

# Conservation Easement Stewardship and Enforcement Program Plan—DNR



**Final Report**  
**February 28, 2011**



## INTRODUCTION

The Minnesota Legislature funded this project in 2008 through an appropriation from the Environment and Natural Resources Trust Fund, Minn. Laws 2008, ch. 367, sec. 2, subd. 5(h). The appropriation language provides:

### **(h) Conservation Easement Stewardship and Enforcement Program Plan**

\$520,000 is from the trust fund to the commissioner of natural resources to inventory and digitize the department's conservation easements and prepare a plan for monitoring, stewardship and enforcement. This effort must be done in cooperation with the Board of Water and Soil Resources. This appropriation is available until June 30, 2011, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

The LCCMR approved the Work Program for the project on June 17, 2008. The Work Program has three results:

1. Easement Inventory
2. Develop Monitoring (or Stewardship) Plan
3. Design Long-Term Solution

The Work Program required the project to coordinate with the easement stewardship efforts of the Board of Water and Soil Resources (BWSR), which received a 2008 Environment and Natural Resources Trust Fund appropriation to enhance its long-term conservation easement stewardship, to avoid duplication of effort. Project staff met with BWSR representatives early in the project and determined that BWSR was using its 2008 ENRTF appropriation to map cover-typing of its conservation easements with GIS and was not duplicating any DNR efforts with the Conservation Easement Stewardship and Enforcement Program Plan.

This report is in three parts, which correspond to the Work Program's results. Part I provides an overview of the conservation easement types held by DNR, includes the inventory results, and outlines the inventory process. Part II explains how DNR's conservation easement stewardship plan is integrated with the design and development of DNR's new land records system and describes DNR's agency-wide conservation easement stewardship plan as well as administrator- and type-specific plans. Part III contains an estimate of DNR's funding needs for conservation easement stewardship and provides options for long-term stewardship funding.



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## PART I: EASEMENT INVENTORY

Minnesota's conservation easement law, Minnesota Statutes chapter 84C, was enacted in 1985. Minn. Laws 1985, ch. 232, sec. 1. This law is a verbatim enactment of the Uniform Conservation Easement Act, developed by the National Conference of Commissioners on Uniform State Laws.

The law authorizes two types of entities to hold conservation easements: (1) governmental entities that are authorized to hold interests in land; and (2) non-profit organizations with purposes that include "protecting the natural, scenic, or open-space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property." Minn. Stat. sec. 84C.01(2).

Chapter 84C applies to all interests created after August 1, 1985 that comply with chapter 84C even if the interests are not specifically called conservation easements. Minn. Stat. sec. 84C.05(b). It also "grandfathers in" certain easements, conservation restrictions and other interests in land that pre-date chapter 84C's effective date, August 1, 1985, if those interests would have been enforceable had they been created after that date. Minn. Stat. sec. 84C.05(c). This provision applies to a number of DNR's "conservation restrictions," which were acquired under the authority of Minnesota's conservation restrictions statute, Minn. Stat. sec. 84.64. This statute authorized the Commissioner of Natural Resources, home rule charters, statutory cities and non-profit organizations whose purposes included conservation of land and water areas to acquire conservation restrictions and was a precursor to chapter 84C.

Chapter 84C defines a "conservation easement" as "a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property." Minn. Stat. sec. 84C.01(1). All of the easements listed in the inventory results and subject to DNR's Conservation Easement Stewardship Plan meet this definition.

### ***Overview of DNR's Conservation Easement Types***

DNR holds 13 types of conservation easements:

1. Army Compatible Use Buffer	7. Native Prairie Bank
2. Aquatic Management Area	8. Northern Pike Spawning
3. Cave	9. Scientific and Natural Area
4. Forest Legacy	10. Trout Stream
5. Minnesota Forests for the Future	11. Water Bank
6. Metro Greenways	12. Wild and Scenic River
13. Other Conservation	



Each of the first 12 types listed above has one or more distinguishing features (e.g., specific statutory authority, a specific funding source or a specific conservation purpose). DNR's "Other Conservation" easements are miscellaneous easements that do not fit the characteristics of any of the 12 specific types. Each easement type is described in detail below.

### **Army Compatible Use Buffer (ACUB) Easements**

The Army Compatible Use Buffer Program was established by section 2811(a) of the National Defense Authorization Act for Fiscal Year 2003, now codified at 10 U.S.C. sec. 2684a. This law authorizes the Secretary of Defense or Secretary of a military department to enter into agreements with states and other eligible entities to address land use and development in the vicinity of a military installation. The agreements are for the purposes of:

- (1) Limiting any development or use of the property that would be incompatible with the mission of the installation; or
- (2) Preserving habitat on the property in a manner that—
  - (A) Is compatible with environmental requirements; and
  - (B) May eliminate or relieve current or anticipated environmental restrictions that would or might otherwise restrict, impede, or otherwise interfere, whether directly or indirectly, with current or anticipated military training, testing, or operations on the installation.

10 U.S.C.A. sec. 2684a(a).

Camp Ripley, in Central Minnesota, is home of the Minnesota Army National Guard and the primary winter military training site in the United States. On May 3, 2004, a three-mile zone around the camp, located in portions of Morrison, Crow Wing and Cass Counties, was approved as an Army Compatible Use Buffer.

The Minnesota National Guard has entered into a Cooperative Agreement with the DNR to protect lands within the Camp Ripley ACUB focus area. Under the Cooperative Agreement and in accordance with 10 U.S.C. sec. 2684a, the DNR acquires interests in land within the focus area from willing sellers. The acquisitions may be either in fee title or conservation easements. The military funds 75% of the acquisition costs. A 25% match, which may be in the form of funds, donations of land or in-kind services, is provided by the state, other entities or private parties. Legislation passed in 2009, codified as Minn. Stat. sec. 84.0277, provides that the payment for ACUB easements is based on a percentage of the most recent assessed market value of the land as determined by the county assessor.

DNR acquired its first ACUB easement in August 2005 and continues to actively pursue acquisition of ACUB easements.

### **Aquatic Management Area (AMA) Easements**

The Outdoor Recreation Act of 1975, codified as Minnesota Statutes sections 86A.01 through 86A.11, established Minnesota's Outdoor Recreation System. In 1992, the Outdoor Recreation Act was amended to add aquatic management areas (AMA's) as one of the units that



*Eagle Creek AMA Easement, Scott County*

comprise the system. An AMA may be established “to protect, develop, and manage lakes, rivers, streams, and adjacent wetlands and lands that are critical for fish and other aquatic life, for water quality, and for their intrinsic biological value, public fishing, or other compatible outdoor recreational uses.” Minn. Stat. sec. 86A.05, subd. 14.

Minnesota Statutes section 97C.02 requires the Commissioner to acquire lands that are “critical for fish and other aquatic life and that meet the criteria described for aquatic management areas in section 86A.05, subd. 14” and provides that such land “may be acquired by gift,

lease, easement, or purchase.” The Commissioner is required to designate land acquired under Minn. Stat. sec. 97.02 as aquatic management areas for purposes of the Outdoor Recreation System. State-owned lands or interests in lands that were acquired before Aug. 1, 2000 and administered by the Commissioner for fish management purposes were also designated as aquatic management areas in accordance with Minn. Stat. sec. 86A.05, subd. 14(e). Nearly all designated AMA’s, including those held in easement, provide public angling access.

Ten of DNR’s existing AMA easements are conservation easements. Three of these are on recreational camps owned by non-profit organizations, one was assigned to DNR by a non-profit land conservation organization and several others were donated to DNR. One of the easements uses boilerplate language nearly identical to that used for DNR’s Trout Stream easements (see below) but is on a lake instead of on a stream.

The Fisheries Section of the Division of Fish and Wildlife administers all AMA easements. DNR continues to acquire conservation easements of this type, but will likely limit its future acquisitions to large tracts of land along lakeshore.

### **Cave (Parks) Easements**

Cave easements are for the purpose of surface and subterranean land protection.

DNR currently holds two Cave easements. Both are located in Fillmore County adjacent to and within the Forestville Mystery Cave State Park Statutory Boundary. The easements protect Forestville Mystery Cave and land over the cave. The express purposes of these easements are: (1) to “[p]reserve, conserve and protect Mystery Cave for aesthetic, scientific, and natural and educational purposes;” and (2) to “[p]ermit the subterranean exploration, development and protection of all underground caverns that may exist” within



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*Forestville Mystery Cave Easement  
Fillmore County*

the lands described in the easements.

The Forestville Mystery Cave easements were acquired in 1996 and 1999. DNR does not presently have plans to acquire additional Cave easements.

### **Working Forest Easements: Forest Legacy (FL) and Minnesota Forests for the Future (MFF)**

DNR protects working forests with two types of conservation easements, Forest Legacy and Minnesota Forests for the Future. The Minnesota Forests for the Future Program is the overarching Minnesota program for identifying and protecting private, working forests using conservation easements, fee title and other tools.



*Sugar Hills Forest Legacy Easement  
Itasca County*

The Forest Legacy Program is a federal program created by Congress in 1990 as part of the Farm Bill. The purpose of the program is to prevent conversion of environmentally important forest areas to nonforest uses. The federal program partners with states and acquires interests in land only from willing landowners. Minnesota joined the federal Forest Legacy Program in 2000 and acquired its first Forest Legacy easement in March 2001. This program guided the early successes with forest conservation easements in Minnesota, continues to serve as a

funding source for the Minnesota Forests for the Future Program and is an important partner in Minnesota's private forest conservation efforts.

Forest Legacy projects are funded primarily through federal Forest Legacy grants. The federal funding share is restricted to 75% of total project costs. The required 25% match may be provided by organizations, states, local units of government, corporations or private parties and may consist of funds, donations, land or interests in land, in-kind contributions or direct or indirect costs. DNR classifies all conservation easements acquired with federal Forest Legacy grant funding as "Forest Legacy" easements.

The Minnesota Forests for the Future Program was established by Minnesota Laws 2008, ch. 357, codified as Minn. Stat. sec. 84.66. The purpose of the Minnesota Forests for the Future Program is to identify and protect "private, working forest lands for their timber, scenic, recreational, fish and wildlife habitat, threatened and endangered species, and other cultural and environmental values." Minn. Stat. sec. 84.66, subd. 1. Minnesota's first Forests for the Future easement was acquired in July 2010 with an appropriation from the Outdoor Heritage Fund.

Minnesota Forests for the Future is a state-



*Upper Mississippi Forest MFF Easement  
Itasca County*

### **The Forest Capital Partners Project, Phase II**

In December 2010, the Minnesota DNR and Forest Capital Partners (FCP) closed on a multi-year project to protect 76,000 acres of private forestland in Koochiching County with conservation easements. The terms of the conservation easements provide for sustainable forest management, conservation of wildlife habitat and public access to the land for outdoor recreation, hunting and fishing in perpetuity. This project illustrates how the federal Forest Legacy and Minnesota Forests for the Future Programs work together to protect Minnesota's private forestland while preserving potential benefits from mining on portions of the land.

Protection of FCP's land was accomplished through the use of both Forest Legacy and Minnesota Forests for the Future easements. The Forest Legacy easements were funded through a grant from the USDA Forest Service Forest Legacy Program. The Minnesota Forests for the Future easements used in the project were funded with an appropriation from the Minnesota Legislature. Decisions about which portions of land to place in which type of easement were based on the land's potential for mineral development and state ownership of severed mineral rights. Forest Legacy easements, which adhere to the restrictive federal requirements on mining, were used for portions of FCP's land with low mineral potential and no state ownership of severed mineral rights. Portions of FCP's land with state ownership of severed mineral rights were protected with Minnesota Forests for the Future easements. These easements permit exploration and mining of both state- and grantor-owned minerals. If the areas that are mined cannot be re-contoured and re-vegetated for forest use, the easements require that suitable lands be substituted.

level program similar to the federal Forest Legacy Program. The program was developed to address Minnesota's specific protection goals for working forests and to enable DNR to pursue forest protection opportunities beyond what can be acquired with limited federal Forest Legacy funding. The state and federal programs have similar goals, with an important distinction between the two programs being the handling of mineral interests. The federal Forest Legacy Program severely restricts mining on lands acquired under the program and requires mineral interests with potential for extensive surface disturbance to be extinguished on easements acquired with Forest Legacy funds. The state holds severed minerals rights on one million acres of private land in northern Minnesota, with rental and royalty income from these rights going to the Permanent School Fund, the Permanent University Fund, local taxing districts and the general fund. Because of federal Forest Legacy mining restrictions, placement of Forest Legacy easements on such lands could conflict with DNR's fiduciary responsibility to maximize the long-term economic return to the funds. The Minnesota Forests for the Future Program allows for greater flexibility in how mineral interests are addressed. Thus, DNR can protect areas of private forestland with high mineral potential with conservation easements while still meeting its fiduciary obligations.

DNR classifies all working forest easements acquired under Minnesota Statutes section 84.66 for which no federal Forest Legacy grant funding was used as "Minnesota Forests for the Future" easements.

### **Metro Greenways (MGW) Easements**

In 1996, the Legislative Commission on Minnesota Resources recommended an appropriation to the Commissioner of Natural Resources from the Future Resources Fund to develop a strategy to protect and manage greenway corridors and natural areas in the seven-county metropolitan area. The Legislature appropriated \$50,000 for this purpose.

Minn. Laws 1996, ch. 407, sec. 8, subd. 4. As a result, the Greenways and Natural Areas Collaborative, comprised of representatives from the public, private and non-profit sectors and academia, issued a



December 1997 report entitled *Metro Greenprint: Planning for nature in the face of urban growth*. The report recommended the creation of a Metro Greenways and Natural Areas Program with an advisory committee appointed by the Commissioner of Natural Resources in collaboration with the chair of the Metropolitan Council.

In 1998, the Legislature began appropriating funding for metro greenways and natural areas, but did not enact legislation to establish a Metro Greenways and Natural Areas Program. Over the next eight years, the Legislature appropriated both bonding and Environment and Natural Resources Trust Fund (ENRTF) funding to DNR for metro greenways and natural areas and authorized the purchase of land in fee title and conservation easements with the funding.



*Camp Kingswood Metro Greenways Easement  
Hennepin County*

Between 2001 and 2007, DNR acquired 16 Metro Greenways easements with the bonding and ENRTF appropriations. These easements, which protect a total of 669 acres, are located in Washington, Ramsey, Dakota, Hennepin and Anoka Counties. Nine are on parcels owned in fee title by counties, cities or other governmental entities. Five are on parcels owned by nonprofit organizations and the remaining two Metro Greenways easements are on private property.

### **Native Prairie Bank (NPB) Easements**

The state once had over 18 million acres of prairie. Less than 1% remains today. The Minnesota Legislature established the Native Prairie Bank Program in 1987 to help protect remaining parcels of privately owned native prairie with conservation easements. Minn. Laws 1987, ch. 357, sec. 19 (codified as Minn. Stat. sec. 84.96).



*Moulton 19-1 Native Prairie Bank Easement  
Murray County*

Under the Native Prairie Bank Program, the Commissioner of Natural Resources may acquire conservation easements on “native prairie,” defined as “land that has never been plowed, with less than ten percent tree cover and with predominantly native prairie.” Minn. Stat. sec. 84.96, subd. 3. The Native Prairie Bank law requires all easements acquired through the Program to include specific provisions designed to protect the native prairie. For example, the owner must agree “not to alter the native prairie by plowing, heavy grazing, seeding to nonnative grasses or legumes, spraying with large amounts of herbicides, or

otherwise destroying the native prairie character of the easement area.” Minn. Stat. sec. 84.96, subd. 4(2). In addition to imposing limitations on how the land may be used, Native Prairie Bank easements expressly authorize the DNR to undertake management activities such as prescribed burns on

the prairies.

The Native Prairie Bank Program is administered by DNR's Division of Ecological and Water Resources as part of the Scientific and Natural Areas Program. Land eligible for inclusion in the Native Prairie Bank often meets the criteria for designation as a state scientific and natural area. Native Prairie Bank easements typically contain a provision authorizing the Commissioner to designate and post the land subject to the easement as a scientific and natural area. To date, however, this has only occurred on lands subject to Native Prairie Bank easements that the DNR later acquired in fee title.



*Moulton 10-1 Native Prairie Bank Easement  
Murray County*

DNR acquired its first Native Prairie Bank easement in 1988. Since that time, it has acquired over 100 Native Prairie Bank easements and continues to actively protect privately-owned native prairie with this land protection tool.

### **Northern Pike Spawning (NPS) Easements**

Northern Pike Spawning easements are a type of flowage easement. They authorize DNR to flow and reflow specified areas with water and to otherwise conduct activities required for the operation of Northern Pike Spawning areas.

DNR holds a total of 38 Northern Pike Spawning easements. Ten of DNR's Northern Pike Spawning easements meet the statutory definition of "conservation easement." In addition to permitting DNR to flow and reflow the specified areas with water, these easements prohibit erecting structures or buildings and activities such as excavation, filling, dumping and tree cutting in order to protect the fish spawning habitat.

DNR's Fisheries Section does not intend to acquire additional Northern Pike Spawning easements that meet the definition of "conservation easement."

### **Scientific and Natural Area (SNA-Conservation) Easements**

State scientific and natural areas are one of the units that comprise Minnesota's Outdoor Recreation System. The purpose of a scientific and natural area is "to protect and perpetuate in an undisturbed natural state those natural features which possess exceptional scientific or educational value." Minn. Stat. sec. 86A.05, subd. 5. The Commissioner of Natural Resources may designate as a scientific and natural area lands that satisfy specific criteria set forth in the Outdoor Recreation Act by written order published in the State Register.

Minnesota Statutes section 84.033, subd. 1 authorizes the Commissioner to acquire "by gift, lease, easement, or purchase" lands that are "suitable and desirable for establishing and maintaining scientific and natural areas." While most of Minnesota's scientific and natural areas are on lands that the DNR has acquired in fee title, a number of them are on lands owned

by others that have either been leased to DNR or on which DNR holds conservation easements.

For purposes of DNR's easement inventory, any conservation easement (except Native Prairie Bank easements) that references the state's intent to establish and designate the property as a scientific and natural area is considered an "SNA-Conservation" easement.

DNR will likely acquire additional SNA-Conservation easements in the future.

### **Trout Stream Easements**

The Minnesota Department of Conservation, predecessor of the Minnesota DNR, began acquiring Trout Stream easements as early as 1940. These early easements were for the purposes of providing angler access and authorizing staff to conduct habitat improvement work on the sites. They did not expressly limit how land subject to the easements could be used. Many of the Department's early Trout Stream easements were for 25-year terms, but others were permanent.



*Hay Creek Trout Stream Easement  
Goodhue County*

In the late 1960's and early 1970's, the Department began acquiring permanent Trout Stream easements that not only provide angler access and authorize staff to improve habitat on the sites, but also impose limitations on land use. These easements prohibit new structures and require the landowner to cooperate in the maintenance and enhancement of fishing in the easement area by doing no excavating, filling, dumping, tree cutting, burning or changing the stream course. Some Trout Stream easements, particularly those on streams in Southeastern Minnesota and in other agricultural areas, also prohibit new tillage within a specified distance from the stream. Most provide that the easement area is 66' from the centerline of the stream on the side or sides of the stream subject to the easement. These Trout Stream easements impose limitations on how the land may be used and thus meet the definition of "conservation easement" in Minn. Stat. sec. 84C.01(1).

DNR purchases many of its Trout Stream easements. Since 2002, the purchase price has been determined by a formula set forth in Minn. Stat. sec. 84.0272, subd. 2 rather than by appraisal. Other Trout Stream easements are acquired by gift or are conveyed to DNR by the Commissioner of Revenue upon the sale of tax-forfeited land in accordance with Minn. Stat. sec. 282.37.

All of DNR's existing Trout Stream easements that meet the definition of "conservation easement" are on designated trout streams under Minn. Stat. sec. 97C.005. Most are located in the driftless area of Southeastern Minnesota and in the Lake Superior Watershed.

The Fisheries Section of the Division of Fish and Wildlife administers all of DNR's Trout Stream easements. DNR continues to acquire Trout Stream easements, primarily through purchase and sales

of tax-forfeited land.

### **Water Bank Easements**

DNR's Water Bank Program was established in 1976 as part of the public waters inventory. Minn. Laws 1976, ch. 83, sec. 9. Its purpose was to compensate certain landowners who were no longer allowed to drain wetlands on their properties. Landowners were entitled to compensation under the Water Bank Program if drainage of a wetland on their property was "lawful, feasible, and practical" and, if drained, the wetland "would provide high quality cropland." Minn. Laws 1976, ch. 83, sec. 9, subd. 2.

Initially, the Water Bank law authorized DNR to offer term-limited agreements to landowners in lieu of granting drainage permits. Under the agreements, landowners received annual payments. In 1990, the Legislature amended and recodified the Water Bank Program statute and substituted conservation easements for the term-limited agreements. Minn. Laws 1990, ch. 391, sec. 76 (codified as Minn. Stat. sec. 103F.601). The easements had to be for a minimum of 20 years, but could be permanent. Landowners received a one-time payment for granting the state a Water Bank easement.

In accordance with the authorizing statute, Water Bank easements prohibit draining, burning, filling, other destruction the wetland character of the areas, or use of them for agricultural purposes. Most of the easements negotiated by DNR under the Water Bank Program were for 20-year terms. All but five of the term-limited easements have expired and the remaining ones will all expire over the next two years. Twenty-one of DNR's Water Bank easements are permanent.

Aside from DNR's ongoing stewardship of existing Water Bank easements, the Water Bank Program is now defunct. The DNR has not acquired any Water Bank easements since 1992.

### **Wild and Scenic River (WSR) Easements**

The Minnesota Wild and Scenic Rivers Act and the Lower St. Croix Wild and Scenic River Act became law in 1973. These laws are now codified as Minn. Stat. secs. 103F.301 – 103F.345 and 103F.351, respectively.



*S12 Wild & Scenic River Easement  
Sherburne County*

The Minnesota Wild and Scenic Rivers Act is a state corollary to the federal Wild and Scenic Rivers Act of 1968. It was designed to create a system under which certain Minnesota rivers would be designated as wild, scenic or recreational in order to retain their "outstanding scenic, recreational, natural, historical, scientific and similar values." Minn. Stat. sec. 103F.305.

By enactment of the Lower St. Croix Wild and Scenic River Act, the state recognized and concurred with 1972 federal designation of the Lower St. Croix as a Wild and Scenic River, provided legal authority for the state's joint management of the river with the



United States Department of the Interior and the State of Wisconsin and provided for protection of the river's scenic and recreational qualities through zoning and other means.

Both the Minnesota Wild and Scenic Rivers Act and the Lower St. Croix Wild and Scenic River Act authorize the Commissioner of Natural Resources to acquire scenic easements, which are defined in Minn. Stat. sec. 103F311, subd. 6 as "an interest in land, less than fee title, that limits the use of the land to protect the scenic, recreational, or natural characteristics of a wild, scenic, or recreational river area." Under the Minnesota Wild and Scenic Rivers Act, the Commissioner may acquire these easements "by purchase, grant, gift, devise, exchange . . . or other lawful means" in order to implement the Wild and Scenic Rivers system. The Lower St. Croix Wild and Scenic Rivers Act authorizes the Commissioner to acquire scenic easements by "gift, purchase, or other lawful means" and also by eminent domain. Minn. Stat. sec. 103F.351, subd. 3.

Portions of six rivers have been designated under the Minnesota Wild and Scenic Rivers Act: the Cannon, the North Fork of the Crow, the Minnesota, the Mississippi, the Kettle and the Rum. The DNR has acquired one or more scenic easements on each of these rivers and also holds scenic easements on the federally designated Lower St. Croix River. All of DNR's scenic easements were acquired between 1976 and 1988, with the exception of a donated easement on the Mississippi, which the DNR accepted in 2002. None of the easements authorize public access. DNR classifies the scenic easements it holds on designated wild and scenic rivers as "Wild and Scenic River" easements.

The Wild and Scenic Rivers Program has been administered by various DNR divisions and units since its inception, including the Division of Parks and Recreation, Office of Planning, Bureau of Real Estate Management, Division of Waters and Division of Trails and Waterways. The Scenic Easements Program is currently administered by the Division of Parks and Trails. The DNR does not have an active acquisition program for Wild and Scenic River easements.

