

## Conservation Easements: A Chronology of Recent Law

Governor Pawlenty recently announced his intention to ask for state bonding dollars to match available federal dollars under the Conservation Reserve Enhancement Program (CREP) to acquire conservation easements of 100,000 acres in three targeted watershed areas. This chronology summarizes Minnesota law enacted since 1990 that has affected conservation easement acquisition.

- 1990**      *Chapter 473, sec. 2 (Minn. Stat. § 40.46, subd. 2):* Provides that any authority selling state land must delineate marginal land and wetlands to be reserved by a conservation easement. Within six days of the delineation, and before the land is sold, the commissioner of the Department of Natural Resources (DNR) or the Board of Water and Soil Resources (BOWSR) may disapprove of the delineation.
- 1991**      *Chapter 254, art. 2, sec. 8 (Minn. Stat. § 84.96, subd. 5):* In acquiring easements for native prairies, the DNR must pay 65 percent of the permanent marginal agricultural land payment rate established by BOWSR.
- 1994**      *Chapter 627, sec. 2 (Minn. Stat. § 103F.516, subd. 1):* Allows BOWSR to acquire permanent easements on type 6 wetlands, as well as types 1, 2, and 3.
- 1996**      *Chapter 449, sec. 3 (Minn. Stat. § 103F.515, subd. 6):* Authorizes BOWSR for native species restoration, in acquiring a conservation easement, to pay up to \$150 per acre for 20-year easements and up to \$200 per acre for perpetual easements.
- Chapter 471, art. 3, sec. 11 (Minn. Stat. § 273.13, subd. 23):* Amends property tax laws to include land enrolled in conservation programs consisting of at least ten contiguous acres as “agricultural land.”
- 1998**      *Chapter 404, sec.10, subds. 2 and 5:* Appropriates \$250,000 to BOWSR for acquiring flood storage easements within two local government areas. Another \$250,000 was appropriated to BOWSR to acquire conservation easements for sensitive shoreland on lakes.
- 1999**      *Chapter 243, sec. 35 (Minn. Stat. § 375.18, subd. 12):* Allows a county board to acquire development rights in the form of a conservation easement under chapter 84C. *Secs. 39-41 (Minn. Stat. 475.52, subd. 103):* Additionally allows cities, counties, and towns to issue bonds for acquiring development rights in the form of conservation easements.
- 2000**      *Chapter 375 (Minn. Stat. § 944, subd. 2):* Establishes a heritage forest area program within certain southern counties. Allows conservation easements by the DNR or a political subdivision to acquire heritage forest land from private landowners in exchange for implementing a stewardship plan with certain forest protection elements.

*Chapter 490, art. 6, sec. 11 (Minn. Stat. § 477A.12):* Authorizes an annual inflation adjustment to counties and towns for payments in lieu of taxes for natural resources lands within their jurisdiction.

*Chapter 492, art. 1, sec. 9, subd. 3:* Appropriates \$20 million to BOWSR as a match to federal dollars under the CREP to acquire easements and implement conservation practices on frequently flooded cropland in the Minnesota river basin.

**2001**

*Chapter 99, sec. 2 (Minn. Stat. § 103F.515, subd. 6):* Increases the payment amount for conservation easements on marginal agricultural land under the RIM program as follows:

- a) up to \$125 an acre for 20-year easements and up to \$150 an acre for perpetual easements to provide perennial cover;
- b) up to \$200 an acre for 20-year easements and \$300 an acre for perpetual easements to restore native species;
- c) up to \$600 an acre for wetland restoration; and
- d) up to \$250 an acre for 20-year easements and \$400 an acre for perpetual easements for the cost of planting trees in the easement agreement.

*Chapter 146, secs. 1-2 (Minn. Stat. § 103F.46, subd. 1):* Adds types 4 and 5 wetlands that BOWSR may acquire easements on in order to preserve or restore them. A permanent easement may include four adjacent upland acres for each acre of wetland.

*Chapter 2, First Special Session, sec. 14, subd. 4(e):* Appropriates \$2,650,000 to the DNR for cooperative agreements with nonprofit conservation organizations and certain federal agencies for conservation easements to restore and acquire fragmented landscape corridors that connect quality habitat areas to sustain fish, wildlife, and plants.

**2002**

*Chapter 366, sec. 1, subd. 2 (Minn. Stat. § 84.0272):* Authorizes the DNR to acquire permanent stream easements for angler access, fish management, and habitat work for a one-time payment based on (a) the per linear foot of stream within the easement corridor times \$5, plus (b) the easement corridor acres times the established market value.

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