

Environment and Natural Resources Trust Fund: Conservation Easement Criteria and Checklist

NOTE: The following criteria and checklists should be considered minimum requirements and may be modified in the future.

Overall Conservation Easement Requirements

All conservation easements acquired with money appropriated from the Environment and Natural Resources Trust Fund (ENRTF) must:

1. Be perpetual.
2. Specify the parties to an easement in the easement.
3. Specify all of the provisions of an agreement that are perpetual.
4. Be sent to the office of the Legislative-Citizen Commission on Minnesota Resources in an electronic format.
5. Include a long-term monitoring and enforcement plan and dedicate funding for monitoring and enforcing the easement agreement.
6. Include requirements in the easement document to address specific water quality protection activities such as keeping water on the landscape, reducing nutrient and contaminant loading, protecting groundwater, and not permitting artificial hydrological modifications.
7. Give priority to high quality natural resources or conservation lands that provide natural buffers to water resources.
8. Have a restoration and management plan, including sufficient funding for implementation unless the work plan addresses why a portion of the money is not necessary to achieve a high quality restoration.
9. Provide to the Legislative-Citizen Commission on Minnesota Resources and the Commissioner of Management and Budget an analysis of increased operations and maintenance costs likely to be incurred by public entities as a result of the conservation easement acquisition and how these costs are to be paid.

Fulfilling Conservation Easement Requirements in Reporting to the LCCMR:

Documented in Work Plan:

- Description of the stewardship (monitoring and enforcement) program overview.
- Explanation of the process used for calculating conservation easement stewardship costs.
- Statement of commitment regarding annual inspection and reporting on stewardship activities undertaken with regard to Trust Fund supported projects.
- Statement of commitment regarding the permanence and separateness of a stewardship and enforcement fund and the perpetual nature of stewardship and enforcement activities for the easement.
- Description of project selection process, including necessary project criteria and the decision-making process used to sort/rank projects.
- Attachment that includes list of proposed conservation easements, as described in work plan instructions, that includes:
 - Proposed acquisition or restoration parcel name
 - Geographic coordinates of parcel in latitude and longitude or UTM-X and UTM-Y
 - County in which parcel is located
 - Ecological description of parcel (e.g., prairie, forest, wetland, savanna)
 - Ecological significance of specific parcel
 - Activity description (i.e., donated conservation easement, purchased conservation easement)
 - # of acres
 - # of shoreline miles
 - Type of landowner (e.g., private individual/trust, non-profit organization, for-profit entity) and name
 - Proposed easement holder
 - Status and stage in the acquisition process
- For each proposed parcel, provide a description of ecological features, site importance, conservation value, and public benefits. Be specific.
- If lands with a conservation easement are to be conveyed to the DNR, stipulate that written approval from the DNR commissioner will be obtained prior to the conservation easement acquisition.

Provided to LCCMR for Each Donated or Purchased Conservation Easement After Procurement:

- Landowner name.
- Site Assessment: stipulate it has been completed.
- Natural Resources Management Plan: stipulate it has been prepared.
- Baseline Property Report: stipulate it has been prepared
- Listing of any and all features of the easement that are perpetual.
- Monitoring, management, and enforcement commitment.
- Transaction cost report (see “Project Manager Info” page on LCCMR website).
- Initial Land Acquisition report (see “Project Manager Info” page on LCCMR website).
- Copy of draft easement in advance of closing with sections related to ENRTF requirements identified.
- Copy of final, recorded easement.
- For purchased easements, describe how easement value and purchase price were determined.

Overall Monitoring, Management, and Enforcement Fund Requirements

Money received from the ENRTF for monitoring and enforcement, including earnings on the money received, shall be kept in a monitoring and enforcement fund held by the organization and dedicated to monitoring and enforcing conservation easements within Minnesota.

Within 120 days after the close of the entity's fiscal year, provide an annual financial report to the LCCMR on the easement monitoring and enforcement fund indicating the balance of the monitoring and enforcement fund, any ENRTF contributions to that fund during the year, earning contributions to the fund, and any transfers out of the fund to support monitoring and enforcement activities.

Money appropriated for monitoring and enforcement of easements and earnings on the money appropriated shall revert to the state if:

- (1) the easement transfers to the state;
- (2) the holder of the easement fails to file an annual report and then fails to cure that default within 30 days of notification of the default by the state; or
- (3) the holder of the easement fails to comply with the terms of the monitoring and enforcement plan contained within the work program and fails to cure that default within 90 days of notification of the default by the state.

Fulfilling Monitoring, Management, and Enforcement Fund Requirements in Reporting to the LCCMR:

For Organizations Receiving ENRTF Dollars for a Monitoring and Enforcement Fund

Documented in Work Plan:

- Policies for safeguarding and eventual use of the fund to ensure stewardship on the easements held by the organization.
- Internal funds descriptions and related financial policies.
- Detailed description of how the stewardship fund will be invested and by whom.
- Written procedures whereby funds are transferred from the operating account into the monitoring and enforcement fund (a pooled fund restricted to the long-term management and enforcement of easements only in Minnesota as established by the organization's Board of Directors). The general ledger will also reflect each transfer.
- Documentation of the process for calculating the amount of money requested for the monitoring and enforcement fund.
- For each easement for which a request for reimbursement for the monitoring and enforcement fund will be made, an explanation of the need for ENRTF dollars for the fund will be submitted to the LCCMR prior to seeking reimbursement.
- With each request for reimbursement a copy of the final, recorded conservation easement documenting completion of a project will be provided.

Provided Annually Regarding the Monitoring and Enforcement Fund:

- Audit report specific to the monitoring and enforcement fund for the most recent period completed indicating the balance of the monitoring and enforcement fund, any ENRTF contributions to that fund during the year, earning contributions to the fund, and any transfers out of the fund to support stewardship activities.

For Organizations Using Non-ENRTF Dollars for a Monitoring and Enforcement Fund

Documented in Work Plan:

- Description of the fund.
- Statement of a legally binding commitment to support in perpetuity monitoring and enforcement of all easements.