### **What is the difference between a "scenic easement" and a "conservation easement"?**

The Minnesota Wild and Scenic Rivers Act and the Lower St. Croix Wild and Scenic River Act were enacted 12 years before Minnesota's conservation easement law, Minn. Stat. ch. 84C. The definition of "conservation easement" in section 84C.01(1) of the conservation easement law includes interests in land that limit how the land may be used in order to protect natural or scenic values of real property. Scenic easements acquired under the Minnesota Wild and Scenic Rivers Act and Lower St. Croix Wild and Scenic River Act are for the purpose of protecting natural and scenic values of the wild and scenic river areas. These easements therefore clearly meet the definition of and are a type of "conservation easement."

There is one important difference between scenic easements and conservation easements authorized under Minnesota's conservation easement law. The conservation easement law restricts the right to enforce an easement to the easement holder or to a person having a third-party right of enforcement. Minn. Stat. sec. 84C.03(2) & (3). The Minnesota Wild and Scenic Rivers Act grants more expansive enforcement rights for scenic easements. Unless the scenic easement otherwise provides, the Wild and Scenic Rivers Act provides that a scenic easement is enforceable "by its holder *or any beneficiary*." In a Washington County court case against a scenic easement landowner, the court determined that this means a member of the public has the authority to enforce a scenic easement.

## Other Conservation

DNR holds 48 miscellaneous conservation easements that do not meet the definition of any of the 12 specific types described above. The easements have been classified and coded in DNR's land records system as "Other Conservation." Four DNR divisions administer these easements: (1) Ecological and Water Resources; (2) Fish and Wildlife; (3) Forestry; and (4) Parks and Trails. In addition, DNR's Northwest Regional Operations administers one easement classified as "Other Conservation."

### *Division of Ecological and Water Resources*

#### *Non-Game Wildlife Program*

The DNR's Non-Game Wildlife Program administers four "Other Conservation" easements. These easements were all donated to the DNR in 1992 and were for the purpose of protecting a bat hibernaculum in the St. Cloud storm sewer system. The newspaper clipping below shows a portion of the hibernaculum. Prof. Harry Goehring, a former St. Cloud State University professor who studied the bat population in the hibernaculum for decades, is pictured.



Harry Goehring (left) furnishes light inside the storm sewer while a St. Cloud faculty associate, Dr. Max Partch, pries a bat from between granite blocks. Partch was one of 12 persons, including children of

faculty members, who helped Goehring with his bat project during the past year. Authorities around the world—even behind the Iron Curtain—are interested in Goehring's bat study.





*SNA Program-Administered  
"Other Conservation" Easement, Goodhue County*

### *SNA Program-Administered Easements*

In addition to the SNA-Conservation easements described above, the Scientific and Natural Areas Program administers four "Other Conservation" easements. These easements are adjacent to designated scientific and natural areas and buffer and protect the conservation values of the SNA's. One of the "Other Conservation" easements is on land that was previously owned by the state and conveyed in a land exchange to a nonprofit organization to build and maintain an interpretive center next to the scientific and natural area. Another was conveyed to the DNR in the same instrument that conveyed a separate SNA-Conservation easement over a

distinct parcel of land. Unlike the SNA-Conservation easements, the four "Other Conservation" easements administered by the SNA Program do not contain language indicating that the state intends to establish scientific and natural areas on these lands.

### *Division of Fish and Wildlife*

#### *Fisheries Section-Administered Easements*

The Fisheries Section administers five "Other Conservation" easements. All of these easements protect shoreland but are not within designated aquatic management areas. One of the easements protects 78.8 acres of land along the Mississippi River. Three of the easements, all in Douglas County, were donated to the DNR in connection with permitting for lakeshore developments and were intended to protect aquatic habitat. None of the "Other Conservation" easements administered by the Fisheries Section provide public access.

DNR does not currently have plans to acquire additional conservation easements of this type.

#### *Wildlife Section-Administered Easements*

Most DNR easements classified as "Other Conservation" are administered by the Wildlife Section of DNR's Division of Fish and Wildlife. These easements have various origins, which include acquisition for non-game wildlife protection, acquisition for designation and use as wildlife management areas, retention in land exchanges and land sales and acquisition to improve and protect wildlife habitat.

The Wildlife Section is not actively pursuing acquisition of conservation easements at this time, but may acquire them to meet future conservation goals.



*Wildlife Section-Administered  
"Other Conservation" Easement," Becker County*

### *Division of Forestry*

The Division of Forestry administers two easements classified as “Other Conservation.” Both of the easements were acquired in the 1990’s before Minnesota joined the federal Forest Legacy Program. One easement was assigned to DNR by a non-profit organization. The other was donated to DNR.

### *Division of Parks and Trails*

The Division of Parks and Trails holds three conservation easements classified as “Other Conservation.” Two are within state park boundaries. The other easement is on land adjacent to a state park.

The Division of Parks and Trails does not currently have plans to acquire additional miscellaneous conservation easements.

### *Northwest Regional Operations*

Northwest Regional Operations is the designated administrator of one conservation easement classified as “Other Conservation.” DNR retained this conservation easement in a private sale of surplus land authorized by Minn. Laws 2007, ch. 131, art. 2, sec. 14.



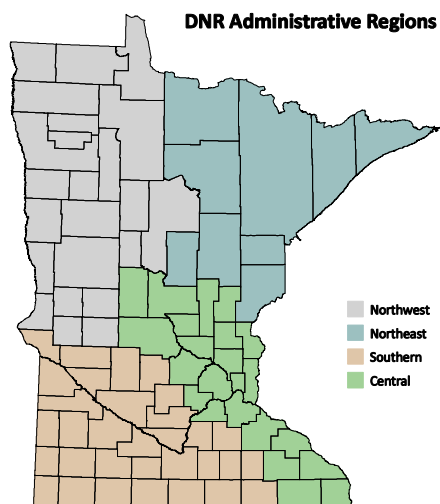


## *Easement Inventory Results*

The results of this project's easement inventory are summarized in the tables below. The results include DNR's conservation easement acquisitions through February 25, 2011.

### STATEWIDE INVENTORY RESULTS

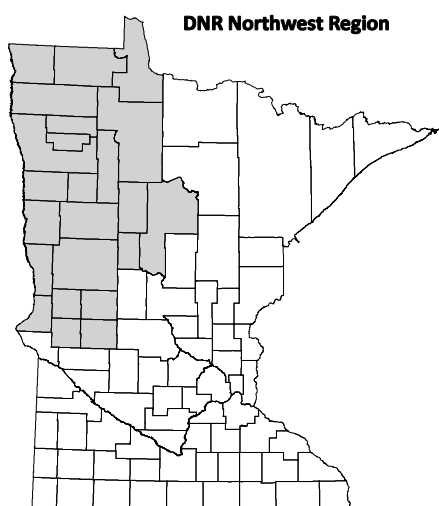
CONSERVATION EASEMENTS STATEWIDE BY TYPE		
EASEMENT TYPE	NUMBER OF EASEMENTS	ACRES
ACUB (Fisheries)	1	57.2
ACUB (Forestry)	1	42.82
ACUB (Wildlife)	3	548.84
Aquatic Management	10	263.13
Cave (Parks)	2	218.5
Other Cons. (Administrator not designated)	5	46.29
Other Cons. (Eco/Waters)	8	108.68
Other Cons. (Fisheries)	5	87.2
Other Cons. (Forestry)	2	607.54
Other Cons. (NW Regional Ops)	1	31.61
Other Cons. (Parks & Trails)	3	188.64
Other Cons. (Wildlife)	22	1964.21
Forest Legacy	32	135937.35
Forests for the Future	3	195952.42
Metro Greenways	16	668.57
Northern Pike Spawning	10	109.21
Native Prairie Bank	96	7719.09
SNA	18	1409.24
Trout Stream	576	4395.79
Water Bank	26	1427.99
Wild & Scenic River	134	3838.26
<b>Total</b>	<b>974*</b>	<b>355622.58</b>



CONSERVATION EASEMENTS STATEWIDE BY REGION		
DNR REGION	NUMBER OF EASEMENTS	TOTAL ACRES
Northwest	119	6796.62
Northeast	237	329877.12
Central	462	10357.76
Southern	156	8591.08
<b>Total</b>	<b>974*</b>	<b>355622.58</b>

\* Seven conservation easements on properties that DNR subsequently acquired in fee title are presumed to have merged with the fee title and been extinguished. (See Part II.B below.) These conservation easements are excluded from the final inventory results.

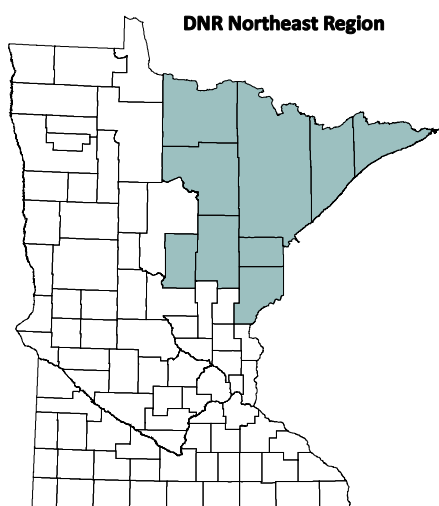
## NORTHWEST REGION INVENTORY RESULTS



CONSERVATION EASEMENTS BY TYPE		
TYPE	NUMBER	ACRES
Aquatic Management	1	6
Other Cons. (Fisheries)	4	8.4
Other Cons. (NW Regional Ops)	1	31.61
Other Cons. (Wildlife)	7	678.72
Forest Legacy	1	1634.7
Forests for the Future	partial	800
Northern Pike Spawning	1	6.3
Native Prairie Bank	21	2874.91
SNA	1	160
Trout Stream	79	471.59
Water Bank	3	124.39
<b>Total</b>	<b>119</b>	<b>6796.62</b>

CONSERVATION EASEMENTS BY COUNTY		
COUNTY	NUMBER	ACRES
Becker	13	296.23
Beltrami	10	737.17
Cass	11	1813.61
Clay	5	998.23
Clearwater	7	192.76
Douglas	6	606.66
Grant	4	320.47
Hubbard	38	238.48
Marshall	1	470
Norman	1	34.5
Otter Tail	4	356.19
Pennington	2	116.09
Pope	2	87.5
Red Lake	1	49.1
Traverse	4	221.1
Wadena	6	39.93
Wilkin	4	218.6
<b>Total</b>	<b>119</b>	<b>6796.62</b>

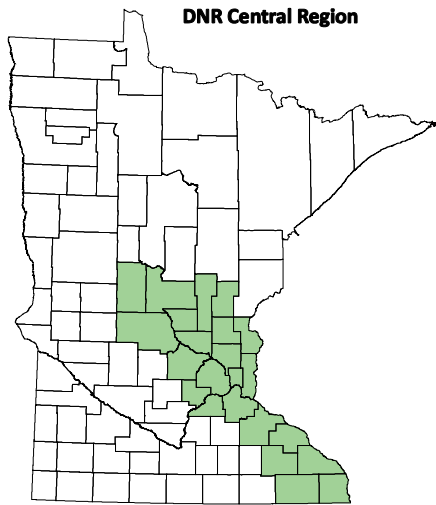
## NORTHEAST REGION INVENTORY RESULTS



CONSERVATION EASEMENTS BY TYPE		
TYPE	NUMBER	ACRES
ACUB (Fisheries)	1	57.2
ACUB (Wildlife)	2	233.84
AMA	7	250.55
Other Cons. (EWR)	1	27.5
Other Cons. (Fisheries)	1	78.8
Other Cons. (Forestry)	1	473.16
Other Cons. (Administrator not designated)	5	46.29
Other Cons. (Wildlife)	3	262.27
Forest Legacy	9	131268.09
Forests for the Future	3	195152.42
SNA	2	242
Trout Stream	171	938.44
Wild & Scenic River	31	846.56
<b>Total</b>	<b>237</b>	<b>329877.12</b>

CONSERVATION EASEMENTS BY COUNTY		
COUNTY	NUMBER	ACRES
Aitkin	11	5013.95
Carlton	10	58.92
Cook	13	416.4
Crow Wing	18	3757.19
Itasca	7	168374.30
Koochiching	4	120559.33
Lake	32	6501.51
Pine	42	933.31
St. Louis	100	24262.21
<b>Total</b>	<b>237</b>	<b>329877.12</b>

## CENTRAL REGION INVENTORY RESULTS

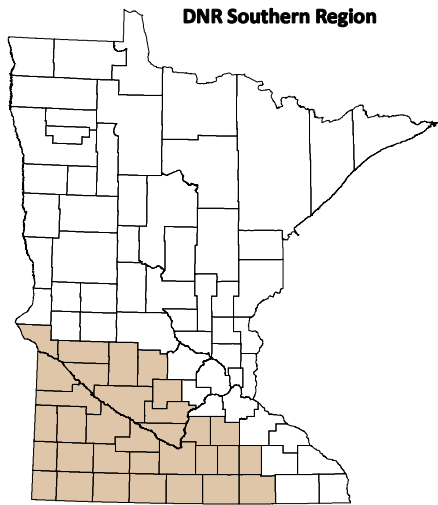


CONSERVATION EASEMENTS BY TYPE		
TYPE	NUMBER	ACRES
ACUB (Forestry)	1	42.82
ACUB (Wildlife)	1	315
AMA	2	6.58
Cave (Parks)	2	218.5
Other Cons. (EWR)	6	17.27
Other Cons. (Forestry)	1	134.38
Other Cons. (PAT)	2	51.44
Other Cons. (Wildlife)	6	819
Forest Legacy	5	1907.45
Metro Greenways	16	668.57
Native Prairie Bank	4	146.48
North. Pike Spawning	2	28.2
SNA	14	767.94
Trout Stream	311	2895.4
Water Bank	10	667.4
Wild & Scenic River	79	1671.33
<b>Total</b>	<b>462</b>	<b>10357.76</b>

CONSERVATION EASEMENTS BY COUNTY		
COUNTY	NUMBER	ACRES
Anoka	5	274.78
Benton	3	48.65
Carver	2	227.37
Dakota	1	25
Fillmore	119	1388.28
Goodhue	26	810.72
Hennepin	6	238.82
Houston	55	485.03
Isanti	44	1058.76
Mille Lacs	9	101.19
Morrison	5	684.82
Olmsted	14	203.56
Ramsey	4	221.4
Scott	8	256.54
Sherburne	4	194.18
Stearns	27	447.83
Wabasha	27	2143.39
Washington	29	727.49
Winona	70	722.13
Wright	4	97.82
<b>Total</b>	<b>462</b>	<b>10357.76</b>



## SOUTHERN REGION INVENTORY RESULTS



EASEMENTS BY TYPE		
TYPE	NUMBER	ACRES
Other Cons. (EWR)	1	63.91
Other Cons. (PAT)	1	137.2
Other Cons. (Wildlife)	6	204.22
Forest Legacy	17	1127.11
NPS	7	74.71
NPB	71	4697.70
SNA	1	239.3
Trout Stream	15	90.36
Water Bank	13	636.2
WSR	24	1320.37
<b>Total</b>	<b>156</b>	<b>8591.08</b>

EASEMENTS BY COUNTY		
COUNTY	NUMBER	ACRES
Big Stone	7	770.08
Blue Earth	4	46.06
Brown	12	326.97
Cottonwood	10	415.41
Faribault	1	25.9
Freeborn	1	17.5
Jackson	7	415.55
Kandiyohi	2	81.81
Lac Qui Parle	7	593.21
LeSueur	5	592.61
Lyon	3	218.41
McLeod	2	27.7
Meeker	34	1403.49
Murray	10	909.33
Nicollet	2	165.5
Nobles	1	18.7
Pipestone	2	400.96
Redwood	9	207.31
Renville	1	29.7
Rice	22	1294.18
Swift	3	93.6
Waseca	2	88.82
Watowan	2	90.6
Yellow Medicine	7	357.68
<b>Total</b>	<b>156</b>	<b>8591.08</b>

## ***The Inventory Process***

**Background.** DNR's Division of Lands and Minerals is the repository for documentation of DNR-administered real property interests held by the State of Minnesota. Lands and Minerals maintains paper copies of deeds and easements in DNR's Central Office in St. Paul. (Original real property records are filed with recorders' offices in the counties where the real property is located.) DNR's copies of the deeds and easements are filed by county. The records for each county are organized in alphabetical folders, which include folders for specific programs or project types.

In the 1980's, a land records system (computer database) was developed to track DNR-administered land and mineral interests. A decision was made not to enter data about easement interests when the system was first implemented because of the system's limited data storage capabilities. When data storage capacity was added to the system, Lands and Minerals staff began entering data for newly acquired easements. As funding and staffing allowed, Lands and Minerals later began efforts to capture easement data for older easement records but was not able to complete this process with existing resources.

When LCCMR funded this project, data for older easements in more than half of Minnesota's counties had not been entered into the land records system, and the easement data already entered had never been systematically reviewed for accuracy. Moreover, DNR had not yet developed a comprehensive conservation easement coding schema at the time some easement data had been entered. Accordingly, many conservation easements were coded in the system simply as "conservation easement" but not by specific type (e.g., Native Prairie Bank). The incomplete conservation easement dataset and lack of precise coding made it impossible for DNR to use the land records system as a source for accurate information or reports about its conservation easements. To ensure that DNR's land records system contained complete and accurate data about every conservation easement, project staff needed to review every deed and easement housed in the Division of Lands and Minerals, to compare the document with previous entries into the system, and to update the system with any missing information or corrections.

**Coding.** The first step (and one of the deliverables) of this project was to develop a conservation easement coding schema for DNR's land records system. The purpose of the coding schema is to accurately track conservation easement data in the system, to enable users to query the system and to produce reports about DNR's conservation easements. Lands and Minerals staff already had a fairly detailed conservation easement coding schema in place before this project began. Project staff further developed the coding schema by refining criteria for application of specific codes, by adding new codes for two types of easements (Army Compatible Use Buffer and Minnesota Forests for the Future easements) and by changing the existing code "Conservation" to "Other Conservation."

Project staff also worked with Lands and Minerals information technology staff to re-program the land records system to add a new field (called the "84C field") that flags all of DNR's easements that meet the definition of "conservation easement" in Minn. Stat. sec. 84C.01(1). This was necessary, as DNR historically used three easement type codes (Aquatic Management Area (AMA), Northern Pike Spawning (NPS) and Trout Stream) for both conservation easements and other easements that are for similar purposes but do not meet the definition of "conservation easement." The 84C field enables DNR staff to limit queries of the system about AMA, NPS and Trout Stream easements to only AMA, NPS and Trout Stream easements that are conservation easements.

**Records review and data entry.** Two project analysts hired for this project systematically read every deed and easement maintained by the Division of Lands and Minerals (totaling about 17,000 documents), collected information from those that conveyed or retained an easement interest and entered the information into the land records system. Pertinent data that were entered included: easement type, DNR administrator, project code, acreage, means of acquisition, document type, DNR document numbers, recorded county document numbers and geocodes. Project analysts also entered data about DNR's lands held in fee title that are subject to conservation easements, conservation restrictions, reserved rights or reversionary interests held by others.

#### **What is a geocode?**

A geocode identifies the geographic location of real property in terms of the Public Land Survey (PLS). The PLS identifies a location by the Township, Range, Section, Forty and/or Government Lot identified in the legal description. A "Forty" is the smallest unit used in the PLS and also in DNR's land records system. The "Forty" is also the standard unit used in county records tracking systems. The project analysts entered data for each easement document according to the geocodes to the "Forty" level. DNR's land records system requires creation of a data "record" for each Forty-level interest in land. Accordingly, depending on the number of Forties conveyed by a particular instrument, the project analysts were required to create one or more records.

**Acreage Calculations.** As part of DNR's current land acquisition process, the Survey Unit of the Division of Lands and Minerals creates "geocode sheets" based on legal descriptions of lands or easements that DNR acquires. These geocode sheets list the Public Land Survey (PLS) parcels and associated acreages for each Forty or Government Lot as derived from the legal description. Lands and Minerals staff enter the data on the geocode sheets into the land records system.

The geocode-sheet procedure was not in place when DNR acquired many of its conservation easements. Accordingly, project analysts either entered acreages from conveyance documents, calculated acreages for easements where the acreages were not specified in conveyance documents or, in the case of complex legal descriptions, worked with the Survey Unit to determine the acreages. For some Trout Stream easements, a

placeholder acreage of 0.01 was entered into the land records system instead of an actual acreage calculation. This was necessary because stream courses change over time and legal descriptions for some of DNR's Trout Stream easements convey an easement interest in a stream corridor in a PLS Forty or Government Lot where the stream does not currently flow. The placeholder acreage in the land records system indicates that the state has an interest in those particular parcels although the acreage is not known.

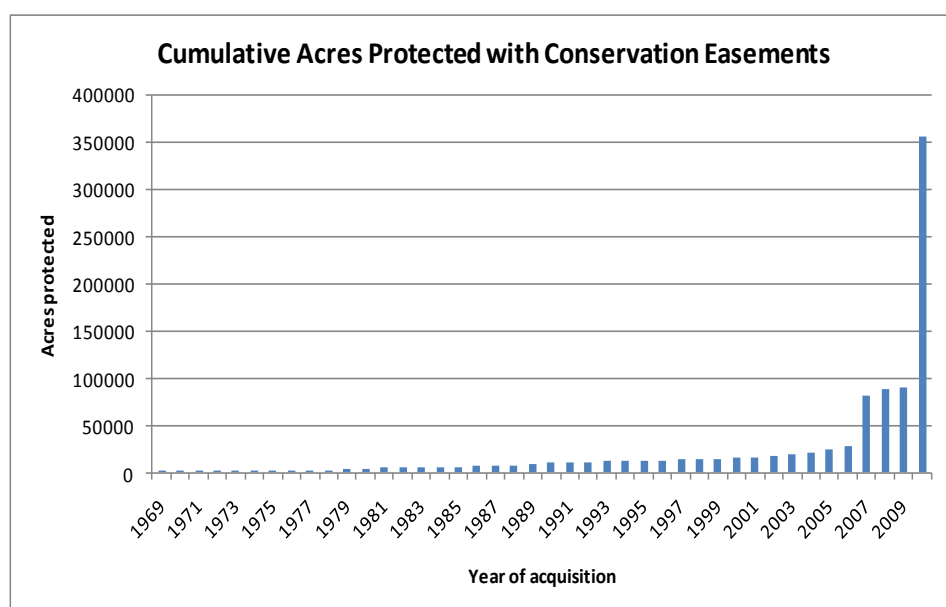
**Quality control.** After the project analysts reviewed all records for a county and updated the land records system, they used validation procedures to check data entry accuracy. In addition, following completion of documents review and data entry for an entire DNR region, the project analysts checked each other's work to make sure every easement interest in that particular region had been captured.

Project staff reconciled the Division of Lands and Minerals data with paper records, Access or GIS databases or Excel spreadsheets of conservation easements maintained by other DNR divisions and programs. Project staff also distributed spreadsheets of the inventory results to DNR's regional managers for accuracy review.

## ***Uses of the Conservation Easement Dataset***

**Reporting.** The easement data entered into the land records system in this project produced a comprehensive dataset that can be used to answer numerous questions about state-owned, DNR-administered conservation easements. DNR staff can consult this dataset to view the attributes (such as easement type, DNR administrator, location, acreage) of specific conservation easements or to create reports that aggregate easement data by one or more attributes.

**Graphs.** Data from the system also enables DNR to produce graphs that illustrate facts about DNR's conservation easements. The graph below was developed from conservation easement acquisition data from the system to show how the acreages of conservation easements held by DNR have increased over time.



**Mapping.** In collaboration with Division of Lands and Minerals Geographic Information Systems (GIS) staff, the project analysts produced a map layer within DNR's GIS system that allows mapping of conservation easement data to the PLS Forty/Gov't Lot level. The layer, entitled "State Conservation Easements—MS Chapter 84C," includes all easements that have been determined to meet the statutory definition of conservation easement under Minnesota Statutes chapter 84C. The conservation easement layer is available for all DNR staff who are ArcGIS users and can be used to access information about DNR's conservation easements or to create maps. The information in the map layer is regularly updated as new information is entered into the land records system. Sample maps that were created from the layer are found on pages 1-6 of the Appendix to this report. These maps depict conservation easements in three Minnesota counties by type and by administrator.

