Minnesota Board of Water & Soil Resources

# A Landowner's Guide to

## BWSR Conservation Easements

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# A Landowner's Guide to BWSR Conservation Easements

This guide summarizes responsibilities that landowners have in the care of conservation easements and provides guidance for conducting effective site inspections and making informed decisions about long-term management needs of easement lands.

An electronic version of this guide with links to resources is available at: http://www.bwsr.state.mn.us/native_vegetation/Landowner_Guide_to_Conservation_Easements.pdf

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## What is a Conservation Easement? ▸

Conservation easements involve the acquisition of certain property rights for conservation purposes. Landowners who offer the state a conservation easement receive a payment or marketable wetland mitigation credits to permanently restore or preserve the land. In turn, the landowners establish conservation practices where necessary, such as native grass and forbs, trees, or wetland restorations. The easement is recorded on the land title with the county recorder and transfers with the land when the parcel is sold.

## The Importance of Conservation Easements ▸

Conservation easements play an important role in our landscapes by providing important ecological functions, recreational uses, and a natural heritage to be passed on to future generations. Easements secured by the Minnesota Board of Water and Soil Resources (BWSR) protect the state's water and soil resources by permanently restoring and protecting wetlands, adjacent native grassland, wildlife habitat complexes, riparian buffers, and other important resource areas on economically marginal, flood-prone, environmentally sensitive, or highly erodible lands.

## The Landowner's Essential Role ▸

While BWSR secures a number of different types of easements through various easement programs, the expectations of landowners are generally the same.

- Know and maintain the easement boundary
- Understand and comply with easement terms and conditions or limited use conditions
- Maintain and manage the easement property
- Maintain the essential components of the Conservation or Wetland Banking Restoration Plan that was implemented on the easement.

A landowner on his conservation easement

# Common Easement Questions ▸

## 1) What Can and Can't I Do on My Easement?

*General*

• Outdoor recreational uses are allowed, including hunting, fishing, trapping, and bird watching.

• Conservation grazing, haying, and biofuel harvest may be allowed as part of an approved site management plan. Please work with Soil and Water Conservation Districts (SWCD) staff in seeking approval and planning for such easement activities.

• Limited recreational vehicle use on easement acres is allowed as long as it does not damage native vegetation or cause erosion.

• Native or perennial vegetative cover must be maintained on conservation easements, so cropping, permanent structures, roads, etc. are prohibited.

*Hunting Blinds and Deer Stands on Easements*

• Temporary ground blinds are acceptable as long as they are not in place long enough to damage vegetative growth.

• Hunting blinds and deer stands that are elevated, or attached to a tree, and have no impact on the vegetation are allowed. Supporting posts may be dug into the ground, but no concrete, rock or concrete pads are allowed. They must be maintained in an upright position so as not to impact the vegetation.

*Trails*

• Any trail that is developed or maintained through mowing or brush control is not authorized. Acceptable trials include unmaintained single-track, wildlife, or unmaintained walking trails.

Cropping

Haying

Grazing

Deer Stand

## 2) How is the Boundary for My Easement Defined?

The easement boundary was defined at the time of acquisition and is depicted on the recorded easement. The easement boundary should be clearly staked or monumented. Contact the SWCD for assistance in establishing boundary markers or posts, or if you have any boundary questions.

## 3) Can the Public Access my Easement?

No, unless allowed by the Landowner. Landowners can choose to apply to enroll their land in Walk-In Access (WIA), a program to provide new hunting opportunities on private land.

## 4) Who Should I Contact With Questions?

The SWCD should be contacted about easement questions or when management issues arise.

The following website provides contact information for local Soil and Water Conservation Districts (SWCD):

**http://www.bwsr.state.mn.us/directories/SWCD_Dir.pdf**

## How Do I Care for My Easement? ▶

Four main components to easement care:

- Comply with easement conditions
- Respect and maintain easement boundaries
- Inspect and maintain all major components of any associated restoration plan
- Actively participate in managing the easement to maintain and enhance ecological functions

### A Landowner's Responsibilities

Landowners are the "front lines" in the care of conservation easements. They are responsible for ensuring that vegetation and any conservation practices that are established as part of the project continue to function at a high level and meet program goals. A key to ensuring proper operation of the site involves periodic site inspections to identify problems, and working to find appropriate solutions. The management of easement land is important for maintaining quality habitat and several things can be done to enhance site habitat and function over time.

