legal counsel from the Attorney General's office has stipulated that *standard exceptions 1, 2, 4, and 5* as shown on the title commitment must not appear on the final policy. This is usually accomplished by requiring the landowner to sign an "Affidavit of Seller(s)," which your title agent should provide, and by requiring the title agent to do a gap check as outlined in #1 below and requesting that the title agent record the easement after the gap check is complete.

*Please feel free to contact me if you have any questions.*

Attached are the final easement documents for the above-referenced easement. Complete all of the steps below to finalize the easement. Pay particular attention to any highlighted items.

- If a new CRP contract is planned on the acres enrolled in this easement, make sure the CRP contract is approved by FSA **before** signing and recording the easement.
- Payment cannot be made until **completed 1099S forms** (if any are included with this memo) totaling the entire easement payment are received in our office.
- Review the terms of the easement and the conservation plan with the landowner(s). Have the **principal landowner** and the authorized SWCD representative **sign the conservation plan**. This means the signature date on the conservation plan should be the same as the signature date on the easement.
- Have the landowner(s) **sign the easement** in ink. The signature must be notarized.
- **Write or type in the date** that the landowner(s) sign(s) the easement on the front page in the blank of the first line of the easement, **not** in the blank space at the top of the page.

The title agent should complete steps 1 through 4 below:

1. Complete a **gap check**, i.e., check for any encumbrances (liens, judgments, etc.) that may have been recorded against the title since the date of the title commitment. If any new encumbrances have been recorded do not record the easement documents. Contact the SWCD office for further instructions. **(SWCD office will contact State office for next steps)**
2. If no new encumbrances have been recorded, **record the following documents**: The easement with Legal Description and Exhibit A attached, any additional attachments referred to in the easement (i.e., additional grantor signatures, acknowledgments, etc.); all consents, releases and/or subordination forms.
3. **Obtain a receipt** to verify recording.
4. The title agent should then **prepare the final title policy**.

Upon the title agent's completion of the above steps, the SWCD should do the following:

1. Make two copies of the recorded documents. Provide one complete set of these documents to the landowner and retain the other complete set for your files.
2. **Send all of the original easement documents** (including any consent, conservation plan signature page, release and/or subordination forms) **and the original final title insurance policy** to the BWSR central office in St. Paul.

The landowner can expect payment after the recorded easement documents, final title policy, signed conservation plan and 1099S Information forms (when provided) are received and approved by the BWSR.

# Easement for Signature Letter

# Title Reimbursement Request Form

- ▶ Found on the BWSR website under “Easements, Handbook and Forms, General Forms”
- ▶ When to send it
- ▶ When **NOT** to send it



INVOICE FOR  
REIMBURSABLE RIM/CREP COSTS INCURRED BY

SWCD Name

Street Address

City, State, Zipcode

<u>Date</u> (Invoice paid date)	<u>Services Rendered</u> (Take from billing indicate easement #)	<u>Amount</u>
10/12/15	Title Insurance - <b>Landowner Name</b> Record Easement #00-00-00-00 Title Insurance Premium	250.00 46.00 <u>1,050.00</u> <b>\$1,346.00</b>
10/13/15	Title Insurance - <b>Landowner Name</b> Record Easement #00-00-00-00 Title Insurance Premium	300.00 46.00 <u>1,650.00</u> <b>\$1,996.00</b>
10/13/15	Title Insurance - <b>Landowner Name</b> Record Easement #00-00-00-00 & Mortgagee's Consent Title Insurance Premium	250.00  92.00 400.00 <b>\$742.00</b>

**Total Amount Requested** \$4,084.00

**Attach copies of invoices and show payment date and check number**

*Signature*

Signature of SWCD Representative

# 1031 Exchanges

- ▶ Regarding **1031 Like-Kind-Exchange requests**, landowners are limited to changing payee info to only once per easement. In other words, if the *Agreement Information Form* is submitted showing the landowner as payee and then they subsequently request to change the payee to accommodate a 1031, once that change has been made, no further changes can be made. Likewise, if the *Agreement Information Form* is first submitted requesting payment be made to a Qualified Intermediary (QI) and then a subsequent request is made to change that payment information, no further changes will be made.
- ▶ Please be advised that changing the payee to a qualified intermediary (QI) after the *Agreement for Conservation Easement* has been signed will require another set of agreements be generated and signed by both the landowner and the BWSR, resulting in additional processing time. **No change to payee is allowed after the easement has been sent for signature.**
- ▶ All 1031 payments will be issued using the following template:

<u>Payee</u> BUSINESS NAME OF QI Mailing address of QI	<u>Co-Payee</u> Name of landowner
--	--------------------------------------
- ▶ The check is made payable to the QI AND the landowner, and mailed to the QI – no exceptions or variations.

**State of Minnesota Payment Information — IRS 1099S Form**  
*(Please type or print clearly)*

<i>Grantor Name</i>	<i>Federal Tax ID #</i> _____ <b>AND</b> <i>State Tax ID #</i> _____
	<b>OR</b>
	<i>Social Security #</i> _____
<i>Street Address</i>	<i>Distribution Amount</i>
<i>City, State, ZIP</i>	
<i>Signature</i>	<i>Date</i>

Please complete *all* blue/shaded sections.

NOTICE: The Federal and State taxpayer identification number supplied may be used in the enforcement of federal and state tax laws. Supplying these numbers could result in action to collect delinquent tax returns and delinquent uncontested tax liabilities from you. These numbers will be available to federal and state tax authorities and state personnel involved in the payment of state obligations.

**RETURN THIS COMPLETED FORM TO:** State of Minnesota  
 Board of Water and Soil Resources  
 520 Lafayette Road North  
 St. Paul, MN 55155

# 1099S Information Form

# New BWSR Easement Contact

Please send general inquires and electronic documents to:

[bwsr.rim@state.mn.us](mailto:bwsr.rim@state.mn.us)



# BWSR Easement Staff

Bill Penning, Conservation Easement  
Section Manager,

• 651-297-1894, [bill.penning@state.mn.us](mailto:bill.penning@state.mn.us)

Tim Koehler, Sr. Program Advisor

• 651-296-6745, [tim.koehler@state.mn.us](mailto:tim.koehler@state.mn.us)

Tim Fredbo, Easement Specialist

• 651-296-0880, [tim.fredbo@state.mn.us](mailto:tim.fredbo@state.mn.us)

Polly Remick, Easement Program Analyst

• 651-297-4365, [polly.remick@state.mn.us](mailto:polly.remick@state.mn.us)

Kristie Mack, Easement Acquisition  
Specialist, Sr.

• 651-215-9420, [kristie.mack@state.mn.us](mailto:kristie.mack@state.mn.us)

Char Falconer, Easement Development  
Specialist

• 651-297-4016, [char.falconer@state.mn.us](mailto:char.falconer@state.mn.us)

Seth Weeks, Geographic Information  
Specialist

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Dave Rickert, Easement Acquisition  
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Karli Tyma, Easement Acquisition  
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Heather Staff, Office and Administrative  
Specialist

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Tabor Hoek, Private Lands Specialist

• 507-537-7260, [tabor.hoek@state.mn.us](mailto:tabor.hoek@state.mn.us)

John Voz, Working Lands Specialist

• 218-849-1603, [john.voz@state.mn.us](mailto:john.voz@state.mn.us)