The general public can gain access to the map layer through the DNR's Data Deli. However, the layer currently exists in shapefile format for use in ESRI GIS applications such as ArcView or ArcGIS. It is recommended that users be sufficiently familiar with this data format and basic navigation in ESRI software to view and use the data. In the future, DNR intends to create a web-based application that will allow any Internet user to access the conservation easement layer.

## **PART II: CONSERVATION EASEMENT STEWARDSHIP PLAN**

### **A. Integration of Conservation Easement Stewardship Plan with DNR's New Land Records System**

In May 2009, DNR entered into a contract with International Land Systems (ILS) to design and build a new land records system (LRS). The new system will replace the current land records system, the mineral rights information system, and related systems to better support real property management processes and strategic resource planning and management. By integrating workflow and document management technology, geographic information system technology, data exploration technology, and other tools, the new system will enable DNR employees agency-wide to easily access reliable and current information and enable the DNR to provide the general public greater access to information about DNR's land records.

An integral part of DNR's Conservation Easement Stewardship Plan is the incorporation of an application that ILS is building for the new LRS for administering and monitoring conservation easements. This application, in conjunction with the other components of the new LRS, will provide DNR with state-of-the art technological tools to support conservation easement stewardship agency-wide. Its record-keeping functions will ensure that key documents and data relating to DNR's conservation easements will be maintained in a centralized location and be easily accessible to staff statewide. Its data exploration technology will enable DNR to easily track its conservation easement stewardship, to measure results and to generate reports about easement stewardship outcomes.

Key components and uses of the new LRS and conservation easement application for conservation easement stewardship are described below.

**Conservation Easement Acquisition and Drafting.** As part of the new LRS's acquisition workflow, information about a conservation easement being acquired will be entered into the system. Such information will include legal description, associated geocodes, grantor's name and contact information and terms and conditions of the easement. Information entered into the system will populate a template for drafting the conservation easement conveyance document by which the easement is acquired. The information will also be used to populate other system-generated documents described below.

The system will also be used with existing conservation easements. Much of the relevant data for these easements has been entered into DNR's existing land records system and will be migrated to the new system. Other data relating to existing easements (e.g., current landowner names and contact information and easement terms) will be collected and entered into the new LRS.

**Baseline Property Reports.** The preparation of baseline property reports for new conservation easements will be built into the acquisition workflow. The system will use acquisition data entered about the proposed conservation easement to partially populate a baseline property report template. (Prototypes of two baseline property report templates (one for Trout Stream easements, the other for use with other easement types), which were created as part of this project, are included on pages 8-26 of the Appendix to this report.) The acquisition coordinator and other program staff will gather the appropriate baseline data for the conservation easement and will complete the report. As part of the process, DNR's Survey Unit will prepare a shapefile (either from a survey or from the legal description if



no survey takes place), which will be used for baseline property report maps and stored in the system for monitoring and other future uses. Upon completion of the acquisition process, the baseline property report will be signed by both the DNR and the landowner. A scanned copy of the signed baseline property report will be stored in the LRS using the system's electronic documents management function and will be easily accessible to future easement monitors and other DNR staff.

The system will also be used to prepare baseline property reports for DNR's existing conservation easements that are lacking baselines. Baseline property reports that have already been completed will be scanned and stored in the LRS.

**Conservation Easement Monitoring Application.** The monitoring application within the LRS is designed to both generate easement-specific monitoring forms that are pre-populated with information stored in the system and to allow staff to record the results of monitoring.

A periodic monitoring schedule will be established for the conservation easement by the administering division or unit and will be incorporated into the LRS's calendaring function. The LRS will notify the monitor (and any monitoring coordinator) in a timely manner so the monitoring event can be scheduled into the appropriate field season planning cycle. Information supplied to the system from both the acquisition process and the baseline report will be pre-populated on a monitoring form template for the monitor to use during the monitoring event. Two monitoring form templates, created as part of this project, have been included in the system, one specific to the unique needs of Trout Stream easement monitoring and one more generic form to be used to monitor other conservation easements. (Examples of these forms are included on pages 27-33 of the Appendix to this report.) Forms will contain the terms and conditions of the specific easement to ensure that monitors evaluate all relevant terms for compliance.

The new system will allow information collected during the monitoring event to be directly entered into the LRS by the monitor, including a summary and the result (i.e., in compliance or not in compliance). A workflow process incorporated into the LRS provides for supervisory approvals of the completed monitoring form. Should the results of a monitoring event show that there are compliance issues, the workflow process has procedures for directing resolution either on system or off system. Resolution and enforcement actions accomplished off system will have associated documents such as correspondence, notices, e-mails, or copies of court orders scanned and attached to the specific easement through the LRS's electronic documents management function.

**Electronic Documents Management.** The electronic documents management function of the new land records system will facilitate the preparation, storage and retrieval of documents relevant to each conservation easement. Staff will be able to scan and associate correspondence, maps, photos, complaints and landowner contacts and other information for storage in the system. This function will also facilitate the production of routine forms, letters and documents such as periodic letters to landowners by pre-populating templates with information (e.g., landowner name and address) from the system.

## **B. Agency-Wide Conservation Easement Stewardship Plan**

**Stewardship Goals.** The ultimate responsibility of the DNR's conservation easement stewardship program is to preserve the conservation values associated with each property protected by an

easement. DNR's conservation easement stewardship goals are to:

- Encourage voluntary compliance with the terms of DNR's conservation easements.
- Establish and maintain good relationships with landowners.
- Provide professional, timely responses and service to landowners. DNR cannot be successful without working in cooperation with the many landowners dedicated to protecting their lands through conservation easements. DNR respects the commitment made by these landowners and subsequent owners and is dedicated to working with them in a respectful and professional manner.
- Document the condition of lands protected by each easement at the time the easement is acquired and monitor that condition over time.
- Maintain accurate records.
- Be efficient and effective with the use of funds in supporting our stewardship activities.

**Baseline property reports.** Over the past two decades, it has become the industry standard for a conservation easement holder to prepare a baseline property report for each conservation easement. DNR currently has a significant baseline property report backlog. This is due to several factors: (1) DNR acquired many of its conservation easements before preparation of baseline practice became a standard practice for easement holders; (2) Trout Stream easements, which comprise the largest number of DNR's conservation easements, have been considered primarily as angler access easements in the past and the Fisheries Section did not start preparing Trout Stream easement baselines until 2009; and (3) although DNR has prepared baseline property reports for many of its conservation easements acquired in the past decade, this has not been an agency-wide practice.

#### **What is a baseline property report?**

A baseline property report documents, in text, photographs and maps, the conservation values and conditions of a property subject to a conservation easement in relation to an easement's terms. For example, if an easement term prohibits new structures, the baseline property report would document all existing structures on the property. A baseline property report typically includes maps showing the easement's location within a geographic area, the easement's boundary, any reserved building sites and locations of important features of the property. Photographs documenting the property's condition are keyed to photo points on one of the maps included in the report. A baseline property report provides objective information that is used by a monitor to assess compliance with the easement's terms. Accordingly, having a baseline property report for each conservation easement is an integral component of any stewardship program.



*Collecting field data for DNR  
baseline property reports*

The following chart shows the DNR's current baseline report backlog by easement type:

Easement Type	Number of Permanent Conservation Easements	Baselines Completed	Baselines Partially Completed
ACUB	5	5	
AMA	10	8	
Cave (Parks)	2	2	
Other Conservation (admin. not designated)*	5	0	
Other Cons. (Eco/Waters)	8	0	
Other Cons. (Fisheries)	5	0	
Other Cons. (Forestry)	2 (1 held in fee by DNR)	1	
Other Cons. (NW Reg. Ops.)	1	0	
Other Cons. (Parks & Trails)	3 (1 held in fee by DNR)	1	
Other Cons. (Wildlife)	19 (1 and part of another are held in fee by DNR)	3	
Forest Legacy	32	32	
Minn. Forests for the Future	3	3	
Metro Greenways	16	8	
NPS	10	0	
Native Prairie Bank	96	17	
SNA	18 (4 held in fee by DNR)	1	
Trout Stream	576	9	6
Water Bank	21	0	
Wild & Scenic River	134	2	38
<b>Total</b>	<b>966</b>	<b>92</b>	<b>44</b>

\* These easements will be assigned to one of DNR's existing easement administrators.

**Monitoring.** Conservation easement monitoring by an easement holder is essential to ensure that the landowner and others are complying with the easement's terms and, ultimately, to ensure that the conservation values of the easement site continue to be protected.

It is the goal of the DNR to monitor all of its conservation easements on a regular basis. The specific monitoring schedule will depend on the easement type and other factors, but will typically include an on-the-ground visit to the conservation easement site every 1–3 years.

Monitoring methods will vary by easement type. For smaller easements, a monitoring visit will usually include a walk-through of the easement site. For larger easements, the on-site visit may include a walk-through of a selected portion of the easement (which will be documented in monitoring records) plus a review of satellite imagery or aerial photography.

Where feasible, landowners will be invited to accompany the monitor on the monitoring visit. However, due to the large number of easements held by DNR and the multiple subdivisions of the lands subject to the easements, it will not always be possible to coordinate monitoring visits with landowners.

Records will be prepared for each monitoring visit. Documentation of suspected violations, including photographs, will be prepared.

**Landowner relations.** DNR's goal is to assign one staff member to be the primary landowner contact for each conservation easement. The assigned staff member will usually be either the program's monitoring coordinator or the easement monitor.

DNR will contact all easement landowners on at least an annual basis, either by letter, telephone, e-mail or personal visit. The staff member who initiates the contact will typically be the staff member assigned as the primary landowner contact. The contact will be documented and documentation maintained in the new land records system.

DNR will maintain up-to-date records about landowners. Currently, many easement landowners (particularly the Trout Stream easement landowners) are unknown. This project will begin collecting current landowner data from county parcel data between now and June 30, 2011, and this data collection will continue in FY 2012 if the program is funded for FY 2012-13. Once all landowner data are in the land records system, DNR will develop a process for regular updates to the data. This may include a combination of procedures, including annual letters to landowners requesting notice of any updates in ownership or contact information, or linking DNR's new land records system with county parcel data to automatically generate notices of updates.

**Record keeping.** DNR will maintain key records on each of its conservation easements. These include:

- Conservation easement and any amendments to the easement
- Baseline property report
- Landowner names (current and historic) and contact information
- Management plans
- Records of communications with landowners (letters, telephone calls, e-mails)
- DNR approvals under the easement's terms
- Complaints
- Monitoring records and reports
- Photographs
- Results of enforcement actions

Records will be stored either as electronic data or scanned images in the DNR's new land records system. Some enforcement data (e.g., court filings) may be maintained off system. The final results of any enforcement proceedings and pertinent final records (e.g., court orders) will be documented, scanned and stored in the land records system.

**Staffing.** DNR will assign staff to perform conservation easement stewardship duties. These duties will be part of staff position descriptions. Regional/area staff will perform easement monitoring to the extent feasible in order to minimize travel.

Each program that administers conservation easements will assign an easement stewardship coordinator, who will be primarily responsible for ensuring that easement monitoring is completed on a timely basis, for handling administrative tasks associated with conservation easements and for addressing any easement violations.

DNR's goal is to provide training to all staff involved in conservation easement stewardship.

The training will cover all aspects of conservation easement stewardship, including preparing baseline property reports, monitoring, landowner relations, record keeping and use of DNR's new land records system for conservation easement stewardship.

**Easement enforcement.** DNR must be prepared to address violations of its conservation easements. Whenever possible, the DNR will work with the landowner or third party responsible for the violation to have the landowner or third party correct the situation without further action by the DNR.

DNR's goal is develop agency-wide protocols for conservation easement enforcement. These protocols will ensure that violations are handled promptly and fairly and that consistent enforcement standards are maintained across programs and divisions. The protocols will provide guidance to staff who monitor conservation easements or supervise easement monitoring about:

- Documenting violations
- Communicating with landowners about suspected violations
- Reporting suspected violations to management
- Negotiating with landowners
- Preparing agreements to resolve violations
- Follow-up procedures to ensure that violations are resolved

Under existing law, conservation easement violations that cannot be resolved can only be addressed through civil legal actions filed in the district court in the county where the conservation easement is located. Any legal action to enforce a conservation easement requires approval by both the Commissioner of Natural Resources and the Attorney General's Office.

**Funding.** DNR's goal is to seek adequate funding to be able to meet its conservation easement stewardship obligations. Potential funding sources are discussed in Part III.

**Lands Acquired in Fee Title Subject to Conservation Easements.** DNR holds 14 conservation easements on properties that it also holds in fee title. These easements fall into two categories: (1) easements that are presumed merged with the fee title and extinguished; and (2) easements that are presumed not to have merged. There are seven easements in each of these categories.

*Conservation Easements Presumed Merged:* Seven of the easements where the land was subsequently acquired by DNR in fee title are presumed merged with the fee title (and extinguished) according to advice from the Attorney General's Office. Neither the easements nor deeds express the grantors' intent that the conservation easements not merge upon DNR's acquisition of the properties in fee title. Under the doctrine of merger, a conservation easement merges into fee title upon acquisition by the conservation easement holder unless the grantor expresses the intent that merger not occur. These easements presumed merged are not included in the inventory results in Part I.

*Conservation Easements Presumed Not Merged:* DNR also holds both conservation easements on and fee title to six properties where the grantors have expressed their intent (either in the easement, the deed, or both) that the conservation easements not merge into the fee titles. The Attorney General's Office has advised DNR to consider such conservation easements not to have merged. By a court order distributing an estate, DNR was also granted fee title to a property in Beltrami County subject to conservation restrictions. These conservation restrictions are also presumed to remain in ef-



fect.

DNR will not monitor these for easement compliance so long as it remains fee holder of the properties. However, it will incorporate the easement's terms into its management plan for each of the sites to ensure ongoing compliance with the terms.

The SNA Program's pending request for Environment and Natural Resources Trust Fund funding (discussed below), if approved, would pay for baseline property reports for four of these easements. DNR will not prepare baseline property reports for the other easements at this time. However, if fee title to those properties is ever transferred, DNR will prepare a baseline property report at the time of the transfer and, following the transfer, will monitor the easement in accordance with its stewardship plan for other conservation easements.

**Evaluation of conservation easements for possible extinguishment.** DNR holds several conservation easements that may provide very limited natural resource protection value or benefit to the public in relation to their potential administrative costs. Most of these easements were either retained in land sales or exchanges (some under laws no longer in effect) or were donated to DNR by developers as a condition of obtaining permits to develop adjacent land. (Since these easements were acquired, DNR has become much more selective in accepting donated conservation easements. It is unlikely that the easements in question would be accepted by DNR under current selection standards.) In connection with initial monitoring visits, DNR will carefully evaluate these easements to determine whether they should be extinguished. DNR will take the following considerations into account:

- Conservation values, including whether any rare resources are protected by the easement
- Public benefit of the easement (e.g., recreational access)
- Administrative/monitoring costs in relation to the property's conservation values
- Risk to conservation values if the easement were extinguished
- Location in relation to other natural resources lands
- Size of the parcel protected by the easement
- Original funding, if any, for DNR to obtain the easement
- If donated, the grantor's intent
- Legal requirements that must be met to extinguish the easement

### **C. Individual Conservation Easement Stewardship Plans by Administrator or Type**

There are four DNR divisions that are each responsible for administering conservation easements of various types. In addition, DNR's Northwest Regional Operations is the administrator for one conservation easement. Three separate divisions administer DNR's ACUB easements and another division is responsible for monitoring these easements. DNR's Metro Greenways easements are administered by the Central Region, but no staff are currently assigned.

Stewardship Plans are organized by administrator and subdivided by easement type. Because of the unique situation of DNR's ACUB and Metro



Greenways easements, separate stewardship plans have been developed for them. Key components of each plan are summarized in the table at the end of Part II.

## **1. Stewardship Plan: Division of Ecological and Water Resources-Administered Easements**

The Division of Ecological and Water Resources (EWR) is the designated administrator for all SNA-Conservation, Native Prairie Bank and Water Bank easements. In addition, the Scientific and Natural Areas Program administers four easements coded as “Other Conservation” and EWR administers DNR’s four “Other Conservation” easements that were donated to protect a bat hibernaculum. The total number of existing easements that EWR administers as of the date of this report is 148. The Scientific and Natural Areas Program administers most (117). The Water Bank Program (part of EWR’s Conservation Assistance and Regulation Unit) administers 26. The Non-Game Wildlife Program administers DNR’s four bat hibernaculum conservation easements.

### **a. Scientific and Natural Areas Program Plan**

The Scientific and Natural Areas Program has a goal of completing baseline property reports for all existing SNA-Conservation, Other Conservation and Native Prairie Bank easements by June 30, 2015, conducting regular monitoring of all easements and engaging in other necessary aspects of easement stewardship (e.g., cultivating landowner relations and communication, and enforcing easements) in the future. The SNA Program currently has only limited funding (and only for Native Prairie Bank easements) that can be used to prepare baseline property reports and for conservation easement stewardship. Pending requests for ENRTF appropriations, if approved, would provide some additional temporary funding but will not enable the SNA Program to completely carry out the plan set forth below. The SNA Program’s ability to fully implement its conservation easement stewardship plan is contingent on securing additional funding that can be used for this purpose.

#### **(1) SNA-Conservation and “Other Conservation” Easements**

**Baseline Property Reports.** Of the 22 conservation easements administered by the SNA Program, only one has a completed baseline property report. The SNA Program will complete the baseline property reports for all of these easements by June 30, 2013 if a pending funding request is approved.

The SNA Program’s pending proposal to LCCMR (101-D) would include funding to complete baselines for approximately 10 SNA sites on which DNR holds conservation easements. There are three scientific and natural areas that have multiple conservation easements per site. Only one baseline report will be created for each of these sites, but each report will address all conservation easements associated with the site. If the proposal is approved by the Legislature, the appropriation will enable the SNA Program to completely address its baseline report backlog.

Either SNA Program staff or contractors would complete the baseline property reports. The completion date for the baseline property reports in DNR’s proposal to LCCMR is June 30, 2013.

**Monitoring.** SNA Program staff conduct regular visits to most of the Program’s conservation easements for land management and ecological monitoring, but the Program has not conducted conservation easement monitoring in the past. The SNA Program will begin regular monitoring of the con-

servation easements in FY 2012.

In order to increase landowner-program relations and for continuity in easement management oversight, the primary easement monitors will be the SNA regional staff who conduct or supervise management activity on the sites. To increase efficiency, easement monitoring by SNA staff will be conducted in conjunction with management visits when feasible. Once regular conservation easement monitoring is established, the SNA Program may enlist volunteer site stewards to assist with monitoring at some SNA sites.



The SNA Program plans to conduct easement monitoring and complete a monitoring form at least once every three years but will contact all landowners at least once annually. If there are issues of concern (e.g., actual or potential violations) on any conservation easement, the SNA Program will monitor the easement more frequently than once every three years until the concerns are fully addressed.

**Funding.** The SNA Program's pending request for ENRTF funding includes funding to monitor conservation easements at approximately 10 SNA sites. Under the SNA Program's proposal to LCCMR, the monitoring would be conducted by June 30, 2013.

## (2) Native Prairie Bank Easements

**Baseline Property Reports.** The Native Prairie Bank Program began preparing baseline property reports for all newly acquired Native Prairie Bank easements in January 2008. To date, baselines have been completed for a total of 17 Native Prairie Bank easements. Seventy-eight existing Native Prairie Bank easements lack baseline property reports.

In 2010, the Minnesota Legislature appropriated \$1,750,000 from the ENRTF to the Scientific and Natural Areas Program. Minn. Laws 2010, ch. 362, sec. 2, subd. 4b. The LCCMR Work Program for this appropriation budgets \$47,200 for Native Prairie Bank easement baseline property reports and initial monitoring. The funding will pay for baseline property reports for approximately 13 existing



easements acquired with ENRTF funding and for one new Native Prairie Bank easement acquisition. The Native Prairie Bank Program will hire contractors to prepare these baseline property reports. In accordance with the Work Program, these reports must be completed by June 30, 2013.

The Native Prairie Bank Program has a pending request to LCCMR for ENRTF for Native Prairie Stewardship for FY 2012-13, which would include funding to complete baseline property reports for an additional 17 existing Native Prairie Bank easements.

The DNR's proposal to LCCMR requires completion of these reports by June 30, 2013. These baselines would be completed either by Native Prairie Bank Program staff or by contractors. If the Legislature approves this appropriation and no other sources of funds are used for Native Prairie Bank easement baselines, the baseline report backlog for the Native Prairie Bank Program will be reduced to 48 by the end of FY 2013.



**Monitoring.** Native Prairie Bank Program staff regularly visit most Native Prairie Bank easement sites to conduct prairie management activities. Although Native Prairie Bank Program staff have identified and addressed some easement violations as a result of these management visits, the Program has not formally monitored its easements in the past. The Native Prairie Bank Program will begin regular monitoring of the easements in FY 2012.

The primary easement monitors will be Native Prairie Bank Program regional staff who conduct or supervise prairie management activity on the sites. This will enable the Program to better establish relations with landowners and provide for better management oversight.

The Native Prairie Bank Program will monitor and complete a monitoring form for each easement at least once every three years but will contact the landowners at least once per year. If there are issues of concern (e.g., actual or potential violations) on any NPB easement, the Program will monitor the easement more frequently than once every three years until the concerns are fully addressed.

**Funding.** As discussed above, the ENRTF appropriation authorized by Minn. Laws 2010, ch. 362, sec. 2, subd. 4b provides funding for the Native Prairie Bank Program to monitor 14 Native Prairie Bank easements by June 30, 2013. The Native Prairie Bank's pending proposal to LCCMR, if approved, would provide funding to monitor approximately 22 Native Prairie Bank easements, including up to 17 existing easements.

Potential sources of additional funding for long-term stewardship of all easements administered by the SNA Program are discussed in Part III of this report.

## **b. Water Bank Program Plan**

DNR currently holds 26 Water Bank easements. Five are 20-year easements, which will all expire in 2011 and 2012. The Division of Ecological and Water Resources administers the Water Bank easements, but has delegated monitoring responsibilities to the Wildlife Section of the Division of Fish and Wildlife.

**Baseline Property Reports.** None of the Water Bank easements have completed baseline property reports. DNR will complete them for the 21 permanent Water Bank easements, but not for the temporary easements. The Division of Ecological and Water Resources will begin working on the baseline property reports in FY 2012. The Wildlife Section's easement monitors will collect baseline data (e.g., photographs and photo locations) for the reports during annual monitoring visits. The Public



Waters Hydrologist who coordinates administration of the Water Bank easements and other Ecological and Water Resources staff will complete the baseline property reports. The Division of Ecological and Water Resources expects to complete all 21 reports no later than June 30, 2015.

**Monitoring.** DNR has monitored its Water Bank easements annually for a number of years. Both the Division of Ecological and Water Resources and the Wildlife Section of the Division of Fish and Wildlife participate in coordinating the monitoring. The Public Waters Hydrologist sends an annual letter to each landowner, advising the landowner of the approximate time-period during which an annual monitoring visit will take place. The Wildlife Program Coordinator notifies area wildlife managers to conduct the annual visits. The area wildlife managers, or staff working under their supervision, conduct walk-through monitoring at the easement sites, complete monitoring reports and return them to the Wildlife Program Coordinator. If a violation is detected, the Wildlife Program Coordinator, Area Hydrologist, and the Public Waters Hydrologist participate in addressing the violation.

The Division of Ecological and Water Resources and the Wildlife Section will continue to collaborate in Water Bank easement stewardship and will continue monitoring the Water Bank easements on an annual basis.

**Funding.** The cost of administering and monitoring DNR's Water Bank easements is shared by the Division of Ecological and Water Resources and the Division of Fish and Wildlife. The Division of Ecological and Water Resources' administrative costs for Water Bank stewardship are part of its operating budget, which is funded largely through appropriations from the general fund. Monitoring expenses and administrative costs incurred by the Wildlife Section are paid out of the game and fish fund as part of the Division of Fish and Wildlife's operating budget. These funding sources will continue to be used for stewardship of DNR's Water Bank easements. General fund and Game and Fish funding will also be used to prepare the baseline property reports.