### The Role of Others

BWSR has a responsibility to enforce and insure the long-term quality of its easements. BWSR often relies on Soil and Water Conservation Districts (SWCD) or other partners to conduct periodic site inspections. Easement concerns identified by these resource professionals will be shared with the landowner in order to resolve any concerns.

### Site Inspections

As part of a conservation stewardship program, conservation professionals will also inspect the easement site. However, these inspections do not occur every year, making landowner self-inspections critical in identifying and treating potential problems. Problems commonly associated with conservation easements include:

- presence of noxious weeds
- erosion
- excess seepage of water
- obstructed outlets and water control structure
- woody vegetation on constructed areas
- easement encroachment.

Landscapes are constantly changing due to weather, climate, and both human and natural disturbances. As a result, landowners should regularly inspect their easement to check for problems before they become serious. You may have to look at your land differently than before. Although easements differ, having one implies a commitment to specific goals. Understanding how those are measured, and what can set you back, will make your role as steward easier and more enjoyable.

It is helpful to have a well defined process for conducting site inspections to ensure that they are thorough, safe, and targeted to collect the right information. The following are recommended steps for conducting a site inspection, and initiating the process of making informed decisions about necessary project maintenance.

#### *1) Revisit the Conservation/Restoration Plan*

The Conservation/ Restoration Plan was developed to guide the construction, planting, and long term preservation of the project. These plans define project goals, plant communities to be restored, restoration methods, and planned maintenance needs and schedules.

#### *2) Determine Inspection Timing and Frequency*

Landowners should periodically inspect their easement during the first three years after initial establishment (usually when noxious weeds will be blooming in June), and at least annually thereafter (adjusting timing based on past experience). If a wetland was restored on the easement site, inspect wetland structures each spring and after major precipitation events.

#### *3) Plan the Site Inspection*

Included in this document is an inspection checklist (pg.7). Review the checklist before conducting an inspection to see what types of items should be investigated.

#### *4) Conduct the Inspection*

The inspection should be conducted when the weather is favorable as ensuring safety is the first priority. Equipment and materials that may be useful during the inspection include: cell phone, sun protection, boots, ATV, water, mosquito/tick repellent, and outdoor clothing. Bring a copy of the conservation plan map, a camera, and the provided site inspection form.

#### *5) Determine What Solutions are Needed*

After the site inspection, review the results to determine if any maintenance is required. The next section of the guide provides guidance about maintenance problem solving.

## Site Inspection Checklist

Property:

Date:

Inspectors:

### Site Vegetation

☐ Presence of any problem weeds

☐ Canada Thistle

☐ Purple Loosestrife

☐ Common Tansy

☐ Wild Parsnip

☐ Spotted Knapweed

☐ Leafy Spurge

☐ Other:

More information at: http://www.bwsr.state.mn.us/grantscostshare/Minnesota_Invasive_Plant_Species_Resources.pdf

☐ Woody plants establishing and growing rapidly in areas where prairie/grassland was planned.

☐ Sparse Cover of Vegetation

### Problems with Constructed Areas

☐ Erosion from flowing water, wave action, or burrowing rodents

☐ Excess seeping underneath berms or along outlet structures

☐ Obstructed culverts or water control structures

☐ Woody vegetation growth on constructed areas

### Problems with Boundary Integrity

☐ Encroachment issues (crop overspray, haying, annual crops etc.)

☐ Signs/ posts missing or damaged

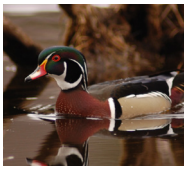
### Notes

### Beneficial Features

☐ Frogs

☐ Song birds

☐ Water fowl



☐ Flower diversity

☐ Pollinators

☐ Dragonflies

## Spotting and Resolving Problems

The following information summarizes specific problems that are commonly encountered within conservation easement lands and provides suggested actions for correcting them. Further assessment and guidance by SWCD or other conservation professionals may be needed for some situations.

