

Conservation Easements



after



before

A landowner's guide to easements purchased through Wisconsin's Runoff Management and Stewardship Stream Bank Protection Programs

If you own land, you no doubt appreciate the benefits of ownership as well as the significant responsibility of managing property. If you own land along a stream and manage a dairy farm, for example, you may be challenged on how best to manage the land while turning a profit. One way to help may be to find out if you are eligible for a conservation easement. This publication helps explain how a conservation easement works, how it is established, where they are available and how they benefit landowners while protecting Wisconsin's environment for the long term.

On the cover: Before and after trout habitat restoration work on a flood damaged easement located on Timber Coulee Creek, Vernon County.



What is a Conservation Easement?

An easement is a way to convey some of the land rights associated with ownership to another party. Utility, highway, and driveway easements are examples of how both parties use the land in a specific way. Similarly, a conservation easement is a voluntary legal agreement between a landowner and a government agency, a non-profit conservation organization or a land trust that permanently limits specified current and future uses. As with other easements, landowners still retain ownership and many uses of their property such as agriculture, hunting and fishing. But a conservation easement will also help protect water quality, habitat and natural resources.

Although each conservation easement is unique, some examples of land rights purchased by state or local agencies include the right to improve streams, fence livestock out of the stream corridor, permit public access, manage trees, plants and shrubs by cutting and/or planting, and prohibit development. The agreement will also indicate the geographical boundaries of the easement. This legal document is recorded at the Register of Deeds Office. Land ownership stays with the landowner while easement rights “run with the land” which means the agency retains the easement rights if the landowner sells the land. The new landowner must abide by the easement.

Why Do Landowners Sell Conservation Easements?

There are many reasons why landowners sell conservation easements. Some are purely financial, while others have to do with land use legacies and how one feels about the environment. Here is a list of common reasons why landowners enter into a conservation easement agreement:

- The landowner retains many of the rights to use the property except for some restricted uses.
- It helps ensure the permanent protection of your land after you die or sell the land.
- Everyone benefits from improved water quality, fish and wildlife habitat.
- Signing an easement leaves a conservation legacy for future generations.
- The cash payment can be significant, with no spending restrictions.
- Landowners with no land-use plans can ensure a permanent natural landscape.
- An easement may be the least expensive solution to correct certain environmental problems.
- It could qualify the seller for other financial assistance, such as help with fencing costs, controlling soil erosion, or relocating livestock or a water supply.

Who Buys Conservation Easements?

This publication focuses on several programs funded by the Wisconsin Department of Natural Resources (DNR) that either are directly funded or administered through local units of government, such as a county Land Conservation Department. These four programs include:

- Two Runoff Management Grant Programs that provide funds to local units of government to purchase easements: the Targeted Runoff Management (TRM) Grant Program and the Urban Nonpoint Source and Stormwater Management (Urban NPS) Grant Program.
- The Priority Watershed program, administered through county Land Conservation Departments, provides funds to purchase easements for lands that qualify.
- The Stewardship Stream Bank Protection Program purchases easements directly from landowners to protect fish habitat and exceptional waterways throughout the state.

Note: Conservation Easements are also available under the Conservation Reserve Enhancement Program—a Federal, State and Local partnership. Contact your local USDA Farm Service Agency for more information.

What Rights are Purchased?

For each of these programs, there is a standard list of rights that are purchased. Please note that these purchased rights apply only within the easement area boundary. They do not affect the rest of the landowner’s property. In general, the landowner gives up the right to:

- Plant or harvest crops
- Graze livestock (exceptions may be granted to keep the property free from brush)
- Build structures
- Dump or stockpile offensive material

- Post the property for public access for fishing if allowed
- Disturb the natural landscape
- Alter existing drainage or water levels
- Manage the vegetative cover
- Install livestock fencing if necessary to control soil erosion problems
- Manage fish and wildlife which may involve modifying stream banks to improve fish habitat

Is Public Access Required?

If the easement is purchased through the Stewardship Stream Bank Protection Program, public access is generally required. Public access is restricted to the right to fish and walk along the stream banks; it does not include the right to hunt, trap or to use motorized vehicles within the easement area. For the Priority Watershed and the Runoff Management Grant Programs, public access is strongly encouraged but may not be required, depending on the site. If public access is allowed in the easement area, note that:

- Easement payments to the landowner are higher than easements without public access
- The easement document should

specify the types of public access that are permitted

- State law provides liability protection for landowners
- Users can enter only through lands open to the public
- Access is limited to travel by foot, snowshoe or ski
- No trails can be developed unless requested by the landowner

Some people do not mind neighbors using their stream for fishing and have informally allowed this use for years. However, a conservation easement with public access can provide the landowner with compensation, security, and ground rules while neighborly fishing continues.