#### **d. Plan for Bat Hibernaculum Easements**

For several decades in the 20<sup>th</sup> Century, a significant population of bats used a portion of the St. Cloud storm sewer as a hibernaculum. The storm sewer includes a section built from mortar-laid granite blocks that originally served as culverts for streets built over a ravine close to the Mississippi River. This section of the storm sewer contained the hibernaculum. The bats entered the storm sewer from the ravine and hibernated in mortar-free joints and other cracks within the structure. St. Cloud State University professors studied and monitored the hibernaculum for several decades.

In 1992, the DNR acquired as gifts four conservation easements at places along the storm sewer critical to protecting the bat hibernaculum. Unfortunately, not long after the easements were acquired, work performed on the storm sewer damaged the habitat. Some of the crevasses were apparently grouted and part of the sewer that had been used by the bats was walled off. A change to the airflow affected the temperature. After the work on the storm sewer, very few bats were observed in the locations covered by the conservation easements.



The DNR did not pursue any action under the conservation easements at the time the damage to the hibernaculum was discovered. No monitoring of the bat population or of the portions of the storm sewer covered by the easement took place for many years.

DNR's Division of Ecological and Water Resources (EWR) is conducting surveillance of Minnesota bat hibernacula this winter in order to obtain information about white-nose syndrome. EWR staff visited the St. Cloud storm sewer hibernaculum this month to conduct surveillance and observed only two bats hibernating in the site.

EWR staff will review photographs and other information collected during the February 2011 site visit, and will determine whether changes to the site to restore the hibernaculum are feasible. If so, EWR will initiate discussions with the appropriate parties to determine how best to resolve the matter. If restoration occurs, EWR will develop a plan to regularly monitor conservation easements.

If restoration is not feasible, DNR will likely pursue extinguishment of the easements.

## **2. Stewardship Plan: Division of Fish and Wildlife**

### **a. Fisheries Section-Administered Conservation Easements**

The Fisheries Section of DNR's Division of Fish and Wildlife administers four types of conservation easements: Aquatic Management Area, Northern Pike Spawning, "Other Conservation" and Trout Stream. Its stewardship plan is tailored to easement type.

#### **(1) Plan for Aquatic Management Area Easements**

The Fisheries Section has monitored some, but not all, of DNR's 10 AMA easements in the past. Baseline property reports have been completed for eight of these easements.

Beginning in FY 2012, the Fisheries Section will monitor all AMA easements on an annual basis. Monitors will be area Fisheries staff. Monitoring will include walk-throughs and, for some easements, observation from the water. All landowners will be contacted at least annually. No later than June 30, 2015, the Fisheries Section will prepare baseline property reports for the AMA easements that do not have completed baselines.

All of the costs for monitoring, landowner contact and other stewardship activities and the costs to prepare the two baseline reports will be paid from the Fisheries Section's general operating budget, which is funded mainly by the game and fish fund.



## **(2) Plan for Northern Pike Spawning Easements**

DNR's 10 Northern Pike Spawning easements, which were determined to be conservation easements during the course of this project, were intended primarily as flowage easements for fish spawning purposes. The limitations on uses of the land were of secondary importance, and the Fisheries Section did not consider the NPS easements to be conservation easements. Accordingly, the Fisheries Section has not monitored these easements for compliance with their terms in the past or prepared baseline property reports for the easements.

Beginning in FY 2012, the Fisheries Section will monitor all Northern Pike Spawning easements at least once every three years and will contact the landowners annually. Monitoring will be performed by area Fisheries staff and will include an on-site visit to each easement. Fisheries staff will also collect baseline data and will prepare a baseline property report for each easement, using an abbreviated format similar to the baseline property report format that will be used for DNR's Trout Stream easements. (See Appendix, pp. 8-11 (Trout Stream Easement Baseline Form)). Fisheries staff will complete baseline property reports for all 10 Northern Pike Spawning easements by June 30, 2015.

Costs incurred in the preparation of baseline property reports, monitoring, landowner contacts and other easement stewardship activities will be paid from the Fisheries Section's general operating budget.

## **(3) Plan for "Other Conservation" Easements**

Most of DNR's five Fisheries Section-administered "Other Conservation" easements have been monitored in the past, but not on a regular basis. Baseline property reports have not been completed for any of the five easements. One of the easements, adjacent to a development on a Douglas County lake, was the subject of an enforcement action to address the removal of vegetation in violation of the easement's terms. The matter was ultimately settled after DNR filed a civil action in district court.

Beginning in FY 2012, the Fisheries Section will monitor its five "Other Conservation" easements annually. Landowners will be contacted annually. Area Fisheries staff will conduct the monitoring visits, which will include walk-throughs and, in some instances, observations from water. The Fisheries Section will prepare baseline property reports for all of the "Other Conservation" easements no later than June 30, 2015.

The cost of baseline report preparation, monitoring, landowner contact and other stewardship activities will be paid through the Fisheries Section's general operating budget.

## **(4) Plan for Trout Stream Easements**

DNR holds more Trout Stream easements than any other type of conservation easement. DNR acquires Trout Stream easements primarily to provide angler access and to improve trout habitat on the sites. The limitations on land use that are included in these easement—i.e., the aspects of the easements that make them "conservation easements" under Minn. Stat. sec. 84C.01(1)—are secondary reasons for acquisition. Accordingly, the Fisheries Section considers Trout Stream easements to be more of an angler access easement than a type of conservation easement. With the exception of a few area Fisheries offices, the Fisheries Section has not systematically monitored Trout Stream ease-

ments for compliance in the past. However, the Fisheries Section has addressed violations reported by members of the public or observed during easement site visits for habitat work or other reasons. Baseline property reports have not been completed for the vast majority of DNR's Trout Stream easements.

**Baseline Property Reports.** In 2009, the Fisheries Section began preparing baseline property reports for some of its newly acquired Trout Stream easements. To date, nine baseline property reports have been completed and six others, which have been partially completed, will be finalized this spring. The following chart shows DNR's baseline report backlog for existing Trout Stream easements by region.

Region	Number of easements	Baseline backlog
Northwest	79	79
Northeast	171	171
Central	311	293
Southern	15	15

The Fisheries Section's goal is to complete baseline property reports for all existing Trout Stream easements by June 30, 2015, but its ability to do so is contingent on obtaining additional funding.

The following two existing funding sources will enable DNR to address about 25% of the backlog by June 30, 2015:

1. *Operating budget:* A few area offices that administer a limited number of Trout Stream easements (e.g., Hinckley Area Office, all Southern Region Area Offices and a few of the Northwest Region Area Offices) will be able to complete baseline property reports for all of their Trout Stream easements without additional resources. The Fisheries Section expects to be able to address approximately 10% of the statewide baseline backlog statewide by June 30, 2015 in this manner.



2. *Federal grant:* DNR has a federal grant for the Lake Superior Watershed, which is available through Dec. 31, 2012. The grant will enable the Fisheries Section to hire two temporary employees to conduct work on designated trout streams along the North Shore. A portion of their time will be spent collecting baseline data and preparing baseline property reports for existing easements on these streams. The Fisheries Section expects to address about 50% of the Northeast Region's baseline backlog with this funding.

If Phase II of the Conservation Easement Stewardship Program is funded (see Appendix, pp. 34-35 (Phase II proposal)), a primary focus of that project would be to begin addressing the baseline report backlog for Trout Stream easements in Southeastern Minnesota. The funding would be used to

hire temporary field staff in the Lanesboro Area Fisheries Office to work exclusively on Trout Stream easement stewardship, including preparing baseline property reports for existing easements. This funding would enable the Fisheries Section to address about 1/3 of the Central Region's baseline backlog. In combination with the two existing funding sources, this funding would enable the Fisheries Section to address about 43% of the Trout Stream easement baseline report backlog statewide.

In order to fully address the backlog of baseline reports for its Trout Stream easements, DNR will seek additional sources of revenue that can be used for Trout Stream easement stewardship. Potential sources of funding are discussed in Part III of this report.

**Monitoring.** The Fisheries Section's goal is to regularly monitor all of its existing Trout Stream easements, but its ability to do so without causing a substantial adverse impact on other Fisheries Section work is contingent on securing additional funding. The following plan will be carried out to the extent that funding permits.

*Plan flexibility to account for various conditions statewide.* There are substantial regional and other differences in DNR's Trout Stream easements. For example, a Trout Stream easement adjacent to a cultivated field or a residential development generally requires more frequent monitoring than an easement on a stream in a wilderness area. The Fisheries Section will take regional and other differences into account when developing its easement-specific monitoring plans.



*Monitoring frequency.* The Fisheries Section's goal is to monitor all of its existing Trout Stream easements on average once every three years. Some easements should be monitored with site visits every year. Others are at such low risk for violations that a site visit every few years would be sufficient to protect the conservation values and the state's interests in the easement. When setting specific monitoring schedules, the Fisheries Section will consider factors such as:

- Location of the easement (higher monitoring frequency in developed or agricultural areas than in remote areas)
- Landowner (higher monitoring frequency for new landowner or landowner who has violated easement in the past)
- Uses/ownership of adjacent lands

*Monitoring methods.* The Fisheries Section will use a combination of monitoring methods, including walk-through visits and remote sensing, to monitor its easements. The particular method(s) used will depend on the land type and uses as well as accessibility to the site.

*Monitors.* Area Fisheries staff will monitor most of DNR's Trout Stream easements. If the Fisheries Section is able to secure additional funding for conservation easement stewardship, one or more stewardship coordinator positions will be created. The coordinator(s) would



conduct some of the easement monitoring along with other Fisheries staff and perform other easement stewardship work.

*Coordination with other Fisheries Section work.* The Fisheries Section will conduct Trout Stream easement monitoring in conjunction with its stream surveys to the extent feasible. These surveys are conducted on many of Minnesota's designated trout streams every three years and adding easement compliance monitoring to this work would be more efficient than visiting the sites solely for routine compliance monitoring. The ability to download monitoring forms from the new computer application onto the ruggedized laptops that the Fisheries Section already uses for stream surveys and to enter the monitoring data in the field would facilitate record keeping for easement monitoring.

*Landowner contact.* The Fisheries Section does not currently know the names or have contact information for a majority of the fee owners of lands subject to DNR's Trout Stream easements, although a few area Fisheries offices either maintain such data or have easy access to it through county databases. DNR's Trout Stream easements do not restrict subdivision of the property subject to the easements, so it is likely that many of the easement sites now have multiple owners.

Once landowner information is acquired, the Fisheries Section will contact landowners annually. Due to the extensive number of easements and landowners, the Fisheries Section will not be able to routinely meet with landowners. However, annual contact (either in writing or by telephone) will remind landowners of the easements and inform them of DNR's stewardship activities. In addition to regular landowner contact, the Fisheries Section will notify Landowners of violations or other issues with the easements that need to be addressed.

**Funding.** At current funding and staffing levels, only a few area Fisheries offices that administer a limited number of Trout Stream easements can meet the goal of easement monitoring an average of every three years. The Fisheries Section estimates that this would account for monitoring of about 10% of its existing Trout Stream easements. The federal Lake Superior Watershed grant will provide funding to monitor about 50% of Northeast Region's easements one time between now and Dec. 31, 2012. If Phase II of the Conservation Easement Stewardship Program is funded, the Fisheries Section could also monitor about one-third of the Central Region's Trout Stream easements one time between now and June 30, 2013. In combination, these funding sources provide only a partial, temporary solution to the Trout Stream easement stewardship issue and additional sources of revenue are needed. Potential funding sources are discussed in Part III of this report.

#### **b. Wildlife Section-Administered Conservation Easements**

As outlined in Part I (Inventory Results), the Wildlife Section has been assigned as the administrator for 22 conservation easements, all of which are coded "Other Conservation." Of these, 20 and a portion of a 21st will be monitored. The one easement and portion of another that will not be monitored are on lands that DNR holds in fee title. They are being managed in accordance with the easement terms. (See Part II.B (Lands Acquired in Fee Title Subject to Conservation Easements) above).

**Baseline Property Reports.** DNR has completed baseline property reports for three of the 21 conservation easements administered by the Wildlife Section that will be monitored. Three Wildlife

Section-administered easements are temporary, and DNR will monitor but not prepare baseline property reports for those. The Wildlife Section expects to complete baseline property reports for the remaining 15 conservation easements by June 30, 2013.

**Monitoring.** At the time this project began, the Wildlife Section had been regularly monitoring nine conservation easements for several years. Three additional conservation easements administered by the Wildlife Section were acquired in 2009. During this project's inventory process, DNR determined that there were eight additional Wildlife Section-administered conservation easements, most of which had been retained in land sales or exchanges, that needed to be monitored. The Wildlife Section also agreed to take on the responsibility of administering and monitoring one conservation easement that previously had no assigned administrator within the DNR. Beginning in FY 2012, the Wildlife Section will monitor all 21 of these conservation easements annually.

The Wildlife Section's Program Coordinator administers the Section's easement monitoring program. This includes sending monitors reminders to complete monitoring, maintaining monitoring records and working with monitors and managers to address any violations or other issues. The Program Coordinator will continue to coordinate the Section's conservation easement monitoring.

The Wildlife Section has assigned primary responsibility for conservation easement monitoring to area wildlife managers. They, or Wildlife Section staff working under their supervision, conduct the monitoring visits. Non-Game Wildlife Program staff, who work in DNR's Division of Ecological and Water Resources, are the assigned monitors for four of the Wildlife Section-administered conservation easements. Monitoring visits typically include walk-throughs of the easement sites and meetings with landowners.

**Funding.** The Wildlife Section pays for most conservation easement administration and monitoring from the game and fish fund, as part of its operating costs. The only exception is for the Wildlife Section-administered conservation easement monitored by Non-Game Wildlife staff. Their time and expenses for conservation easement monitoring are paid from the non-game wildlife fund. The DNR will continue to use these two funding sources to cover monitoring costs for the Wildlife Section-administered conservation easements. These funding sources will also pay for the baseline property reports that still need to be completed for existing Wildlife Section-administered conservation easements.

### **3. Stewardship Plan: Division of Forestry**

The Division of Forestry administers all working forest easements (Forest Legacy and Minnesota Forests for the Future easements) through its Minnesota Forests for the Future Program. The Division also administers two miscellaneous conservation easements (coded as "Other Conservation") that were acquired in the early 1990's before Minnesota joined the federal Forest Legacy Program.

#### **a. Minnesota Forests for the Future Program**

The Division of Forestry's Minnesota Forests for the Future (MFF) Program has had a stewardship plan in place for its working forest easements for many years. The plan incorporates requirements of the federal Forest Legacy Program and comports with many conservation easement stewardship standards developed by the Land Trust Alliance. DNR's agency-wide conservation easement steward-

ship plan, set forth above, is modeled after the MFF stewardship plan.

The MFF Program is staffed by a full-time Statewide Forest Legacy Coordinator. The Forest Legacy Coordinator is responsible for all aspects of the Program, including easement acquisitions, preparation of baseline property reports, easement administration, landowner contacts, monitoring, record keeping, and funding requests. The Forest Legacy Coordinator also handles enforcement issues by working with landowners to address minor easement violations. (To date, there have been no violations of Forest Legacy or MFF easements that have required legal action.) As the number of Forest Legacy/MFF easements increases, the Program will add staff to ensure that all of its easement stewardship obligations can be met.



**Baseline property reports.** A baseline property report is created for every Forest Legacy and Minnesota Forests for the Future easement held by the DNR, and all existing Forest Legacy and MFF easements have completed baseline property reports. The MFF Program's policy is to complete the baseline property prior to the time the easement acquisition is completed.

**Monitoring.** The federal Forest Legacy Program requires annual monitoring and it is the goal of DNR's Forest Legacy/MFF Program to monitor each easement property annually. The Forest Legacy Coordinator is currently the Program's primary easement monitor. Monitoring methods for smaller easements typically incorporate a landowner face-to-face meeting and an on-the-ground field visit. For larger-scale easements, an annual meeting is held with the landowner or landowner's representative to review the past year's activities and planned activities. A field visit of selected sites is typical as is a review of recent aerial photography. Satellite imagery and other technologies may supplement other more traditional monitoring methods, especially on the large easements.

**Record keeping.** The Forest Legacy Coordinator maintains the following records for Forest Legacy/MFF easements:

- Application for program
- Baseline property report
- Conservation easement
- Landowner information (historic and current, including name, address and telephone number)
- Forest Management Plan
- Monitoring records
- Landowner correspondence
- Photographs
- Other miscellaneous materials such as press releases and newspaper clippings

**Funding.** The MFF Program estimates that on-the-ground monitoring of all of its existing conservation easements (333,000 acres and 37 projects) requires approximately a 0.4 FTE. This estimate is

based on the following assumptions:

<b>Project Size</b>	<b>Small Projects &lt;500 acres</b>	<b>Med. Projects 501-5,000 acres:</b>	<b>Large Projects 5,000 –50,000 acres</b>	<b>Very Large projects: Greater than 50,000 acres</b>
Project numbers and estimated annual hours	27 Projects 430 hours annually.	4 Projects 90 hours annually	4 Projects 120 hours annually	2 Projects 160 hours annually

Additional stewardship expenses (not included in the 0.4 FTE estimate) are: staff time to conduct pre-monitoring activities and post-monitoring office work; staff time to respond to requests for information, formal approvals from landowner; travel (per diem, lodging, fleet, possible fixed wing flights); remote sensing (fixed wing and satellite imagery); GIS applications including mapping; office overhead including phone, etc.

Soon after the establishment of the Forest Legacy Program in 1999, program responsibilities for the Minnesota Forest Legacy Program were assigned to the Area Forester in Faribault. In 2005, the Forest Legacy Coordinator position was established as a full-time position with funding provided by federal Forest Legacy Program grants and with additional funding provided by the state's general fund. Both general funds and federal Forest Legacy funds have supported the Division's monitoring and easement stewardship efforts to date, which have largely been carried out by the Forest Legacy Coordinator. The Division plans to continue the use of both general fund support and federal fund support for future monitoring. In addition, the Division plans to use those additional monitoring funds provided through the Outdoor Heritage Fund appropriations or other monitoring contributions as discussed below.

The Minnesota Forests for the Future law requires the Commissioner to "establish a long-term program for monitoring and enforcing Minnesota [F]orests for the [F]uture easements." Minn. Stat. sec. 84.66, subd. 11. The law also states: "The program must require that a financial contribution be made for each easement to cover the cost of managing, monitoring, and enforcing the easement."

In connection with DNR's first MFF conservation easement (Upper Mississippi Forest Project), the Program requested that \$750,000 of the acquisition appropriation from the Outdoor Heritage Fund (Minn. Laws 2009, ch. 172, art. 1, sec. 2, subd. 3) be set aside to fund long-term stewardship. This set-aside was approved as part of the LSOHC Accomplishment Plan. DNR's ability to use these funds for stewardship, however, depends on legislation this session to establish a Forests for the Future Stewardship Account and to authorize the transfer of these funds into this account. The account would be an interest-bearing account in the natural resources fund, and the amounts in the fund would be annually appropriated to the Commissioner to pay for Forests for the Future easement stewardship. If such legislation is passed, the \$750,000 deposited in the Forests for the Future Stewardship Account will fund stewardship of the Upper Mississippi Forest Project and may also be used for stewardship of other conservation easements acquired with Outdoor Heritage funding.

#### **b. “Other Conservation” Easements**

The Forestry Division administers two “Other Conservation” easements, neither as part of the Forest Legacy/Minnesota Forests for the Future Program.

A non-profit organization assigned one easement, which protects open space in the Richard J. Dorer Memorial Hardwood Forest in Goodhue County, to DNR in 1993. The Area Forester monitors this easement annually and submits monitoring reports to the non-profit organization. The Area Forester will continue to monitor the conservation easement annually. The easement does not have a baseline property report. The Area Forester or other Forestry Division staff will prepare one by June 30, 2013.

The other easement, on property in St. Louis County, was donated to the DNR in 1992. The donors prepared a baseline property report. This easement has not been monitored in the past. The Forestry Division will begin monitoring the easement annually in FY 2012. The Area Forester will be assigned as the primary easement monitor.

The Forestry Division’s general operating budget will cover the ongoing costs of administering and monitoring both of these conservation easements.

#### **4. Stewardship Plan: Division of Parks and Trails**

The Division of Parks and Trails administers all of DNR’s Wild and Scenic Rivers (WSR) easements (134) as well as two Cave easements and three miscellaneous “Other Conservation” easements adjacent to or within state park statutory boundaries.

##### **a. Wild and Scenic Rivers Scenic Easement Program**

DNR started acquiring Wild and Scenic River (WSR) easements in the mid-1970’s. Between that time and 2008, there was never an ongoing effort to monitor these easements. No baseline property report work was done and, over time, the locations of many easements were forgotten. In 1990, DNR staff conducted an aerial analysis of WSR easements on the Rum and Kettle Rivers, but there was no budget for pursuing eight suspected easement violations. Between 2000 and 2003, a temporary worker conducted an inventory of county records for WSR easements, established a hard-copy filing system, and visited some easements.

In the late 1990’s, DNR became aware that it held a scenic easement on the Lower St. Croix River that was the subject of serious violations. DNR filed a civil enforcement action (DNR v. Dow, No. C9-00-1101) in Washington County District Court against the landowner and was successful in obtaining a court order that required the landowner to restore the property.

In 2008, DNR created a Scenic Easements Coordinator position in the Division of Trails and Waterways (now part of Parks and Trails) to coordinate the





development and implementation of a statewide monitoring and enforcement program for scenic easements on wild and scenic rivers. The position was set up to inventory division files, develop data systems that serve program objectives (working in coordination with the land records system project), provide technical assistance to landowners and local units of government, resolve easement violations, and establish protocols for a sustainable easement stewardship and enforcement program. Although a temporary worker was assigned to the WSR Scenic Easements Program between 2000 and 2003, this was the first classified, full-time DNR position responsible for scenic (WSR) easement administration since the WSR Program began in the early 1970s.

The Scenic Easements Coordinator position was filled in the fall of 2008. When the coordinator began, there had been no easement monitoring since 2003, and the locations of many easements were unknown. There was no up-to-date contact database for landowners, and individual landowner parcel ownership under easements was unknown. Files were only available in hard-copy format and it was unknown if all files were at DNR. The status of on-the-ground conditions for WSR easements was unknown and existence of violations was uncertain.

Since 2008, the new WSR Scenic Easements Program has completed the following:

- **Aerial Photography.** Conducted high resolution “oblique aerial photography” of both banks of all Wild and Scenic Rivers. This high resolution imagery (which is available on the Internet) assists easement monitoring, baseline property report creation, and is an asset to other DNR staff and the general public.
- **CCM Pilot Program and Baseline Fieldwork.** Conducted a pilot project utilizing Conservation Corps Minnesota (CCM) field crews to collect baseline field data for scenic easements. Crews and the Scenic Easements Coordinator conducted site visits on 35 properties. That field data will be the foundation to create baseline property reports on those easement lands. The division also has a CCM AmeriCorps corps member who assists statewide Parks and Trails water recreation programs. This position assisted in the completion of the first two WSR baseline property reports and with CCM crew coordination.
- **Data Systems, Digital Records, and GIS data.** The Program entered into service level agreements with the DNR Survey Unit and the Forest Resource Assessment Office to create digitized GIS parcel maps of scenic easement boundaries. Scenic Easement Program staff created digitized GIS parcel boundary information for landowner-specific ownership within DNR scenic easement boundaries based on county records. Initial contact information based on county tax parcel records was collected for all parcels within easement areas. An access database that links landowner contact information to GIS and digitized records is set up for program use. All scenic easement file records are now digitized.



*Oblique aerial photograph  
Kettle River*

**Land and Water Conservation (LAWCON) Funds.** Parks and Trails (PAT) and the Office of Management and Budget (OMB) both have a responsibility to monitor Minnesota Wild and Scenic River

scenic easements acquired utilizing federal LAWCON funding. PAT was allocated \$20,000 from OMB in FY 2011 to fund an easement monitoring training for staff and is enabling site visits/landowner outreach for easements on the Rum and Kettle Rivers. The LAWCON funding is enabling the use of DNR staff (who are less than full time) for landowner outreach and site visit coordination on WSR easements.