### *Site Vegetation*

Healthy stands of native vegetation are important to provide wildlife habitat , filter stormwater, and other landscape benefits. It is important to ensure that vegetation is sufficiently established, maintains diversity levels, and is outcompeting invasive species.

**Problem:** Sparse cover of vegetation

**Action:** Consult with SWCD staff to assess the planting and to determine if additional seeding is needed. They will aid in choosing potential seed mixes and sources as well as interseeding methods. In some cases seed can be hand collected from areas where vegetation is established as planned.

**Problem:** Presence of weeds on the Minnesota Noxious Weeds List for an updated list of noxious weeds) out-competing desirable native plantings (see: **http://www.mda.state.mn.us/plants/badplants/noxiouslist.aspx**).

**Action:** Control species that are listed on the Noxious Weeds List. Work with the SWCD staff to find options for control, such as mowing or burning. See also potential management strategies on page 10.

**Problem:** Woody plants establishing in areas where prairie or grassland was planned.

**Action:** Conduct removal of woody trees through methods such as cutting, girdling, prescribed fire, and herbicide application. See potential management strategies on page 10.

### *Other Site Features*

Various water control structures and other constructed features may be included in your easement plan. Landowners should understand what these features do and threats to their functionality. Monitoring for damages caused by rodents, woody vegetation and/or storms is key. Structures can be clogged by cattails, branches or beaver activity, and removal of such obstructions can be dangerous. Consult the SWCD with any questions about these features and proper procedures for maintaining them.

**Problem:** Damage to any embankment (water holding berm) from rilling, wave action, or burrowing rodents.

**Action:** Promptly replace eroded material and seed, and/or sod as necessary. Contact the the SWCD if rodent damage continues over time or if activity appears to be threatening embankment stabilitiy.

Spotted knapweed MN invasive

Loosestrife patch

Woody establishment in prairie

**Problem:** Embankment seepage at abutments and foundations on the downstream side of any embankments may warrant immediate action (a small amount of seepage is to be expected and is probably acceptable).

**Action:** If seepage is excessive or if water is visibly moving through the embankment, contact the SWCD immediately.

**Problem:** Seepage along the outlet structure.

**Action:** If any seepage along the outlet structure is visible, contact the SWCD immediately.

**Problem:** Shrub, tree, or woody vegetation growth on or at base of embankments.

**Action:** Annually remove all trees and shrubs from embankment top and side slopes.

**Problem:** Obstructed or damaged outlets, including deterioration of the outlet structure (corrosion, rusting, cracks, holes).

**Action:** Remove obstructions. Check outlets each spring and after major storms, at least 2 times each summer. If any damage exists, contact the SWCD immediately.

Ditch plug in good condition

Spillway/ outlet structure in good condition

### *Boundary Integrity*

The boundary of your conservation easement should be clearly marked and respected. Understanding your easement boundary will aid in maintaining site integrity and complying with the easement terms and conditions.

Rodent damage to earthen embankment

**Problem:** Boundary posts missing or damaged.

**Action:** Contact the SWCD. Signs are recommended on all corners and every 500 feet in areas where the boundary may be unclear. Be sure signs are at least 4 feet high and mounted on durable posts.

**Problem:** Encroachment from adjacent activities (crop overspray, haying, annual crop planting).

**Action:** Re-establish perennial native vegetation in disturbed areas, add additional boundary marking if needed.

Native habitat meets crop field border

## Strategies to Manage and Care for an Easement

Active management helps ensure that the land continues to provide high quality habitat and meets project goals. Management activities that will be best suited for an easement will depend on location and site conditions. Local resource staff (such as the DNR, Fish & Wildlife Services or the SWCD) are familiar with the area can provide guidance about what management activities will be most beneficial and may be able to assist with more complex activities such as prescribed burning. Check with the SWCD for potential funding opportunities for easement management. The following is a summary of common management activities and their potential benefits.