What Land is Eligible?

Under the Stewardship Stream Bank Management Program, the focus is on protecting land bordering streams designated as “high quality” by the DNR. These stream corridors (a minimum of 66 feet on both sides of the stream centerline) protect water quality, wildlife habitat and recreational opportunities.

Priority Watershed Program easements may only be purchased from landowners with land identified in priority watershed plans, prepared

by the county Land Conservation Departments.

In the case of the Urban Nonpoint Source Grant Program, easements may only be purchased to install or access urban best management practices, such as detention basins or infiltration trenches. For the Targeted Runoff Management Grant Program, easements may be purchased to protect stream banks, restore wetlands and relocate or abandon animal lots.

How is a Conservation Easement Purchased?

If you are interested in an easement, you can arrange to meet with DNR staff (see regional contacts) or county Land Conservation Department staff. They can answer any questions you may have, including the terms of the proposed easement. The terms may vary with each site, depending on the landowner’s goals and the conservation and habitat restoration plans for the site. Once the terms of the easement are agreed upon, the DNR (or the local unit of government) then hires a professional appraiser to estimate the market value of the easement.

Appraisers use several approved methods to estimate the value of an easement. Each method considers what long-term impacts the easement



will have on the property and its present and potential uses. Each appraisal is completed only after the appraiser conducts a field inspection of the property and the conditions of the proposed easement document have been reviewed.

When the appraisal is completed and the value of the easement has been estimated, the landowner has the right to either accept or reject the DNR's or local unit of government's offer to purchase. Easements are only purchased from willing sellers.

How & When Will I Get Paid for an Easement?

As with many real estate transactions, time is needed to process a conservation easement. The terms of the easement require that the landowner has clear title to the land described in the easement or has the mortgage and lien holders complete a 'Consent to Easement' form. Contacting your lender when you first consider selling an easement can speed up the closing process. The time period from the landowner signing the easement to receiving payment may be 60 to 90 days before the land title is considered free and clear by the title company.

Will an Easement Reduce Property Taxes?

Since the property remains privately owned after a conservation easement is sold, property taxes continue. State law requires assessors to consider the effects of a conservation easement on the overall property value, although assessments in Wisconsin are rarely lowered as a result of a conservation easement. Nevertheless, how taxes are affected will vary with each site. If you are concerned, you may want to contact your local tax assessor prior to the sale of an easement.

How Long will the Easement Remain in Effect and What Happens if I Sell the Property?

Program rules require perpetual (permanent) conservation easements. Easements are recorded with the Register of Deeds and will show up as an encumbrance (a legal claim) against the title of the property. This ensures that the easement "runs with the land" and is automatically transferred to any new landowner. The easement, in other words, becomes part of the permanent record of title to the land. The easement does not prevent the sale or inheritance of a property. Abstracts and title insurance policies document easements and who purchased the easement.

When are Conservation Easements Available?

Availability varies, depending on the program. Conservation easements purchased through the Priority Watershed Program are available during the project implementation period, approximately 10 to 12 years. Easements purchased by the two grant programs may be purchased during the grant period, which may be one to three years. If easements are purchased through the Stewardship Stream Bank Protection Program, the time schedule may vary.

Conservation Easement as a Win-Win Tool!

Some landowners simply may not want to sell their property for conservation purposes, even though in principle they believe in the goals of conservation. A conservation easement is designed to help permanently protect a valuable natural asset while the landowner retains ownership. In the end, everyone benefits from this arrangement.

Who Should I Contact to Learn More?

If you have any questions, please contact a DNR real estate expert:

Northeast Region—Real Estate Expert • 1125 N. Military Ave., Box 10448, Green Bay, 54307 920-492-5838

South Central Region—Real Estate Coordinator
3911 Fish Hatchery Rd., Fitchburg, 53711 608-275-3314

Southeast Region—Real Estate Specialist • 2300 Dr. Martin Luther King Dr., Milwaukee, 53212 414-263-8616

West Central Region—Real Estate Specialist 1300 W. Clairemont Ave., Eau Claire, 54702 715-839-3781

Northern Region—Land Services Team Leader
107 Sutliff Ave., Rhinelander, 54501 715-365-8925

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