**Baseline Property Reports.** Field data have been collected for 40 WSR easements, and two reports are in final draft form and awaiting landowner signatures. PAT's goal is to complete baseline property reports for all WSR easements by June 30, 2015. However, its ability to do so is contingent on securing additional funding. At current staffing and funding levels, it is estimated that baseline property reports for all easements will take approximately eight years to complete. Part of the difficulty in creating these reports is that many easements are over 30 years old and there has been either no or only limited communication with landowners since they were acquired. There are existing violations on a number of the easements, and addressing these may cause further reduction in staff time available for field work and report creation.

**Monitoring.** It is PAT's goal to conduct on-site monitoring for WSR easements every other year and to contact landowners every year. PAT's ability to carry out this monitoring plan is contingent on securing additional funding, as current staffing and funding levels are not adequate.

Scenic easement monitoring should occur in the following manner:

- Year 1:** Site visit (abbreviated, not full-site walk through) /landowner visit
- Year 2:** Landowner letter and/or phone call
- Year 3:** Walk-through site visit / landowner visit
- Year 4:** Landowner letter or phone call
- Repeat...**

**Funding.** The Scenic Easements Coordinator position was authorized and funded out of a general fund appropriation during the 2008/2009 biennium. There was no program budget setup for field-based project work or other budget items besides the coordinator's salary. After filling the position in November 2008, the position was reduced to 50% within the first year due to general fund budget cuts.

The Division plans to continue using general fund support for the half-time Scenic Easements Coordinator position. It is unlikely that there will be an adequate general fund budget to restore this position to full time in the near future.

The Division also plans to request continued support for LAWCON funding if those funds remain available. Currently, there are no other sources of funding utilized for Scenic Easement Program operations. The Division is exploring other funding opportunities and will seek other applicable funding sources once identified.



## **b. Cave and “Other Conservation” Easements**

DNR’s two Cave easements and two of its three “Other Conservation” easements that are within or adjacent to state park statutory boundaries were historically administered by DNR’s Division of Parks and Recreation. During the 2009 integration of the Division of Parks and Recreation with the Division of Trails and Waterways, the Scenic Easements Coordinator took over responsibilities for Cave and “Other Conservation” easements.

The Cave easements and two of the “Other Conservation” easements have been regularly monitored for years. Both Cave and one “Other Conservation” easement have baseline property reports. One “Other Conservation” easement, which is a scenic easement within the Afton State Park statutory boundary, was discovered during the course of this project. A specific plan for the completion of this easement’s baseline property report will be developed after an inquiry into the history of that acquisition and a meeting with the landowner, but the Division expects to have the report completed by June 30, 2013. The third “Other Conservation” easement is on a property owned by DNR in fee title.

Currently, Cave and “Other Conservation” easements administered by Parks and Trails have a division staff member (either a state park manager or assistant manager) assigned as the primary monitor. They will monitor the easements every other year.

Funding for stewardship of these easements is through general funds that pay for park managers and scenic easements program coordinator salaries. The general fund will continue to pay for stewardship of these easements.

## **5. Stewardship Plan: Northwest Regional Operations**

Northwest Regional Operations administers one DNR conservation easement, which was retained upon conveyance of surplus land on Bear Island in Leech Lake to the Leech Lake Band of Ojibwe Indians in 2007. The band acquired and is managing the land subject to this easement for purposes of fish, wildlife, plant management, habitat and tribal cultural resource protection.

The DNR has not yet prepared a baseline property report for this easement, but the easement was monitored in 2010. Northwest Regional Operations staff will monitor the easement at least once every three years. This will be an on-site visit with access to the island by boat. Monitoring will be by walk-through and by observing portions of the easement from the water. Northwest Regional Operations staff will maintain annual contact with the Leech Lake Band of Ojibwe and any subsequent landowners. At the next regular monitoring visit, NW Regional Operations staff will collect baseline data on the easement and will complete a baseline property report no later than Dec. 31, 2013.

Funding for monitoring of this easement, preparation of the baseline report and other administrative costs are borne by the Northwest Regional Operations budget. No additional funding sources are needed.

## **6. Stewardship Plan: ACUB Easements**

The ACUB easement acquisition process is currently coordinated by a community assistance

specialist based in the Division of Ecological and Water Resources. As part of the acquisition process, one of DNR's divisions or sections must agree to administer the ACUB easement. The Division of Fish and Wildlife administers four of DNR's existing ACUB easements. Of these, the Wildlife Section administers three and the Fisheries Section one. The Division of Forestry administers the other existing ACUB easement. Baseline property reports have been completed for all existing ACUB easements.

The administrators' role in stewardship of the ACUB easements does not include monitoring or record keeping. Those functions are performed by the ACUB acquisition coordinator and a Non-Game Wildlife Program staff member who is based at Camp Ripley. The ACUB easements are monitored annually either by an on-site walk-through visit or by fly-overs. The monitors contact landowners on an annual basis as well.

DNR's plan for existing ACUB easements is for the ACUB acquisition coordinator and Non-Game Wildlife staff member to continue annual monitoring and landowner contact for at least some of the easements. If any violations occur, the division or section that is the assigned administrator will participate in actions to address the violations.

The federal ACUB Program provides no stewardship funding for the easements, and, in fact, pays no indirect acquisition expenses or administrative costs of the acquisition program. Monitoring costs for existing ACUB easements are paid from the general fund and the non-game wildlife fund, which pay for the salaries of the ACUB acquisition coordinator and Non-Game Wildlife staff member who conduct the easement monitoring. Funding through these sources has been adequate to complete annual monitoring of existing easements to date, although not in an optimal manner. Other job duties and priorities for both the ACUB acquisition coordinator and Non-Game Wildlife staff make annual monitoring difficult. To the extent that the assigned administrators participate in stewardship of these easements, their costs will be paid through their operating budgets.

## **7. Stewardship Plan: Metro Greenways Easements**

DNR's Central Region is the administrator for the Metro Greenways easements, but no DNR staff are currently assigned to administer or monitor the easements. All metro greenways funding expires at the end of fiscal year 2011.

DNR has baseline property reports for eight of the 16 Metro Greenways easements.

There has been some monitoring of the Metro Greenways easements since they were acquired, but monitoring has not occurred at regular intervals. Between 2008 and 2010, DNR monitored eight Metro Greenways easements and determined that all were in compliance. (Seven of the monitoring visits were part of test monitoring conducted in connection with the Conservation Easement Stewardship and Enforcement Program Plan.)



DNR's current plan is for the Central Regional Director to assign stewardship responsibility for

the 16 Metro Greenways easements to Central Region staff based in various divisions and for assigned staff to being regular easement monitoring in FY 2012. The assigned staff would monitor the easements at least once every three years and would complete baseline property reports for the eight Metro Greenways easements that do not have baselines. Staff would obtain baseline data for these reports at the next regularly-scheduled monitoring visit and complete the reports no later than June 30, 2015. The operating budgets of the assigned divisions would be used to pay the stewardship costs for the Metro Greenways easements.

<b>Key Components of Monitoring Plans by Easement Type: Existing DNR Conservation Easements</b>					
<b>Easement Type</b>	<b>Administrator</b>	<b>Primary monitor</b>	<b>Monitoring type(s)</b>	<b>Monitoring frequency</b>	<b>Additional staffing needed?</b>
<b>ACUB</b>	Multiple	Area EWR Staff	Walk-through, fly-over	Annual	<b>Yes</b>
<b>AMA</b>	Fisheries Section	Area Fisheries staff	Walk-through, boat-by	Annual	No
<b>Cave</b>	Parks & Trails	Park Manager	Walk-through	Every other year	No
<b>Forest Legacy</b>	Forestry	Forest Legacy Coordinator	Walk-through, remote sensing, records review	Annual	No
<b>MFF</b>	Forestry	Forest Legacy Coordinator/Forestry staff	Walk-through, remote sensing, fly-over, records review	Annual	No
<b>MGW</b>	Being reassigned	Being reassigned	Walk-through	Every 3 years	<b>Yes</b>
<b>NPS</b>	Fisheries Section	Area Fisheries staff	Walk-through	Every 3 years	No
<b>NPB</b>	EWR (SNA Program)	SNA Program regional staff	Walk-through	Every 3 years	<b>Yes</b>
<b>Other Conservation</b>	Fisheries Section	Area Fisheries staff	Walk-through, boat-by	Annual	No
<b>Other Conservation</b>	Forestry	Area Foresters	Walk-through	Annual	No
<b>Other Conservation</b>	NW Regional Operations	NW Regional Operations staff	Walk-through, boat-by	Annual	No
<b>Other Conservation</b>	Parks & Trails	Park Managers	Walk-through	Every other year	No
<b>Other Conservation</b>	Wildlife Section	Area Wildlife Managers	Walk-through	Annual	No
<b>SNA-Administered</b>	EWR (SNA Program)	SNA Program regional staff	Walk-through	Every 3 years	<b>Yes</b>
<b>Trout Stream</b>	Fisheries Section	Area Fisheries staff	Walk-through	Average of every 3 yrs	<b>Yes</b>
<b>Water Bank</b>	EWR	Area Wildlife Managers	Walk-through	Annual	No
<b>WSR</b>	Parks & Trails	Scenic Easements Coordinator, Area Parks & Trails staff	Walk-through or abbreviated site visit	Every other year	<b>Yes</b>



## **PART III: Options for Long-Term Conservation Easement Stewardship Funding**

### **A. Existing Legal Requirements**

Much of DNR's progress in improving stewardship of its conservation easements over the past decade has been in response to evolving standards for both public and private entities that hold conservation easements. Stewardship standards of both the federal Forest Legacy Program and the Land Trust Alliance, a non-profit umbrella organization for entities with land conservation missions, have driven many recent changes in DNR's practices. In addition, DNR recognizes the need to protect the substantial public investment in its conservation easements through ongoing monitoring and enforcement.

Minnesota Statutes chapter 84C does not mandate that an easement holder either monitor its easements or secure any funding for conservation easement stewardship. In fact, until 2008, there were no requirements in Minnesota law that DNR establish stewardship programs or fund the management, monitoring and enforcement of any type of easement. The first such law was the Minnesota Forests for the Future statute, Minn. Stat. sec. 84.66, subd. 11(a), enacted in 2008, which provides:

The commissioner shall establish a long-term program for monitoring and enforcing Minnesota forests for the future easements. The program must require that a financial contribution be made for each easement to cover the costs of managing, monitoring, and enforcing the easement.

In 2008, appropriations for conservation easement acquisitions from the Environment and Natural Resources Trust Fund were conditioned on the inclusion of a long-term stewardship plan and funding for monitoring and enforcing the easement agreement. Minn. Laws 2008, ch. 367, sec. 2, subd. 10(a)(4)(v).

In 2009, appropriations for conservation easement acquisitions from both the Environment and Natural Resources Trust Fund and the Outdoor Heritage Fund included requirements for stewardship plans and funding:

As a condition of accepting an appropriation in this section, any agency or entity receiving an appropriation must, for any project funded in whole or in part with funds from the appropriation[,] . . . provide that all conservation easements . . . include a long-term stewardship plan and funding for monitoring and enforcing the easement agreement.

Minn. Laws 2009, ch. 143, sec. 2, subd. 11(a) (ENRTF appropriation); Minn. Laws 2009, ch. 172, art. 1, sec. 2, subd. 10 (Outdoor Heritage Fund appropriation).

The 2010 Environment and Natural Resources Trust Fund appropriation, Minn. Laws 2010, ch. 362, sec. 2, subd. 11, contains the same requirements for conservation easements as the 2009 ENRTF and Outdoor Heritage Fund appropriations. The 2010 Outdoor Heritage Fund appropriation also requires a long-term stewardship plan as a condition of accepting funding for a conservation easement acquisition. In addition, this appropriation requires that sources and amounts of funding for monitor-

ing and enforcing the easements be identified. Minn. Laws 2010, ch. 361, art. 1, sec. 2, subd. 9.

To date, the Minnesota Forests for the Future law, the 2008, 2009 and 2010 ENRTF appropriations and the 2009 and 2010 Outdoor Heritage Fund appropriations remain the only Minnesota legislative mandates relating to DNR's conservation easement stewardship and stewardship funding.



## **B. Conservation Easement Stewardship Plan Cost Estimates**

As discussed in Part II of this report, DNR needs to either secure additional funding to fully implement its plans for long-term stewardship or adjust its use of current funding. Long-term stewardship of any new conservation easements will also be needed.

Project staff developed the following cost estimates from test monitoring and from easement program coordinator and program staff estimates. In order to track actual conservation easement stewardship costs and to accurately estimate future funding needs for conservation easement stewardship, DNR staff engaged in conservation easement stewardship activities will begin cost-coding all time spent on such activities in FY 2012. (Implementation of the new land records system and completion of baseline property reports will decrease the time needed to prepare for monitoring and to complete monitoring reports. In addition, regular monitoring of all conservation easements should reduce violations and eventually reduce DNR's overall stewardship costs.)

Unless otherwise noted in the Comments field, stewardship cost estimates assume:

- A staff rate of \$45/hr. (This rate is based on the mid-range annual salary of a Natural Resources Program Coordinator (\$57,285). Additional fringe benefits and other staff costs were calculated with DNR's fiscal note worksheet for estimating the cost of new positions. In addition to salary, the calculation includes fringe benefits (FICA, Medicare & retirement), insurance, and DNR's average cost per FTE for space rent, telephone, travel, supplies, and equipment such as personal computers.)
- Preparation time for monitoring (file review, prepare easement-specific monitoring form, create maps for easements without baseline property reports).
- Annual communications with landowner.
- Site visits per the monitoring schedule, with annual visits for 20% of easements that have two- or three-year monitoring schedules due to possible violations, new landowners, or other issues.
- Landowner meetings in conjunction with site visits for all easement types except Trout Stream.
- Monitoring report preparation/records maintenance.
- Subdivisions of Wild and Scenic River and Trout Stream easement properties will increase staff time needed for stewardship.

Estimated Stewardship Plan Costs for Existing Conservation Easements		
Easement Type	Annualized Cost	Comments
ACUB	\$10,000	ACUB coordinator's estimate of annual monitoring (walk-through) plus all ordinary stewardship costs. Approximately 40% of this cost can be covered through existing funding sources.
AMA	\$3,600	Funding covered by existing sources. Assumes 8 hrs of staff time per easement annually.
Forest Legacy/ Forests for the Future	\$60,000	Funding covered by existing sources. Forest Legacy Coordinator's estimate. Approximately 40-50% of this funding is anticipated from the Outdoor Heritage Fund; the balance will be from federal Forest Legacy Program grants when available, and from Division general fund support.
Forestry-Administered "Other Conservation"	\$720	Funding covered by existing sources. Assumes 8 hrs of staff time per easement annually.
Metro Greenways	\$4,128	Assumes 10 hours of staff time per easement in monitoring visit years and 2 hrs per easement in other years.
Native Prairie Bank	\$28,500	Assumes 12 hrs of staff time per easement in monitoring visit years and 2 hrs per easement in other years. Existing funding will cover monitoring for about 15% of the easements through June 30, 2013.
North. Pike Spawning	\$2160	Funding covered by existing sources. Assumes 8 hrs of staff time in site visit years and 2 hrs per easement in other years. Assumes no violations requiring additional monitoring.
NW Reg. Operations-Administered "Other Conservation"	\$180	Funding covered by existing sources. Assumes 8 hrs of staff time for the easement in monitoring years and 2 hrs in other years. Assumes no violations requiring additional monitoring.
Parks & Trails-Administered "Other Conservation" & Cave	\$900	Funding covered by existing sources. Assumes 8 hrs of staff time per easement in site visit years and 2 hrs in other years. Assumes no violations requiring additional monitoring.
SNA-Conservation & SNA Program-Administered "Other Conservation"	\$3,024	Assumes 8 hours of staff time per easement in monitoring visit years and 2 hrs per easement in other years. DNR also owns four of 18 SNA-administered easements in fee title. These easements are not included in this cost calculation.
Trout Stream	\$130,644	Assumes 8 hours of staff time per easement in site visit years and 2.5 hrs per easement in other years. Approximately 10% of this cost can be covered through existing funding sources.
Water Bank	\$7,560	Funding covered by existing sources. Assumes 8 hrs of staff time per easement per year. Only the 21 permanent easements are included in the calculation, as the temporary easements will all expire before 2013.
Wild & Scenic River	\$57,888	Assumes 16 hours of staff time per easement in full site visit years; 12 in partial site visit years; 2.5 in other years. A portion of this cost will be funded through the Parks & Trails Division's 50%-time scenic easement coordinator position.
Fish & Wildlife Division-Administered "Other Conservation"	\$7,560	Funding covered by existing sources. Assumes 8 hrs of staff time per easement per year. One easement, which is also held in fee title, is not included in the calculation.

The following additional costs need to be included in conservation easement stewardship budget estimates:

**Issue resolution costs.** Based on test monitoring visits and on information from DNR's easement coordinators, 15-20% of DNR's conservation easements are expected to have some type of violation or other issue that requires additional staff time to resolve. Examples of such issues (from test monitoring visits and recent experiences by DNR conservation easement administrators) are:

- Relatively minor violations (e.g., unauthorized mowing)
- Moderate violations, for example:
  - Noncompliance with tillage setback requirements in Trout Stream easements
  - Vegetation removal
  - Unauthorized food plots within easement boundary
  - Unauthorized ATV use
  - Unauthorized structures (e.g., swing set, gazebo, stairs)
- New landowner with questions/concerns about easement
- Boundary location questions/erroneous legal descriptions (easements not surveyed at time of acquisition)

Costs associated with resolution of these types of issues are difficult to estimate but could potentially increase program stewardship costs by 100% or more above the costs for routine monitoring and landowner contact estimated in the table above. In some cases, minor or moderate violations may be resolved quickly and simply through negotiations with landowners and documentation memorializing the agreed-upon resolution. Other issues will require substantial staff time and other expenses to resolve. For example, three existing DNR conservation easements (one Native Prairie Bank, one Trout Stream and one Wild and Scenic River) are known to have errors in legal descriptions, and all will need to be amended. Resolution will involve staff time to negotiate amendments, survey costs, real estate transaction costs and legal fees.

**Legal fees for enforcement.** Under existing laws, violations of DNR-held conservation easements that cannot be resolved through negotiation must be addressed through civil enforcement actions in district court. In such cases, the Attorney General's Office provides legal representation to DNR and makes the final decision about whether an action will be filed.

The Attorney General's Office has pursued legal action for DNR in two conservation easement violations in cases. The cost of legal services provided to DNR by the Attorney General's Office was documented, but because DNR staff time in the matters was not separately tracked, there is no record of DNR's total enforcement expenses in the cases. One case, which involved violations of a Fisheries-administered "Other Conservation" easement, was settled after the complaint was filed in district court. The total cost of legal services provided to DNR by the Attorney General's Office was \$8,687.70. The other matter arose out of a landowner's violation of a Wild and Scenic River easement. That case went to trial in district court, but there was no appeal. The total cost of legal services provided to DNR by the Attorney General's Office in that case was \$44,003.50.

Of 38 conservation easements visited by project staff, one has serious violations (cattle holding pen encroaching in easement, large quantities of junk dumped in the easement) that will likely require legal action to address. The sample of easements test monitored was too small to predict the percentage of easements that will need enforcement action. However, given the large number of conservation easements held by DNR and lack of regular monitoring in the past, it is expected that several ease-

ments have violations that will require legal action to resolve.

**Baseline property report costs.** The following estimated costs for preparing baseline property reports to address DNR's baseline backlog for existing easements assume:

- Projected numbers of baselines that can be completed with existing funding sources referenced in the stewardship plan in Part II are accurate.
- The pending SNA Program funding request to LCCMR (101-D) will be approved by the Legislature.
- The pending Native Prairie Bank Program funding request to LCCMR (102-D) will be approved by the Legislature.
- The pending request to LCCMR by the Lands and Minerals Division for Phase II funding for this project (066-C1+2) will be approved by the Legislature. (This funding would pay for preparation of at least 180 baseline property reports, primarily for Trout Stream, Wild and Scenic River and Native Prairie Bank easements.)

Estimated Cost of Completing Baseline Property Reports for Existing Conservation Easements				
Easement Type	No. of Existing Conservation Easements Needing Baselines	Estimated Staff Time Per Easement (including field time, report writing, mapping)	Estimated Total Staff Time	Estimated Cost @ \$45/hr.
Metro Greenways	8	40 hrs.	320 hrs	14,400
Native Prairie Bank	23	56 hrs.	1288 hrs	57,960
Trout Stream	309	20 hrs.	6180 hrs	276,600
Wild & Scenic River	80	56 hrs.	4480 hrs	201,600
			<b>Total estimated cost =</b>	<b>\$550,560</b>

Based on the foregoing estimates and assumptions about conservation easement stewardship costs, it is recommended that DNR seek the following staffing increases. Alternatively, work could be re-assigned with existing staff.

1. **SNA/Native Prairie Bank Program:** Add 1 FTE for conservation easement stewardship. The need for staffing at this level should be reviewed after all baseline property reports for existing Native Prairie Bank easements are complete and all easements have been monitored.
2. **Fisheries Section (Trout Stream):** Add 2+ FTE's. One FTE should be located in an area office DNR's Central Region (e.g., Lanesboro Area Fisheries Office). One FTE should be located in an area office in DNR's Northeastern Region (e.g., Duluth Area Fisheries Office). A partial FTE should be located in DNR's Northwestern Region. It is likely that stewardship staffing at this level will need to be permanent even after the existing baseline property report backlog is addressed because of the large number of Trout Stream easements and ongoing acquisitions.
3. **Wild and Scenic River Program:** Add 1 FTE to existing Wild and Scenic Rivers Program staff-



ing levels. The need for staffing at this level should be reviewed after all baseline property reports for existing Wild and Scenic River easements are complete and all easements have been monitored.

4. **ACUB/Metro Greenways:** In order not to displace work in other programs, the ACUB and Metro Greenways programs need to either add part-time conservation easement stewardship staff (less than 0.1 FTE for each program to monitor existing easements) or need funding that will enable other stewardship options to be considered (e.g., contracting for stewardship services, or managing volunteers to conduct stewardship activities).
5. **Forest Legacy/MFF:** It will be necessary to commit a part-time (0.4) FTE to enable the ongoing monitoring that is needed for the program. Options include continuing the monitoring duties with the Forest Legacy Program Coordinator, reassign those duties to existing staff in the regions/areas, add staff or some combination of these.

### **C. Options for Stewardship Funding**

#### **1. Stewardship funding for new conservation easement acquisitions**

In accordance with the requirement in Minn. Stat. sec. 84.66, subd. 11(a) for a “financial contribution . . . for each easement to cover the costs of managing, monitoring, and enforcing the easement,” the Minnesota Forests for the Future Program asked the Lessard-Sams Outdoor Heritage Council to authorize the use of \$750,000 of a \$36 million conservation easement acquisition appropriation under Minn. Laws 2009, ch. 172, art. 1, sec. 2, subd. 3 for conservation easement stewardship. LSOHC approved this request, and it is part of the Minnesota Forests for the Future Program’s LSOHC accomplishment plan for the appropriation. For DNR to use the \$750,000 for long-term stewardship, an interest-bearing account needs to be created in the natural resources fund, and the appropriation needs to be amended to transfer the \$750,000 into that account. Legislation to authorize transfer of the funds is in the 2011 Outdoor Heritage bill (HF471), and a proposal to create a Minnesota Forests for the Future easement account in the natural resources fund is in the Governor’s recommended budget (Natural Resources Department, p. 29). Interest earned on the account (calculated to be approximately \$30,000 annually) would be appropriated to the Commissioner for Minnesota Forests for the Future conservation easement monitoring, landowner contacts, record keeping, processing landowner notices, requests for approval or amendments and other easement management related activities. This funding model is similar to the endowments that non-profit land trusts successfully use for long-term funding of conservation easement stewardship.

A similar interest-bearing account could be created in the natural resources fund for stewardship of other types of DNR-held conservation easements, with appropriations from the fund used exclusively for conservation easement stewardship and enforcement. Sub-accounts could be created in this fund so that conservation easement stewardship expenses could be tracked by DNR program.