*Prescribed Burning:* Fire historically played a role in maintaining the health and diversity of prairies. Conducting prescribed burns every three to four years in prairies can help control woody plant establishment, promote diversity and plant health, and help control weedy grasses. Spring burns are often conducted to set back non-native cool-season grasses while fall burns can set back woody plants and promote wildflowers. Firebreaks, burn plans and appropriate local approval are all important components of prescribed burning.

Mallard Nest

*Weed Management:* In addition to prescribed burning, other methods may be needed to control problem weeds such as Canada thistle, purple loosestrife, leafy spurge, spotted knapweed, common tansy, buckthorn, and other species that may displace native plants. Timely mowing may help stop seed production and set-back weeds though it should be conducted outside of the bird nesting season (April 15- Aug. 1st.) Be sure to only mow the weed patch, avoiding surrounding native vegetation. Haying and conservation grazing are also management strategies that can be used with program approval. Spot herbicide treatment is a common method of controlling problematic invasive species.

*Woody Tree Control:* Tree establishment on constructed areas can cause problems for the proper functioning of wetland structures. Trees and shrubs in prairies can degrade habitat for ground nesting birds such as ducks, pheasants, and many songbirds. As a result, tree removal through prescribed burning, cutting, and herbicide treatment may be beneficial.

*Water Level Management:* Some conservation easement projects have water control structures that allow for the management of water levels. With the oversight of qualified conservation professionals, wetlands can be managed to control weedy species and rough fish, and to provide improved habitat for migratory waterfowl.

More information about management can be found at:
**http://www.bwsr.state.mn.us/publications/WRG/section6.html**

Prescribed Burning

*Seasonal Management Timeline*

## Spring

- Service nest structures
- Conduct prescribed burns
- Monitor early season weeds and problems with water control structures
- Spot herbicide treatment of perennial weeds or unwanted herbaceous vegetation before natives green up
- Replant annual food plots if needed
- Replant perennial vegetation as needed
- Limit human use & activity during the Spring & Summer bird nesting season (April 15-Aug. 1st)

## Summer

- Mow undesirable species after August 1st unless invasive species are concentrated
- Mow firebreaks for Fall prescribed burning
- Release insects for biological control
- Implement conservation grazing plans
- Mid-summer drought may bring dry conditions and draw down of water levels, providing better access and more maintaince opportunties

## Fall

- Monitor late season weeds and problems with water control structures
- In coordination with agencies and local staff, manage water levels to control invasive animals and vegetation and promote habitat for migratory birds
- Spot treat herbicide to reed canary grass and reoccurring broadleaf plants such as thistle
- Treat stumps of larger unwanted woody vegetation with herbicide.
- Conduct fall prescribed burns
- Mow firebreaks for spring prescribed burn

## Winter

- In coordination with agencies and local staff, mow non-native cattails to the ice level for springtime control

Wigeon

## Other Strategies to Improve Wildlife Habitat

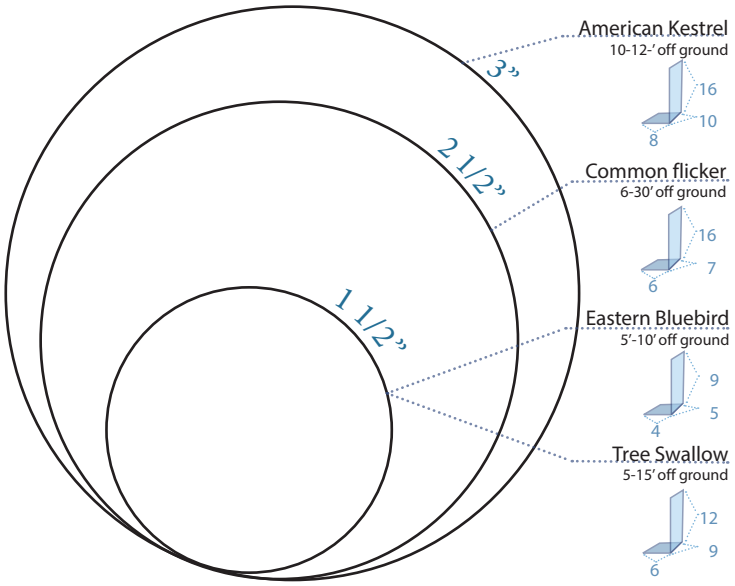
Easement care also may involve making habitat improvements. Certain activities will enhance wildlife use or provide other benefits. The following are some simple things a landowner can do to improve habitat on their conservation easement.