#### **Advantages:**

- Funds for long-term stewardship of a conservation easement could be secured at the time of the acquisition through an appropriation from the acquisition funding source (e.g., Outdoor Heritage Fund) or from another funding source, ensuring that DNR has adequate funding to manage the easement in the future.

- DNR would be able to require a one-time stewardship donation as a condition of accepting a conservation easement as a gift (whereas it currently has no interest-bearing account in which to place such donations).
- Use of the funds would be limited by law to conservation easement stewardship and enforcement.

**Disadvantages:**

- A large corpus is required to fully fund stewardship through interest earned on the account in today's marketplace.
- Smaller conservation easements (e.g., Trout Stream) may require a funding amount that would constitute a substantial percentage of the purchase price.
- Some types of funds placed in the account (e.g., general fund) could be redirected for other uses by future Legislatures. Constitutionally-dedicated funding could be redirected from conservation easement monitoring to other constitutionally-allowable projects.

**2. Stewardship funding for existing easements**

There are a number of options that DNR could pursue to adequately fund its stewardship of existing conservation easements:

- a. Seek increases in user fees as a source of new revenue (e.g., increase trout and salmon stamp validation fee to fund stewardship of Trout Stream easements).

**Advantages:**

- Parties who would benefit the most from stewardship of certain types of conservation easements, rather than the general public, would bear the cost.

**Disadvantages:**

- Raising user fees may be controversial.
- Increases in fees may reduce the number of users.

- b. Seek legislation to authorize the use of existing natural resources fund accounts for conservation easement stewardship (e.g., expand authorized uses of water recreation account to include stewardship of Wild and Scenic River easements).

**Advantages:**

- Expanding authorized uses of natural resources fund accounts could reduce DNR's reliance on the general fund for conservation easement stewardship funding and provide more stable sources of revenue.

**Disadvantages:**

- Without user fee increases, adding conservation easement stewardship to authorized uses of existing natural resources fund accounts would reduce funds for other DNR programs (e.g., decrease funds for management of fee interests).

- c. Seek ongoing appropriations from the general fund and other operating budget funding sources for conservation easement stewardship.

**Advantages:**

- These sources have been used to fund stewardship of some conservation easement types (e.g., ACUB, Wild and Scenic River, Water Bank) in the past and no statutory amendments would be required to use funds from these sources.

**Disadvantages:**

- Funding levels, particularly from the general fund, are unpredictable.

- d. Seek ongoing appropriations for conservation easement stewardship from constitutionally-dedicated funds.

**Advantages:**

- Conservation easement stewardship has received funding from both the ENRTF and the Outdoor Heritage Fund in the past, so it is possible future appropriations could be secured.

**Disadvantages:**

- The DNR would have to ensure that dedicated fund use did not supplant traditional funds used in the past. Further, funding from both the ENRTF and the Outdoor Heritage Fund is appropriated on a competitive application process; there is no guarantee that the DNR would receive funds for the monitoring program.

- e. Seek legislation for an interest-bearing account in the natural resources fund and use appropriations from the account for stewardship of existing conservation easements as well as for stewardship of new acquisitions. Another alternative for consideration would be to use a private foundation as the repository of a conservation easement stewardship endowment.

**Advantages:**

- If funded sufficiently to generate enough income to support stewardship of all DNR conservation easements, an interest-bearing account could provide a permanent, stable source of funding.
- Using a private foundation as the repository of a stewardship endowment could protect the corpus of the fund from being redirected to other uses.

**Disadvantages:**

- This would require large one-time appropriations in order to generate sufficient interest to fund stewardship of DNR's existing easements. Statutory and constitutional amendments may be necessary for the state to use a private foundation to manage a stewardship endowment. Fund security may also be a concern.

**D. Other Legislative Changes to Improve Conservation Easement Stewardship**

The Legislature could consider the following to implement long-term stewardship of all conservation easements:

1. An amendment to Minn. Stat. ch. 84C that would require any entity holding conservation easements in Minnesota to have a program for stewardship (i.e., management, monitoring and enforcement) of all of its conservation easements.
2. A statutory requirement that any entity acquiring a conservation easement (either through purchase or gift) obtain and place in an interest-bearing account or endowment fund at the time of the acquisition funding to cover long-term stewardship of the easement. Funding amounts should be calculated to generate sufficient interest to pay the average estimated annual cost of stewardship of the easement.

**Conservation Easement Stewardship and Enforcement Program Plan – DNR**

**Final Report, Feb. 28, 2011**

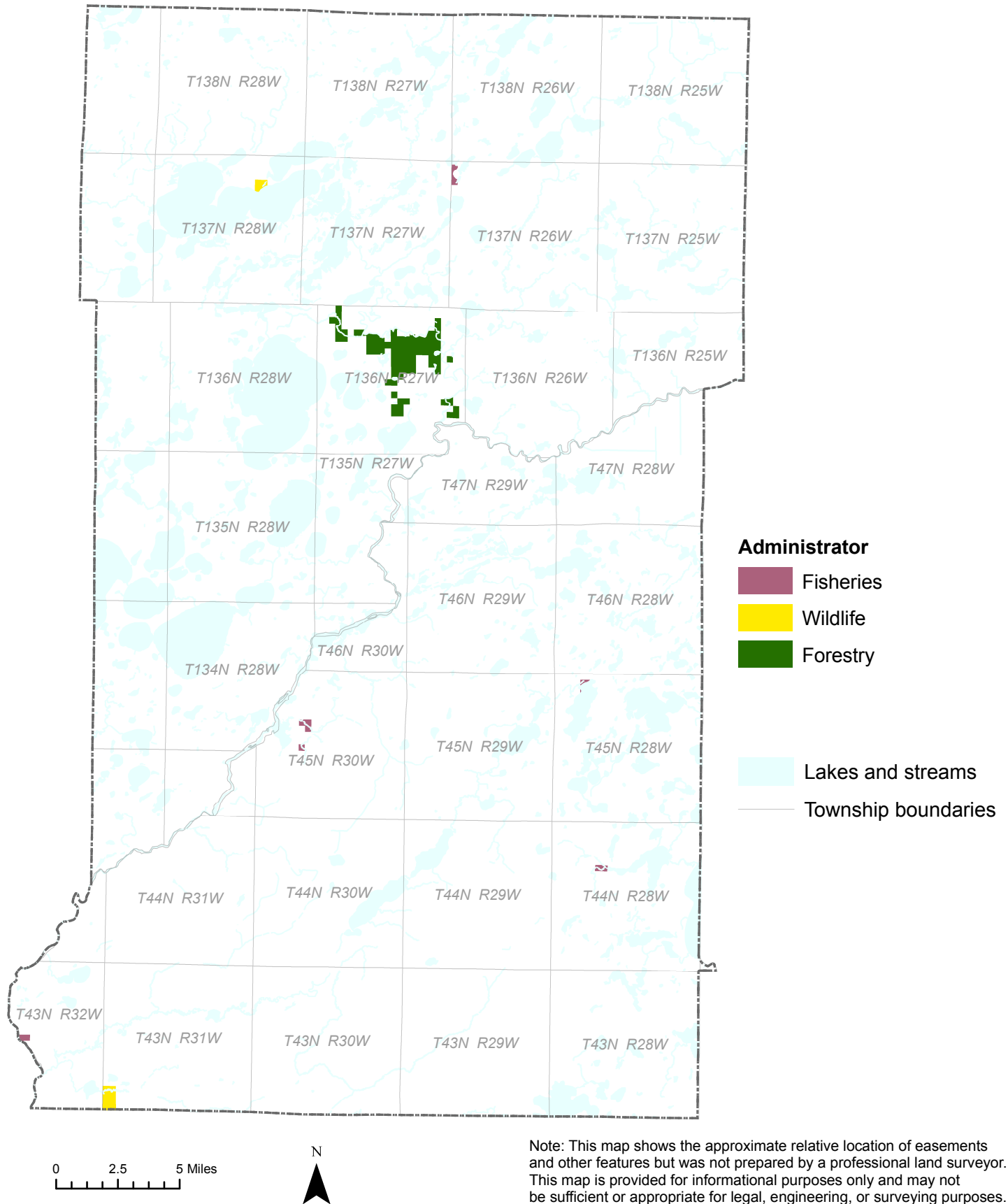
**APPENDIX**



# State-owned DNR-administered Conservation Easements

## Conservation Easements by Administrator

## Crow Wing County



Data sources follow the final map in this map series.

Map prepared February 2011.

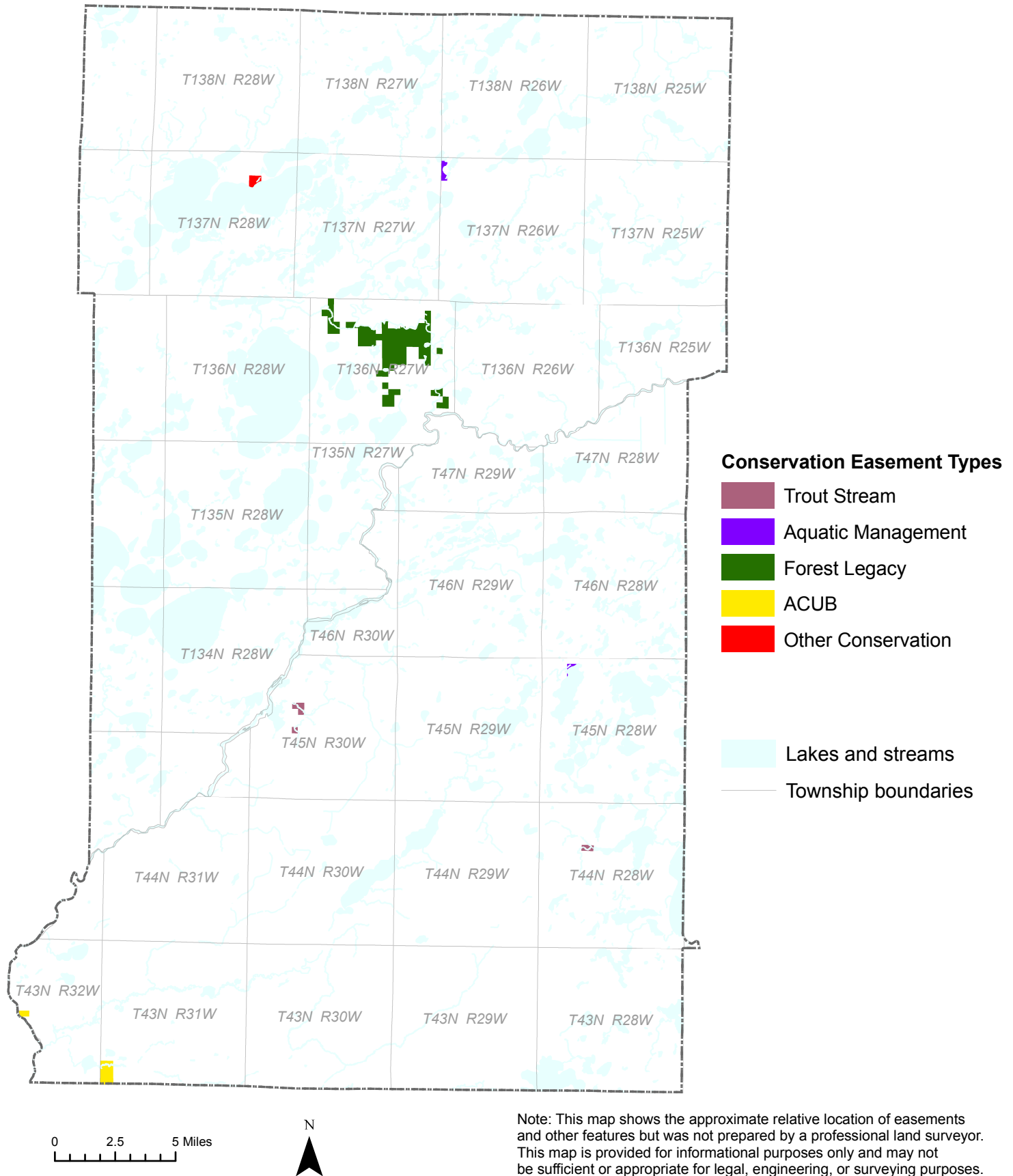
© 2011, State of Minnesota, Department of Natural Resources.

These data are obtained from DNR Land Records as of 2/2011. Easements are mapped to the Quarter-Quarter Section or government lot of the Public Land Survey and are not necessarily portrayed with their true boundaries. Easements that comprise less acreage than this unit of land are represented as an entire Quarter-Quarter Section or government lot.

# State-owned DNR-administered Conservation Easements

## Conservation Easements by Type

### Crow Wing County



Data sources follow the final map in this map series.

Map prepared February 2011.

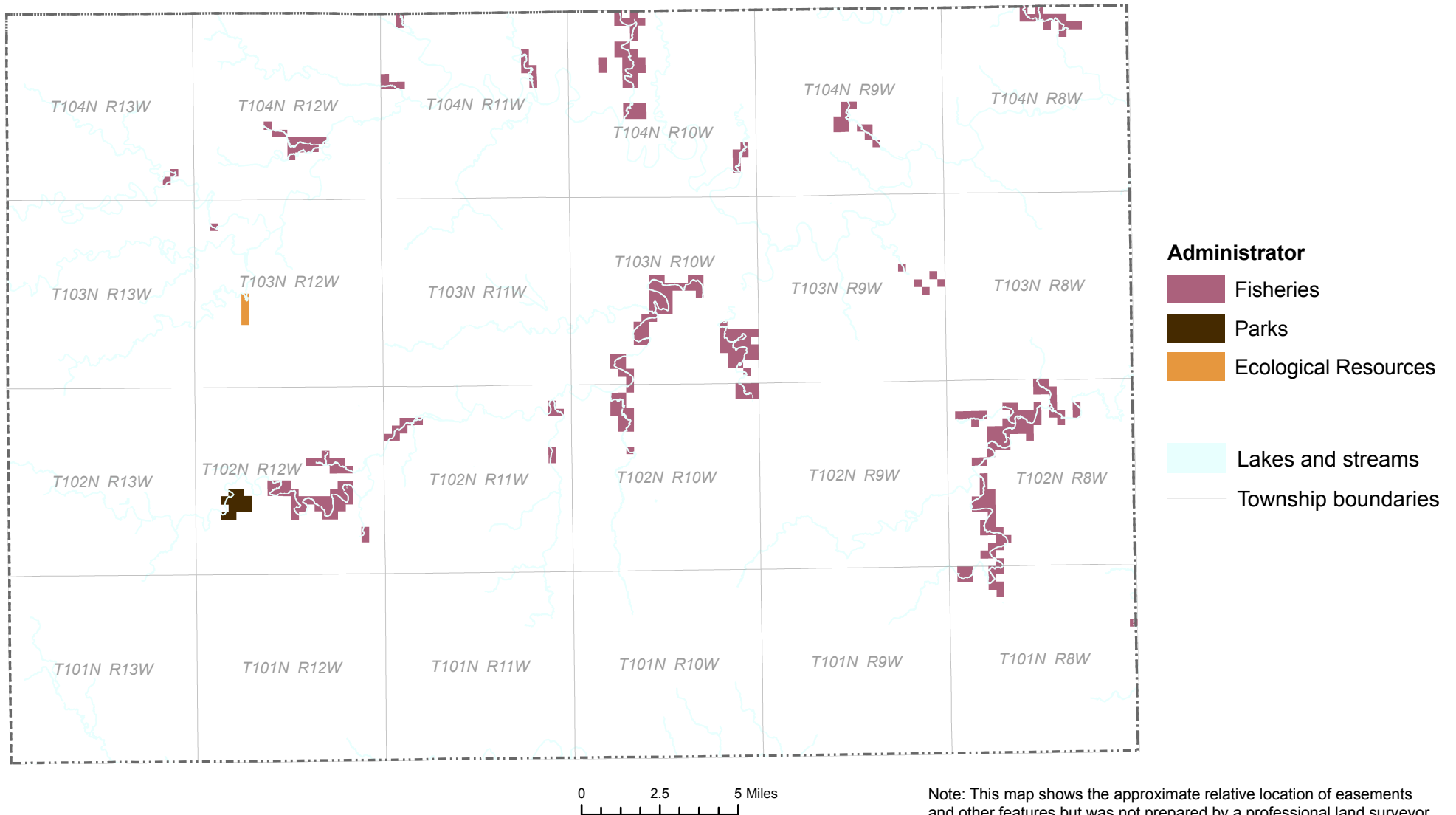
© 2011, State of Minnesota, Department of Natural Resources.

These data are obtained from DNR Land Records as of 2/2011. Easements are mapped to the Quarter-Quarter Section or government lot of the Public Land Survey and are not necessarily portrayed with their true boundaries. Easements that comprise less acreage than this unit of land are represented as an entire Quarter-Quarter Section or government lot.

# State-owned DNR-administered Conservation Easements

## Conservation Easements by Administrator

### Fillmore County



Data sources follow the final map in this map series.

Map prepared February 2011.

© 2011, State of Minnesota, Department of Natural Resources.

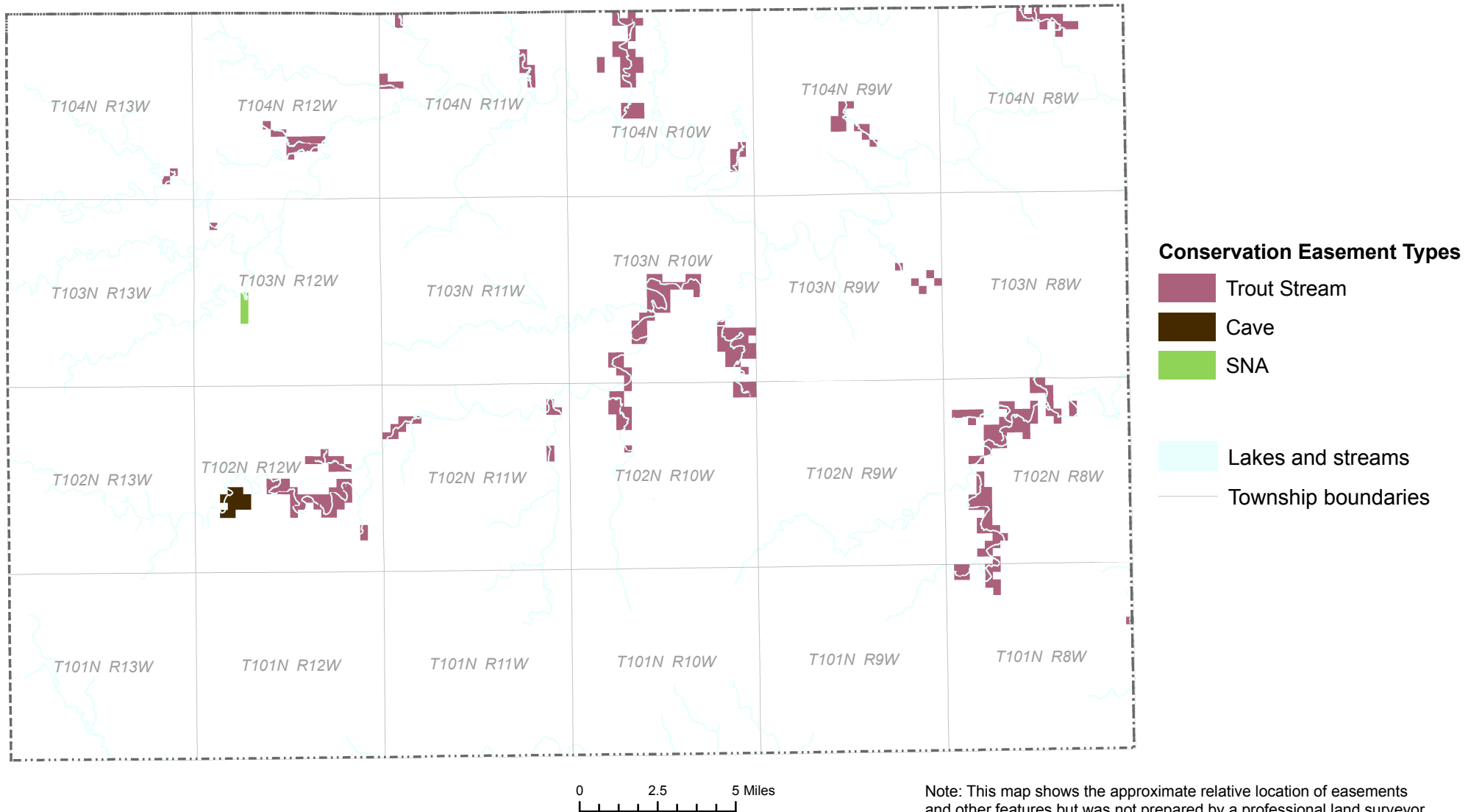
Note: This map shows the approximate relative location of easements and other features but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.

These data are obtained from DNR Land Records as of 2/2011. Easements are mapped to the Quarter-Quarter Section or government lot of the Public Land Survey and are not necessarily portrayed with their true boundaries. Easements that comprise less acreage than this unit of land are represented as an entire Quarter-Quarter Section or government lot.

# State-owned DNR-administered Conservation Easements

## Conservation Easements by Type

## Fillmore County



Data sources follow the final map in this map series.

Map prepared February 2011.

© 2011, State of Minnesota, Department of Natural Resources.

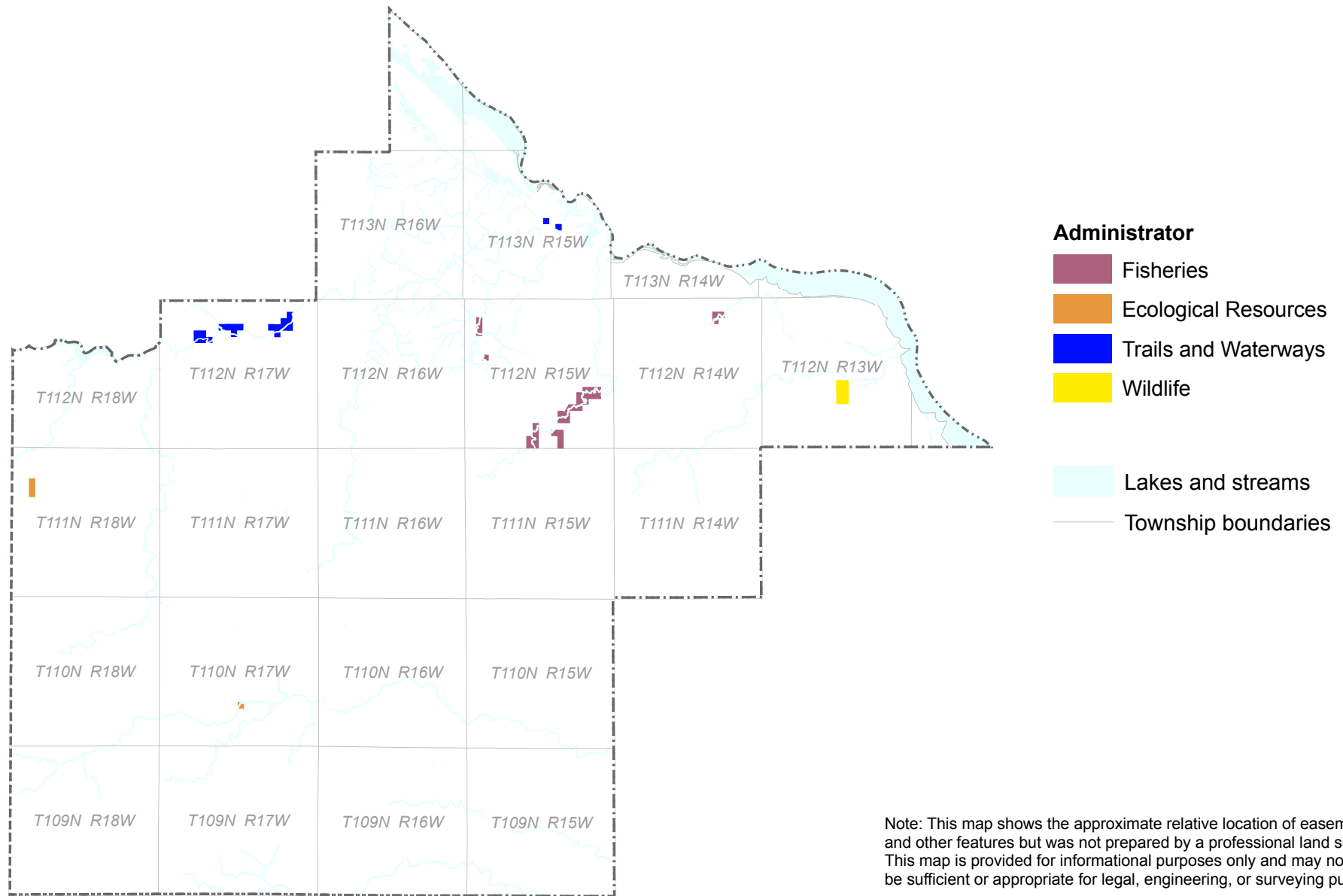
Note: This map shows the approximate relative location of easements and other features but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.

These data are obtained from DNR Land Records as of 2/2011. Easements are mapped to the Quarter-Quarter Section or government lot of the Public Land Survey and are not necessarily portrayed with their true boundaries. Easements that comprise less acreage than this unit of land are represented as an entire Quarter-Quarter Section or government lot.

# State-owned DNR-administered Conservation Easements

## Conservation Easements by Administrator

### Goodhue County



Note: This map shows the approximate relative location of easements and other features but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.

Data sources follow the final map in this map series.

Map prepared February 2011.

© 2011, State of Minnesota, Department of Natural Resources.



0 2.5 5 Miles

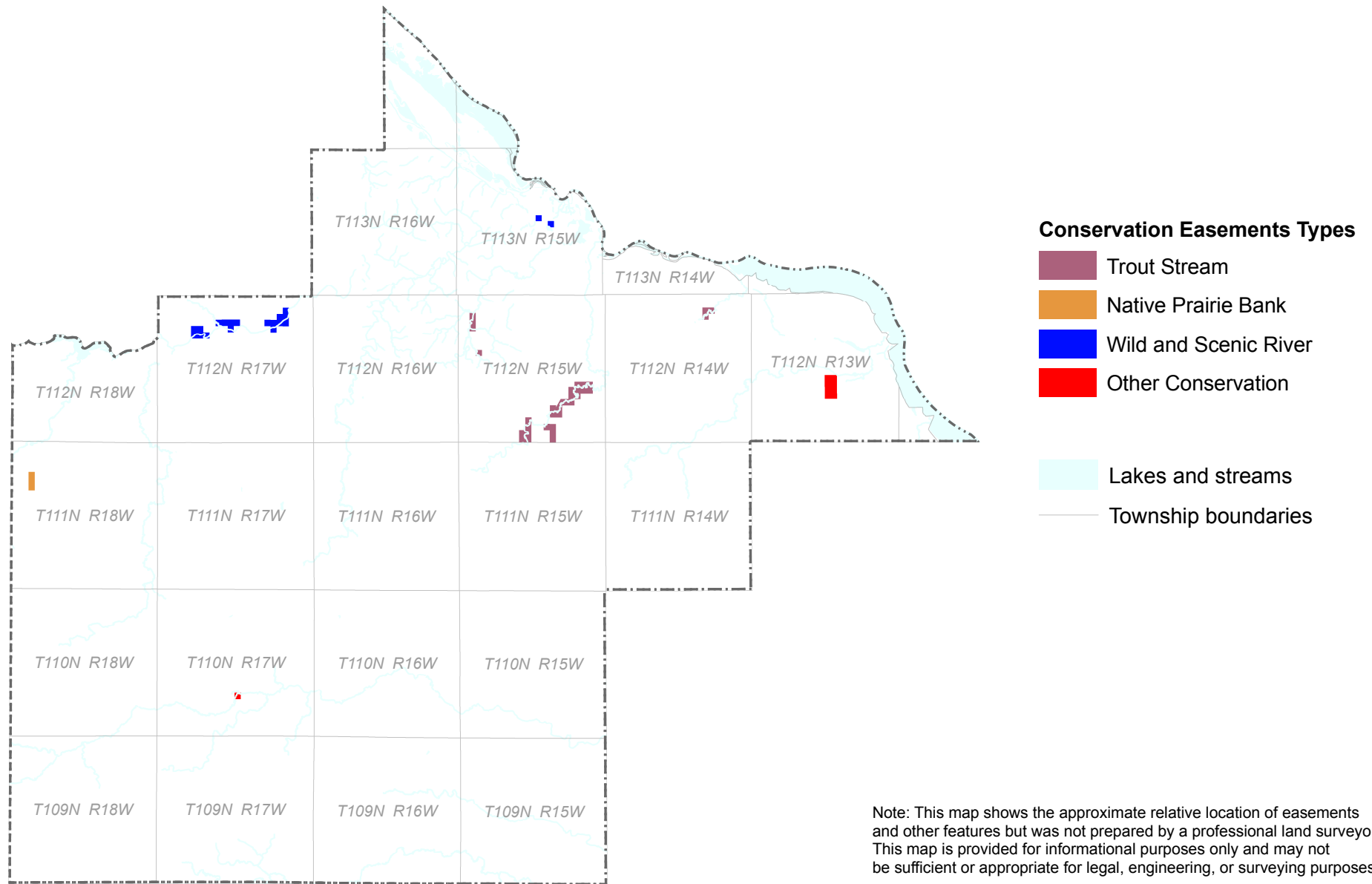
These data are obtained from DNR Land Records as of 2/2011. Easements are mapped to the Quarter-Quarter Section or government lot of the Public Land Survey and are not necessarily portrayed with their true boundaries. Easements that comprise less acreage than this unit of land are represented as an entire Quarter-Quarter Section or government lot.



# State-owned DNR-administered Conservation Easements

## Conservation Easements by Type

## Goodhue County



Data sources follow the final map in this map series.

Map prepared February 2011.

© 2011, State of Minnesota, Department of Natural Resources.



0 2.5 5 Miles

These data are obtained from DNR Land Records as of 2/2011. Easements are mapped to the Quarter-Quarter Section or government lot of the Public Land Survey and are not necessarily portrayed with their true boundaries. Easements that comprise less acreage than this unit of land are represented as an entire Quarter-Quarter Section or government lot.

## **State-owned DNR-administered Conservation Easements**

### **Map data sources for sample maps created with conservation easement data layers**

#### *Conservation Easement data:*

State Conservation Easements—MS Chapter 84C—Minnesota DNR, Division of Lands & Minerals, 2010. Scale 1:24000. Last updated 2/18/2011.

State Conservation Easements—MS Chapter 84C (no matches mapped to section)—Minnesota DNR, Division of Lands & Minerals, 2010. Scale 1:24000. Last updated 2/18/2011.

#### *Contextual data:*

DNR 24K Perennial Streams—Minnesota DNR, MIS Bureau, 2004. Scale 1:24000.

DNR 100K Lakes and Rivers—DNR Division of Fish & Wildlife, Fisheries Unit, 2002. Scale 1:100000.

Minnesota County Boundaries—Minnesota DNR, Minerals Division/Section of Wildlife, 2003. Scale 1:24000.

National Wetlands Inventory Geodatabase—Minnesota DNR, Division of Waters, 2009. Scale 1:24000.

Public Land Survey (PLS40) Geodatabase—Minnesota DNR, Division of Lands & Minerals, 2010. Scale 1:24000.



# **BASELINE PROPERTY REPORT** **AMA (Trout Stream) Easement** **DNR Managing Fisheries Office: \_\_\_\_\_**

Stream Name	County	Tributary Number	Parcel Number	Acquisition Date		Acquisition Number	
Stream Feet	One-sided Feet	Acreage	Width from Centerline	UTM Upstream		UTM Downstream	
				Easting	Northing	Easting	Northing

Geocode					DNR Document No.	County Document No.	PID
Twp	Section	Range	Forty	Govt' Lot			

Current Landowner	Address	Contact Number	Date	Comments
Original Landowner	Address	Contact Number	Date	Comments

Date of Report	Completed By	Site Visit By	Date of Site Visit	Photos Taken By

### Easement Terms and Description of Current Conditions

Paragraph No.	Term [Insert terms of the easement that is the subject of the report]	Current Condition [Describe the current property conditions, as they relate to the easement term]	Reference
	THE PURPOSE AND INTENT OF THIS EASEMENT IS TO:		
1	Permit the development of fish habitat in the above described area, including tree planting, fencing, erosion control, installation of instream structures, posting of signs and other improvements as are deemed necessary.		
2	Permit angling by the public in the above described area		
	FURTHER COVENANTING, THE GRANTOR, FOR ITSELF, ITS HEIRS, SUCCESSORS AND ASSIGNS:		
A	Shall not place or erect any structure or building in the easement area without prior written approval of the Grantee.		
B	Agree to cooperate in the maintenance and enhancement of fishing in the above described area by doing no excavating, filling, dumping, tree cutting, burning or changing of the stream course, without prior written approval of the Grantee		
C	Agree that existing tillage be set back in accordance with the County Shoreland Standards for agriculture lands along water bodies designated by the Commissioner of Natural Resources as trout waters and that no new tillage be initiated within the above described set back corridor <b>County Shoreland Setback is: _____</b>		

## **MAPS**

Map 1: Location Map [Shapefile of this easement showing its location on stream; location of other DNR lands, easements on stream, within area]

Map 2: Photopoint Map [Documenting location where photographer was standing]

Photographs [Photos should be saved/stored in original .jpg format, but also inserted in to the Word template for the report]

## **PHOTOGRAPHS**

Photographs need to be identified with the following information:

1. Date taken (This can be identified once for the entire set if all were taken on the same day.)
2. Photographer (This can be identified once for the entire set if all were taken by the same photographer.)
3. Unique identifier for each photo
4. Acquisition number (this may only need to be in the metadata, since the text part of the baseline will already identify the acquisition number)
5. Location (latitude/longitude or UTM coordinates)
6. Direction (this can be upstream or downstream)
7. Description (if necessary)



## ACKNOWLEDGEMENT OF PROPERTY CONDITION

AMA (Trout Stream) Easement  
Acquisition No. \_\_\_\_  
[Name], Original Landowner

**This Baseline Property Report accurately represents the current condition of the property.**

Current landowner's signature:	Signature and title of DNR representative:
Current landowner's name (please print):	DNR representative's name, title (please print):
This instrument was acknowledged before me on (date):	This instrument was acknowledged before me on (date):
By:	By:
Signature of Notary Public	Signature of Notary Public
Notary Stamp or Seal	Notary Stamp or Seal

### ***About the DNR Baseline Property Report Form and Annotated Instructions***

*This form is designed to be used for baseline property reports for all DNR conservation easement types except trout stream easements. The section headings identify the information that will generally be included in all reports. Some sections may not be applicable to a particular DNR conservation easement, and sections may need to be added for conservation easements on properties with unusual features. Remove or add sections as needed for a particular project.*

#### ***What is a baseline property report and what is its purpose?***

*A baseline property report documents, in text, photos and maps, the conditions of the Protected Property as they relate to each of the easement's terms. For example, if an easement term prohibits "new structures," the baseline would document the location and size of all existing structures on the Protected Property. The baseline report also documents the Protected Property's conservation values, i.e., the aspects of the property that make it worth protecting such as its native plant communities, geologic, hydrologic or scenic features. The content of a baseline report should be specific and measurable. The report should:*

- *Serve as an information resource for future DNR staff and future owners of the Protected Property;*
- *Support future monitoring activities by enabling the monitor to detect changes to the property by comparing current conditions with the conditions documented in the report; and*
- *Allow the easement to be enforced in the event of a violation without reference to external materials, to the extent possible.*

#### ***Baseline property reports for new conservation easement acquisitions***

*Baseline property reports for new conservation easements should be prepared during the acquisition process and signed by the landowner and DNR at the closing. The baseline report should include information sufficient to establish the condition of the property at the time the DNR acquires the conservation easement.*

#### ***Baseline property reports for existing conservation easements***

*DNR is in the process of preparing baseline property reports for conservation easements it currently holds, some of which are years or decades old. Baseline reports for these properties should document the current condition of the property, rather than reconstruct conditions that existed at the time the easement was acquired. You may include historical documentation (e.g., old photographs, historical FSA maps, old plant lists) in an appendix, but such materials should be clearly marked as historical.*

#### ***How do I use this form?***

*This form provides step-by-step instructions for preparing a baseline property report. In addition to using these instructions, review an example of a completed report for your specific easement type.*

#### ***Italicized and blue text***

*Instructions in the form are written in **italicized** text. Delete all instructions before you complete your report.*

*A few examples are included. They are in **italicized blue** text. Delete and replace these sections with the applicable text of your report.*

### **Headings**

*If a heading is not applicable to the easement that is the subject of your report, delete it and re-number other headings accordingly. Add a new heading for each non-standard section that is necessary to document the condition and conservation values of a property.*

### **Tables**

*For ease of reading the report, format tables so that each table is included on a single page.*

### **Photographs**

*Photographs should (1) show key and representative features of the property that are protected by the conservation easement; and (2) document conditions relevant to the conservation easement's terms. All photographs should be labeled with the photopoint number or letter, photopoint locations and a description of what is shown in the photograph.*

### **Maps**

*Maps will be created by the user off system in ArcMap. Templates, tools, and instructions for creating standardized baseline report maps can be found at V:\core\lam\projects\easecapture\BaselineTemplates (in the Central Office) or at \\156.98.35.69\gis\core\lam\projects\easecapture\BaselineTemplates for those not in Central Office. Maps will be exported in PDF format and manually incorporated into the baseline property report.*

### **Appendices**

*Attach the conservation easement itself as Appendix A. Include additional appendices (Appendix B, C, D, etc.) for historical material such as old photographs, old FSA aerial maps, old plant lists, etc.*

### **Avoid redundancy**

*Avoid redundancy in the report to the greatest extent possible by stating the information once in the appropriate section then referring to that specific section as necessary in other sections.*

### **Quality Control**

*Ask a co-worker to proofread your baseline before it is finalized.*

### **Finalizing the Report**

Once completed, the text, photos and maps should be converted to PDF documents and put together. It is easiest to put page numbers on the completed report using Adobe Acrobat.

## MINNESOTA DEPARTMENT OF NATURAL RESOURCES BASELINE PROPERTY REPORT

Cover page:

1. Use the heading at the top;
2. Insert the best photo of the site in the center of the page;
3. As illustrated below, in the lower left-hand corner of the page:
  - a. List the name of the easement, followed by the easement type (native prairie bank, aquatic management area, forest legacy, etc.) on the top line
  - b. List the parcel number and, in parentheses, the total number of parcels, on the second line (for example, Parcel 1 (of 3))
  - c. List all original landowners (i.e., the person or persons who conveyed the easement to the DNR)
  - d. The bottom line should state: "Original Landowner(s)"
4. Include the DNR seal in the lower right corner – see below

Lakeside 30-1 Native Prairie Bank Easement  
Parcel 1 (of 1)  
Joyce Christensen,  
Donald and Esther Kalash,  
Ronald and Monica Maurer,  
Alan and Linda Staples,  
Kim and Terry Anderson,  
Original Landowner(s)



**Comment [m1]:** Automatic: Easement Name—  
populate from system

**Comment [m2]:** Automatic: Easement Type--  
opulate from system

**Comment [m3]:** Automatic: Parcel number and  
number of parcels—Populate from system

**Comment [m4]:** Automatic: Landowner name(s)  
--Populate from system

## DNR INFORMATION COVER SHEET

<b>COUNTY</b>	<i>Name of county</i>			
<b>CONSERVATION EASEMENT TYPE</b>	<i>(ACUB, AMA, native prairie bank, etc.)</i>			
<b>CONSERVATION EASEMENT ADMINISTRATOR</b>	<i>Division or section of the DNR responsible for administering easement after it closes</i>			
<b>GEOCODE (TRACT 1)</b>				
<b>TWP</b>	<b>RANGE</b>	<b>SECTION</b>	<b>FORTY</b>	<b>GOV'T LOT</b>
<i>105N</i>	<i>35W</i>	<i>30</i>	<i>NENE, SENE</i>	
<b>GEOCODE (TRACT 2) <i>Only necessary if there are two tracts</i></b>				
<b>TWP</b>	<b>RANGE</b>	<b>SECTION</b>	<b>FORTY</b>	<b>GOV'T LOT</b>
<i>105N</i>	<i>35W</i>	<i>19</i>	<i>NENE, SESE, SENE</i>	
<b>ACQUISITION NO.</b>	<i>137720 This is the number assigned by the Division of Lands and Minerals when an acquisition fact sheet is submitted.</i>			
<b>COUNTY DOCUMENT NO.</b>	<i>253501 This is assigned by the county when the easement is filed. This number will not yet be available for baseline reports prepared during the acquisition process to be signed at closing. For those easements, delete this row.</i>			
<b>DATE FILED</b>	<i>The date the document was filed at the county This number will not be available for baseline reports prepared during the acquisition process to be signed at closing. For those easements, delete this row.</i>			
<b>DNR DOCUMENT NO.</b>	<i>NPB0000276 This is the number assigned by the Division of Lands and Minerals after finalization. This number will not be available for baseline reports prepared during the acquisition process to be signed at closing. For those easements, delete this row.</i>			
<b>REPORT COMPLETED BY</b>	<i>List name(s) and job title(s) of person(s) who wrote the baseline property report.</i>			
<b>DATE</b>	<i>Date the baseline property report was completed</i>			
<b>SITE VISIT BY</b>	<i>List name(s) and job title(s) of person(s) who visited the site to gather information to write the report.</i>			
<b>DATE</b>	<i>Date(s) of the site visit(s)</i>			
<b>PHOTOGRAPHS TAKEN BY</b>	<i>List name(s) of person(s) who took the photos included in this baseline property report.</i>			
<b>DATE</b>	<i>Date(s) of photos</i>			

**Comment [m5]:** Automatic: Populate from system

**Comment [m6]:** Automatic: Populate from system

**Comment [m7]:** Automatic: Populate from system

**Comment [m8]:** Automatic: Populate from system

**Comment [m9]:** Automatic: Populate from system

**Comment [m10]:** Automatic: Populate from system



Take out unnecessary Table of Contents headings and add others as necessary. Check back at the end of the writing process to assign page numbers.

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2. Transaction Information.....	
F. Conservation Values .....	
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2. Specific Property Attributes.....	
G. Conservation Easement Terms and Current Conditions.....	
H. Existing Management or Stewardship Plans .....	
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Supplemental Definition of Map Symbols .....	
Map Data Sources.....	
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**APPENDIX** (The Conservation Easement will be Appendix A. Add other appendices for any historical or other material that documents the conservation values of the protected property and would be helpful to future monitors of the easement. Examples of such information include old plant surveys, animal surveys, etc.)

- A. Conservation Easement.....
- B. ....

### ACKNOWLEDGEMENT OF PROPERTY CONDITION

Easement name followed by the easement type

Parcel \_\_ (of \_\_)

Acquisition No.

List landowners vertically

*The following is a standard signature section including room for a notary signature and stamp. When landowners will be signing the document at the same time (such as a married couple) then add one notary for the two people. If landowner will be signing at separate times, provide a notary space for each signature. Some landowners of existing easements may not be willing to sign an Acknowledgment. In such cases, omit the landowner signature block, but still have the appropriate DNR representative sign.*

*Copy as many of these sections that are needed for all of the landowners to sign.*

**This Baseline Property Report accurately represents the current condition of the property.**

Landowner signature: \_\_\_\_\_

Landowner name (please print): \_\_\_\_\_ Date: \_\_\_\_\_

This instrument was acknowledged before me on (date): \_\_\_\_\_

By: \_\_\_\_\_

Signature of Notary Public

Notary Stamp or Seal

*The following section is the signature and notary section for DNR staff to sign indicating that they attest that the information contain within this report is true.*

Minnesota Department of Natural Resources

By: \_\_\_\_\_  
(Signature and title of DNR representative)

DNR representative's name, title (please print): \_\_\_\_\_

Date: \_\_\_\_\_

This instrument was acknowledged before me on (date): \_\_\_\_\_

By: \_\_\_\_\_

Signature of Notary Public

Notary Stamp or Seal

**Comment [m11]:** Automatic: Populate easement name and type from system.

**Comment [m12]:** Automatic: Populate from system

**Comment [m13]:** Automatic: Populate from system

*This Definitions section can be modified to include specific terms or references that might be helpful to any reader, but especially the landowner and future monitors. Review and modify the list as necessary. Delete definitions that are not relevant to your baseline property report. Define any words used in the baseline property report that have specialized meanings or are unique to the DNR.*

#### **Definitions:**

**Baseline Property Report** – A record containing text, maps and photographs that documents the conservation values of the protected property and the conditions of the property in relation to the conservation easement’s terms. The baseline property report is signed by the landowner and the easement holder (State of Minnesota) and is used to monitor and enforce the conservation easement.

**Conservation Easement** – The agreement between the Original Landowner(s) and the State of Minnesota to protect the conservation values of the Protected Property.

**Conservation Values** – The environmental aspects of the land that make it worth protecting.

**Management or Stewardship Plan** – A plan that guides how land will be managed to protect its conservation values.

**Minnesota County Biological Survey** – The Minnesota County Biological Survey (MCBS), which is administered by the DNR’s Ecological and Water Resources Division, began in 1987 as a systematic survey of Minnesota’s rare biological features. The goal of MCBS is to identify significant natural areas and to collect and interpret data on the distribution and ecology of rare plants, rare animals, and native plant communities.

**Original Landowners** – [Joyce Christensen, Donald and Esther Kalash, Ronald and Monica Maurer, Alan and Linda Staples, Kim and Terry Anderson,](#) who granted the Conservation Easement to the State of Minnesota.

**Comment [m14]:** Automatic: Populate from system

**Photopoints** – The locations where the photographer was standing when [she](#) took photographs that are contained in this Report. Photopoints are shown on Map [8](#) and are referenced in the photograph labels.

**Protected Property** – The property that is subject to the terms and conditions of the Conservation Easement.

**Species in Greatest Conservation Need (SGCN)** – Animal species whose populations are rare, declining, or vulnerable in Minnesota and meet one or more of five criteria listed in [Tomorrow’s Habitat for the Wild and Rare: An Action Plan for Minnesota Wildlife, Comprehensive Wildlife Conservation Strategy](#). Division of Ecological Services, Minnesota Department of Natural Resources 2006. The criteria can be found at the following web address:

[http://files.dnr.state.mn.us/assistance/nrplanning/bigpicture/cwcs/chapters\\_appendix/appendix\\_a.pdf](http://files.dnr.state.mn.us/assistance/nrplanning/bigpicture/cwcs/chapters_appendix/appendix_a.pdf)

**Threatened Species (state definition)** – A species is considered **threatened** if the species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range within Minnesota.

**Threatened Species (federal definition)** – An animal or plant species likely to become endangered within the foreseeable future throughout all or a significant portion of its range.

## **I. PROTECTED PROPERTY OVERVIEW**

### **A. Protected Property Location and Context**

*This section describes the location and the general layout of the Protected Property. Refer to the appropriate map(s). Information in this section should include:*

1. *Location of the easement:*
  - a. *Within the county*
  - b. *In relation to the nearest town*
  - c. *In relation to other significant geographic features such as rivers, etc.*
2. *Configuration:*
  - a. *Is there more than one discrete parcel/tract in the easement?*
    - i. *If there are multiple parcels/tracts, explain how they will be named in the baseline report.*
  - b. *Does the easement permit subdivision of the Protected Property?*
    - i. *If so, are there limitations on how it can be subdivided?*
3. *Ownership context:*
  - a. *Does owner of the Protected Property own more land (such as a farm) surrounding the easement*
4. *Context of protection:*
  - a. *What are the uses of surrounding lands?*
  - b. *Are there other protected lands in the vicinity?*
    - i. *If so, in what way are they protected (e.g., State Parks, WMA's other conservation easements)*

*Refer to the appropriate maps.*

### **B. Ownership Information**

*If the Protected Property has changed hands since DNR acquired the easement, this section should state who the original landowner was, who owns the property now and when the current owner acquired the property.*

*Describe how the land is currently owned (contact for deed, fee title, etc.) and by whom.*

List each current landowner separately in the table below. Save information about other contacts for the land (e.g., children, siblings, hunting buddies) and history of how DNR came to own an easement on this land for the “History of Transaction” section below.