*1) Habitat Plantings:* Planting additional wildflowers not only adds color to the easement landscape but creates habitat for pollinators and small mammals. Seed mixes ideal for pollinators and habitat diversity should have at least fifteen species, a high percentage of forbs (30-60% by seed count), and at least three flowering species in each bloom period (Spring, Summer and Fall).

*2) Mallard Nesting:* If your easement includes an open water wetland, constructed nests are a great way to boost mallard populations within your wetland and help keep eggs safe from predators. Nests are elevated 3' long tubes made from welded wire mesh with straw, hay, or grass sandwiched between an inner and outer mesh layer. Placement of the nest depends on site conditions, but generally one should place nests near the edge of a marsh or in pockets of water ranging from 1 1/2' to 3' deep, with adequate vegetative cover nearby.

*3) Basking Log:* If your easement includes a wetland, don't readily remove snags or other dead brush, as they create habitat for amphibians and beneficial insects such as carpenter bees. Many birds will supplement their diet with insects found in dead or dying logs. A log placed partially submerged into the north side of a wetland pool creates a prime place for turtles to bask in the sun .

*4) Song Bird House:* Many bird species will utilize constructed bird houses, including the Tree Swallow, Eastern Bluebird, Common Flicker, and American Kestrel. Sizing of the house depends on the desired species, but the most important factor is the entry hole size (see diagram). Up to four houses per acre are recommended. See "Wood Working for Wildlife" for more detailed house plans.



*5) Wood Duck House:* If your easement includes or is near a wetland, these stunning birds will readily move into a constructed nest. Place nests 3-20 feet high and away from objects predators could use to access the nest (branches, fence posts etc.) Ducklings can jump from heights of up to 24 feet safely. A cone guard to protect against squirrels and raccoons helps secure the nest. Reference "Wood Working for Wildlife" for more specific design notes.

*6) Upland Planting Buffer:* Improvements to the upland buffer can be made by planting native grasses and wildflowers. Such improvements provide habitat for birds and mammals that frequent wetlands and helps protect the wetland from nutrient loading and erosion. Pheasants, ducks, prairie chickens, mice, voles, and many more benefit from such plantings. Be sure to wait until after nesting season (April 15-August 1) for any mowing and invasive species control.

*7) Bat House:* Bats are a great addition to any easement, as they eat many pests such as rootworms, stink bugs, leafhoppers, mosquitoes, and cutworms. Houses should be a dark color (using water based paints) with rough inside walls to mimic tree bark. Place the house 15-20' off the ground in a sunny location. Reference "Wood Working for Wildlife" for more specific design notes.

1. Native Wildflowers
2. Mallard Nesting
3. Basking Log
4. Song Bird House
5. Wood Duck House
6. Native Grass and Prairie Habitat
7. Bat House

## ADDITIONAL REFERENCES

Minnesota Wetland Restoration Guide **http://www.bwsr.state.mn.us/publications/restoration_guide.html**

NRCS 643 practice Standard **http://efotg.sc.egov.usda.gov//references/public/MN/643mn.pdf**

Minnesota Noxious Weeds **http://www.mda.state.mn.us/plants/badplants/noxiouslist.aspx**

Woodworking for Wildlife **http://www.comm.media.state.mn.us/bookstore/mnbookstore.asp?page=viewbook&BookID=68733&stocknum=275**

BWSR Inter-Seeding Guidelines **http://www.bwsr.state.mn.us/native_vegetation/inter-seeding.pdf**