Landowner(s) If the original landowner still owns the property the caption should be “Original Landowner.” Otherwise, use “Current Landowner.”	Address, City, State, Zip Code	Phone Number

**Comment [m15]:** Automatic: This will be system generated for new acquisitions.

## C. Legal Description, Acreage, Property Tax ID Number(s)

### 1. Legal Description and Acreage

Insert the legal description of the property protected by the easement. If the legal description is lengthy, refer to the description in the attached conservation easement (Exhibit A) in order to avoid errors in re-writing the description.

**Comment [m16]:** Automatic: Populate from system for new acquisitions.

If the legal description was written by a DNR staff member (e.g., member of the Survey Unit), include that person’s name, title and date after the description. State how the legal description was derived (i.e., by survey or other means).

Give the acreage of the protected property. Explain whether the acreage is a total of more than one tract. **Example:** The Protected Property consists of two discrete tracts of land containing a total of approximately 39.71 acres, more or less.

**Comment [m17]:** Automatic: Populate acreage from system for new acquisitions.

### 2. Property Tax ID Number(s)

Property tax ID numbers will help DNR track changes in ownership of the Protected Property.

List all Property Tax ID numbers that are encumbered by the conservation easement. Sometimes there will be two or more ID numbers. In other cases, the Protected Property will only comprise a portion of the property that is covered by an ID number.

The following property tax ID numbers are encumbered by the Conservation Easement:

Property Tax ID No.

**Comment [m18]:** Automatic: Populate Property Tax ID Nos. from system.



## D. Directions and Access to the Protected Property

*Describe how to get to the site from the nearest town, or from the location most people would come from when they monitor the site and how to reach DNR's legal access, other access points, or both, if applicable.*

**Legal access:** *If DNR acquired an access easement to the Protected Property, describe the access easement, its location in relation to the Conservation Easement and explain how to get to the access easement. Refer to the appropriate map.*

**Other access points:** *If there are other ways to access the Protected Property that are likely to be used by a monitor (e.g., from a road, from state-owned property, or permissive access through private property) also describe and give directions to the Conservation Easement using such access points. State whether permission from a private landowner is required before using such access. Refer to the appropriate map.*

## E. Conservation Easement Transaction

### 1. History of Transaction

*This section explains how the Conservation Easement came into being and gives a timeline of the negotiation process. It can provide nice background for future owners and DNR monitors of the property. Topics covered in this section, if known, should include:*

- *Historical uses of the property (e.g, farm land, hunting land)*
- *The landowner's reasons for wanting to protect the property*
- *When and how the negotiations for the easement began*
- *The people involved in the negotiations (including DNR staff)*
- *Any significant issues that affected or were discussed during the negotiations*
- *Any past boundary issues or issues pertaining to neighboring land*

### 2. Transaction Information

<b>Transaction type</b>	<i>Purchased, donated, etc.</i>
<b>Closing date</b>	<i>Date the CE was closed by the DNR</i>
<b>Purchase price</b>	<i>The amount that DNR purchased the easement for</i>
<b>Easement value</b>	<b>Amount:</b> <b>Determined by:</b> <i>This will either be appraisal or formula</i>
<b>Law(s) Authorizing Acquisition</b>	<i>This is a citation to the DNR's statutory authority to acquire the easement</i>
<b>Funding Source(s)</b>	<i><a href="#">Example: 2006 bonding</a></i>
<b>Law(s) Appropriating Funding</b>	<i>The law(s) that appropriated the funds to DNR for the acquisition</i>

## **F. Conservation Values**

*This section describes the conservation values associated with the property—the reasons the property is being protected. "Conservation values" translate the physical/ecological attributes of the property into public benefits associated with protection.*

### **1. Overview of Conservation Values**

*This subsection provides the “big picture” of the Protected Property’s conservation values. Subsection 2 will flesh this out with specific details. The overview should closely follow the values defined in the easement but may be more expansive. Refer to the easement as necessary.*

- *Reference any maps and specific photographs that are included in the report illustrating the conservation value(s).*
- *Avoid redundancy in other sections by referring to this description rather than repeating the same information.*

*Examples of the types of conservation values to be described in this subsection are:*

*Natural area and habitat values*

- *What type(s) of ecosystem(s) are found on the Protected Property? (Use the classifications in Field Guide to the Native Plant Communities of Minnesota.)*
- *What species of wildlife inhabit the Protected Property or for what species is this type of property known to provide habitat? Reference any species that are endangered, threatened or of special concern. (Detailed information, such as wildlife lists, will be in subsection 2.)*
- *What native plant communities are found on the Protected Property? Are they rare or threatened?*
- *Are individual plant species found on the Protected Property endangered, threatened or of special concern?*

*Scenic or open-space values*

*Historical, architectural, archeological or cultural values*

*Public benefits*

- *Will the Conservation Easement provide public access for hunting, fishing or other forms of outdoor recreation?*
- *Will protection of the property maintain or enhance air or water quality?*

*Economic benefits*

*Scientific or educational values*

*Other purposes/benefits of the Conservation Easement*

- *Did the Legislature or another governmental entity create a program specifically designed to protect this type of property through the acquisition of conservation easements (e.g., ACUB, the Minnesota Forests for the Future Program, the Prairie Bank Program)? If so, cite the relevant statutory authority, and explain the history, purpose and benefits intended by such a program.*

## **2. Specific Property Attributes**

*This subsection should provide details about the broad conservation values described in subsection 1. Add subheadings (e.g., Plants, Wildlife, Geologic Features) where appropriate.*

*Examples of the types of information that should be included are:*

- *Findings from any MCBS or other ecological evaluations. Include the date of the evaluation, professional references and supporting materials to validate the findings.*
- *Land cover types*
- *Natural communities*
- *Significant geologic features*
- *Plant and animal species identified on the Protected Property. If possible, include the dates of observation, common and scientific names and name and job title and/or professional qualifications of the observer. (Plant and animal lists can be inserted into this subsection or attached in the Appendix if they are lengthy or historical.)*
- *Observations made during the site visit conducted for the baseline report, including lists of plants and animals observed on that date*
- *Identify any relevant status of natural communities or species (e.g., endangered, threatened, of special concern, regionally or locally significant habitat, etc. and who/what determines this status).*
- *Note, if appropriate, how the specific make-up of the property may change over time but identify the essential characteristics that will remain.*
- *Refer to maps, photos as necessary*

G. Conservation Easement Terms and Current Conditions			
Term No.	Easement Term	Current Condition	Reference(s)
Paragraph nos. of the easement terms to be monitored	Language of the easement term. Only include terms that can be <b>field-verified</b> and that involve the <b>landowner's side</b> of the agreement (i.e, restrictions on what the landowner can do with the property) .	Describe the current conditions that relate to the specific easement term. This is really the key component of the baseline property report text, as future monitors will be relying on these descriptions to detect changes to these conditions over time. Refer to maps, photos or other portions of the report as necessary to provide a complete and accurate description.	Refer to relevant maps and/or photos
1.A.	The Grantors agree that there shall be "[n]o topographic changes or alteration of the natural landscape within or upon said premises by excavation, cultivation, drainage, filling, or any other means without a written authorization from the Commissioner of Natural Resources."	<b>Example:</b> Both parcels of the Protected Property contain rolling hills with moderate slopes (Maps 3, 4). The northeast corner of Tract 1 contains a northeast-facing slope, and an intermittent stream running almost parallel to the eastern boundary the northernmost third of the tract. A ridge runs east of center through the southern two-thirds of the wider part of Tract 2. The western boundary of Parcel 2 intersects a wetland/marsh.	<b>Example:</b> (Maps 3, 4), Photos 1, 2
1.B	The Grantors agree that there shall be "[n]o other structures or devices, whether permanent or temporary, hereafter constructed or placed on the premises without a written authorization from the Commissioner of Natural Resources."	<b>Example:</b> A barbed-wire fence that existed at the time the State of Minnesota acquired the Conservation Easement runs from the southeast corner of Tract 1 in a northwesterly direction through part of the Protected Property. There are no other structures or devices on the Protected Property itself.  If there are existing structures such as buildings within the Protected Property, give the measurements and square footage of each and describe the location. Structures should be photographed and mapped, and references given to the photos/maps.	<b>Example:</b> Photos 9-12

**Comment [m19]:** Automatic: Populate from system

**Comment [m20]:** Automatic: Populate from system. These will generally be the easement terms from the "Covenants" section.

## **H. Existing Management or Stewardship Plans**

*Provide the following information:*

- *Does the Conservation Easement require a management or stewardship plan?*
- *Has a management or stewardship plan been prepared? If yes:*
  - *Who prepared it?*
  - *When was it prepared?*
  - *Where is it located?*
- *For existing conservation easements with a management or stewardship plan:*
  - *Explain whether and how the plan has been implemented*

## **I. Other**

*List any other important information here (change the caption as necessary) or delete this section.*

## **Sources Used to Compile Protected Property Overview:**

*List the sources used to compile the information in the baseline property report.*

*Examples of the types of source material to cite:*

- *Correspondence*
- *Databases (e.g., Natural Heritage Information System; USDA, NRCS Plants Database)*
- *Field guides (e.g., DNR's Field Guides to Native Plant Communities of Minnesota)*
- *Interviews of landowners, including date and name of person doing the interview*
- *Material from acquisition files (for existing easements)*
- *Websites*

*[PREPARE MAPS WITH ArcMAP AND INSERT STARTING ON THE FOLLOWING PAGE]*

*[INSERT PHOTOGRAPHS AFTER THE MAPS.]*

*Photo Labels:*

*Photopoint*

*Unique Photo ID*

*Location (UTM Coordinates, Lat./Long. or description from landmarks)*

*Description & direction: (A description of what is in the photo including the direction the photographer was facing when the photo was taken).*

*Date of photo (The photo date(s) can be referenced in an introduction, and do not need to be included in each separate label)*

*Name of photographer (Photographer name(s) can be referenced in an introduction, and do not need to be included in each separate label) For example: [All photographs in this report were taken by Melissa Driscoll on 10.15.10.](#)*



# MONITORING FORM

## AMA (Trout Stream) Easement

Managing Fisheries Office: \_\_\_\_\_

Stream Name		County		Tributary Number		Parcel Number		Acquisition Date		Acquisition Number	
Stream Feet		One-sided Feet		Acreage		Width from Centerline		UTM Upstream		UTM Downstream	
								Easting	Northing	Easting	Northing
Geocode				DNR Document No.		County Document No.			PID		
Twp	Section	Range	Forty	Gov't Lot							

General Information				Monitor Information				Current Landowner			
Monitoring Date:				Monitor Name:				Name:			
Baseline Report:		<input type="checkbox"/> Yes	<input type="checkbox"/> No	Monitor Title:				Address:			
Date of Baseline Report:				Phone:				City:		MN	Zip:
Date of First Monitoring Visit:				Email:				Contact Number:			
Date of Previous Monitoring Visit:				Address:				Date:			
Monitoring Interval:				City:		MN	Zip:	Comments:			

Directions to Property		Location of Access			Monitor's Observations		
					Signs in place?		<input type="checkbox"/> Yes <input type="checkbox"/> No
					Pastured?		<input type="checkbox"/> Yes <input type="checkbox"/> No
					Stiles?		<input type="checkbox"/> Yes <input type="checkbox"/> No
					Was landowner or representative present during the monitoring visit?		<input type="checkbox"/> Yes <input type="checkbox"/> No
		Access Type	<input type="checkbox"/> Legal	<input type="checkbox"/> Informal	Comments:		



### Compliance with Easement Terms

	Term	Are there any concerns about compliance?	IF YES, EXPLAIN, PHOTOGRAPH AND GIVE LOCATION
	THE PURPOSE AND INTENT OF THIS EASEMENT IS TO:		
1	Permit the development of fish habitat in the above described area, including tree planting, fencing, erosion control, installation of instream structures, posting of signs and other improvements as are deemed necessary.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2	Permit angling by the public in the above described area	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	FURTHER COVENANTING, THE GRANTOR, FOR ITSELF, ITS HEIRS, SUCCESSORS AND ASSIGNS:		
A	Shall not place or erect any structure or building in the easement area without prior written approval of the Grantee.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
B	Agree to cooperate in the maintenance and enhancement of fishing in the above described area by doing no excavating, filling, dumping, tree cutting, burning or changing of the stream course, without prior written approval of the Grantee	<input type="checkbox"/> Yes <input type="checkbox"/> No	
C	Agree that existing tillage be set back in accordance with the County Shoreland Standards for agriculture lands along water bodies designated by the Commissioner of Natural Resources as trout waters and that no new tillage be initiated within the above described set back corridor <b>County Setback is:</b> _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	

## Monitor's Summary and Compliance Assessment

Monitoring Date:	<b>Compliance Assessment</b>	<b>Summary of Monitoring Visit</b>
Monitor Name:	Based on your knowledge of the easement and your observations from monitoring, are the terms of the easement being met? <input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>Pending</b> (need additional information) <input type="checkbox"/> <b>No</b> (possible violations observed)	
Title		
Phone:		
Email:		
Address:		
City:		

<b>Required Next Action(s)-check all that apply</b>	<b>Notes or Summary of Next Action Items or Enforcement</b>
<input type="checkbox"/> Send standard follow-up letter/routine monitoring at next regularly scheduled visit	
<input type="checkbox"/> Schedule management review for pending/possible violation	
<input type="checkbox"/> Schedule management visit	
<input type="checkbox"/> Contact area supervisor	
<input type="checkbox"/> Prepare corrective action plan	
<input type="checkbox"/> Other	

<b>Photographs</b> (including the following)	<b>List of Attachments</b>	
Photo # or unique identifier Photographer Date taken UTM Coordinates for each photo Direction (can be upstream/downstream) Description  If multiple photos are taken, create a photopoint map	List any documents that were collected or prepared in connection with the monitoring visit and are scanned.	
	<b>Monitor Signature:</b>	<b>Date:</b>



## CONSERVATION EASEMENT MONITORING FORM

GENERAL INFORMATION	MONITOR INFORMATION
Conservation Easement Type:	Monitoring Date:
Project Name:	Monitor Name:
Acquisition Number:	Title:
Acquisition Date:	Phone:
DNR Document No:	Email:
County Document Number:	Address:
Baseline Report: <input type="checkbox"/> Yes <input type="checkbox"/> No	City:      State: <b>MN</b> Zip:
Date of Baseline Report:	
Date of First Monitoring Visit:	Monitor Name:
Date of Previous Monitoring Visit:	Title:
Monitoring Visit Interval:	Phone:
	Email:
	Address:
Parcel No(s) & Acreages:	City:      State: <b>MN</b> Zip:
	<b>COMPLIANCE ASSESSMENT</b>
	Based on your knowledge of the easement and your observations from monitoring, are the terms of the easement being met
	<input type="checkbox"/> <b>Yes</b>
	<input type="checkbox"/> <b>Pending</b> (need additional information)
	<input type="checkbox"/> <b>No</b> (possible violations observed)

PROPERTY TO BE MONITORED						
Has the property been surveyed?			<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Are the easement boundaries marked by signs?			<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Is there a management or other plan in place?			<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Is all land included in the easement to be monitored?			<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Street Address(es) of Property to be monitored if available (approximate if necessary):						
Directions to Property:						
Location of Legal Access and Informal Access Points:						
GEOCODES and PID's of the property to be monitored:						
County	Co PID	Township	Range	Section	Forty	Gov't Lot

CURRENT LANDOWNER(S) & CONTACT INFORMATION		
Full Name:		
Full Address:		
Phone 1:	Ext	Type:
Phone 2:	Ext	Type:
Email Address:		
<input type="checkbox"/> Landowner	<input type="checkbox"/> Representative	<input type="checkbox"/> Primary Contact
Has Landowner/Representative been contacted?		
		<input type="checkbox"/> Yes <input type="checkbox"/> No

Did Representative accompany Monitor on site visit?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
If No, how was information provided to Monitor?		
<input type="checkbox"/> By phone (date: )	<input type="checkbox"/> In writing (date: )	<input type="checkbox"/> By email (date: )
<input type="checkbox"/> Other (describe)		

	QUESTIONS FOR LANDOWNER/REPRESENTATIVE	Answer	Comments
1	What is the current use of the protected property?		
2	Are there any plans to make changes in how the property is used?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3	Have there been any natural alterations to the land (e.g., fire flood, erosion, wind, invasive species, etc.?)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4	Have there been any new human alterations to the land?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5	Are there any plans to sell the property or otherwise make changes to ownership?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6	Have any management activities been conducted or initiated by an entity other than DNR since the last monitoring visit?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
7	If yes, who conducted the management activities?		
8	If yes, what type of management activities were conducted or initiated?		
9	If yes, when were these management activities conducted or initiated?		
10	If yes, what areas of the protected property were affected by these management activities?		
11	Have there been any observations of interesting or unusual plants or wildlife?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
12	Do you have any questions or concerns?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
13	Do you have all information about the easement (baseline report, easement document, maps, etc.)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

### COMPLIANCE WITH CONSERVATION EASEMENT TERMS

	CONSERVATION EASEMENT TERM	Are there any concerns about compliance?	IF YES, EXPLAIN, PHOTOGRAPH, GIVE LOCATION
1	[EASEMENT TERM]	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2	[EASEMENT TERM]	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3	[EASEMENT TERM]	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4	[ETC.]	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Are there reserved rights in the Conservation Easement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
---	---

	RESERVED RIGHT	Exercised since last visit?	EXPLAIN
1	[RESERVED RIGHT]	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2	Etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

### MONITOR'S OBSERVATIONS

	OBSERVATION QUESTIONS	ANSWER	COMMENTS
1	Were invasive species observed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2	Were other management needs observed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3	Are there any other issues or concerns?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

### MONITOR'S SUMMARY AND COMPLIANCE ASSESSMENT

Monitoring Date:		<b>COMPLIANCE ASSESSMENT</b>  Based on your Knowledge of the easement and your observations from monitoring, are the terms of the easement being met?  <input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>Pending</b> (need additional information) <input type="checkbox"/> <b>No</b> (possible violations observed)
Monitor Name:	Monitor Name:	
Title:	Title:	
Phone:	Phone:	
Email:	Email:	
Address:	Address:	
City:    State: <b>MN</b> Zip:	City:    State: <b>MN</b> Zip:	

**Narrative Summary of Monitoring Visit:**

**Required Next Action(s)** – check all that apply  
☐ Send standard follow-up letter/routine monitoring at next regularly scheduled visit  
☐ Schedule management review for pending/possible violation  
☐ Schedule management visit  
☐ Contact area supervisor  
☐ Prepare corrective action plan  
☐ Other

**Notes or Summary of Next Action Items or Enforcement:**

### ATTACHMENTS AND PHOTOGRAPHS

**Describe Attachments:**

**List Documents Collected or Prepared in Connection with Monitoring Visit:**  
  
Scanned/Appended?  
1

**Photographs** [The photographs need to identify the easement, the date taken and the photographer. This information can be provided once for all photos in the set from the monitoring visit. Each individual photo should have a label identifying: (1) the photopoint where taken (which will correspond to a photopoint map; (2) photo number; (3) direction (N, S, SE, etc.); (4) location (either latitude/longitude or UTM Coordinates (northing/easting)); and (5) description.]

Monitor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Monitor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## 2011-2012 MAIN PROPOSAL

### PROJECT TITLE: Conservation Easement Stewardship & Enforcement Program, Phase II

#### I. PROJECT STATEMENT

Minimum standards for conservation easement stewardship require baseline property reports for all easements, regular monitoring, landowner relations, record keeping and enforcement to address easement violations. This project accelerates implementation of DNR's agency-wide Conservation Easement Stewardship and Enforcement Program Plan developed in Phase I by addressing time-sensitive, one-time needs, by training staff and by facilitating the transition to DNR's use of a new conservation easement administration computer application built in Phase I. Project goals are to bring stewardship of at least 180 (approximately 19%) of DNR's existing conservation easements (primarily trout stream, scenic river and prairie bank) up to minimum standards; to refine the new computer application; to train staff; and to identify all fee owners of existing conservation easements. Goals will be achieved by monitoring, collecting baseline data, as needed, and completing baseline reports for at least 180 easements; by utilizing and refining the computer application; by researching current easement ownership, updating the land records system (LRS) and developing a process for future ownership updates; by developing a staff training program and conducting training and by developing enforcement protocols. Activities will be coordinated with divisional staff to support their simultaneous implementation of the Program Plan with respect to all easements.

#### II. DESCRIPTION OF PROJECT ACTIVITIES

##### Activity 1: Monitoring, Baseline Data and Reports, Application Refinement

**Budget: \$385,000**

Stewardship of at least 180 conservation easements will be brought up to minimum standards by monitoring per methods developed in Phase I and, where needed, by collection of baseline data. Easements included will be of the highest priority for monitoring (e.g., sites of high biodiversity significance, sites with factors that increase the risk of violations). Baseline property reports, tailored to the easement type, will be completed for at least 180 conservation easements (which may or may not be the same as those monitored). Project staff will utilize the new computer application for conservation easement administration. Based on experience gained through this utilization, the application will be refined.

Outcome	Completion Date
1. Monitor at least 180 of DNR's conservation easements and collect baseline data for those without existing baseline property reports	6/30/2013
2. Complete baseline reports for at least 180 conservation easements	6/30/2013
3. Utilize and refine conservation easement administration application	6/30/2012

##### Activity 2: Conservation Easement Stewardship Training

**Budget: \$50,000**

A training program will be developed for DNR staff whose duties include conservation easement administration and/or stewardship. Training will address baseline reports, monitoring, use of the new computer application, record keeping, landowner relations, resolving violations and handling enforcement issues. At least 10 workshops to train 150-175 staff will be conducted.

Outcome	Completion Date
1. Develop conservation easement stewardship training program	6/30/2012
2. Conduct at least 10 workshops, train 150-175 staff	6/30/2013



**Activity 3: Conservation Easement Enforcement Protocols****Budget: \$15,000**

Agency-wide conservation easement enforcement protocols will be developed and implemented. The protocols will outline specific steps for staff to take when a violation is detected and will ensure that all easement violations are addressed in a prompt, fair and consistent manner, in accordance with all legal requirements for easement enforcement.

Outcome	Completion Date
1. Develop and implement conservation easement enforcement protocols	12/31/2012

**Activity 4: Landowner Data****Budget: \$50,000**

Research will be conducted to verify and update fee ownership and owner contact information for all existing DNR conservation easements (969, based on the Phase I inventory). In coordination with DNR's Land Records Project, project staff will develop a process to regularly update this information in the LRS in the future.

Outcome	Completion Date
1. Research ownership and contact information for all DNR conservation easements, update LRS as necessary, develop process for future updates	6/30/2012

**III. PROJECT STRATEGY****A. Project Team/Partners**

Project staff in the Lands and Minerals Division will be responsible for overall project coordination, baseline report preparation and all of Activities 2-4. Field staff, who will be based in DNR area offices, and Conservation Corps Minnesota will be hired for most monitoring and baseline data collection. A contractor will perform computer application refinement. Project staff will collaborate with DNR conservation easement administrators as they implement the Program Plan developed in Phase I, and with DNR's Land Records Project.

**B. Timeline Requirements**

Funding for two years (July 1, 2011 through June 30, 2013) is requested to provide multiple field seasons for monitoring and baseline data collection.

**C. Long-Term Strategy and Future Funding Needs**

A \$15,000 appropriation partially funded a minimum standards report. (ML 2007, ch. 57, art. 1, § 4, subd. 2). A \$520,000 appropriation from the ENRTF (ML 2008, ch. 367, § 2, subd. 5(h)) funds Phase I of this project. DNR's Conservation Easement Stewardship and Enforcement Program will rely largely on funding sources as recommended in Phase I of the project in the long term. Phase II is designed to address one-time needs and to jump-start Program Plan implementation. Future requests for ENRTF appropriations for conservation easement stewardship will be for the purpose of addressing additional portions of DNR's baseline report backlog and bringing existing conservation easements up to minimum standards and to address one-time needs or emerging issues.