



**AN INVENTORY OF
CONSERVATION EASEMENT ACTIVITY IN MINNESOTA**

PREPARED BY THE MINNESOTA LAND TRUST

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In the past decade, the use of conservation easements has dramatically increased around the country as public agencies and nonprofit conservation organizations have recognized that easements can be an effective strategy to meet their missions. There is limited data, however, on the extent to which conservation easements are used as land protection tools and by whom.

The data discussed here includes the best and most recent national data available. The Minnesota data was collected by the Minnesota Land Trust in late 2009 and is as current and accurate as possible. The data covers all types of conservation easements—natural area, open space, agricultural, forest and scenic easements. Term easements, as well as perpetual or permanent easements, are included and are identified accordingly when known.

A. National data and trends.

Currently, there is no national database or other comprehensive compilation of information covering all conservation easements established in the United States.

There have been a number of national efforts to document and map the status of protected lands throughout the United States. See, for example, PAD-US, the Protected Areas Database of the United States, initially created by the Conservation Biology Institute, www.protectedlands.net, that identifies and maps publicly owned conservation lands or the Conservation Almanac, created by the Trust for Public Land to track land conserved on a state by state basis in conjunction with funding data and growth trends.

Some efforts have focused on forest resources such as the NatureServe Forest Program that provides data incorporated into three forest certification systems—the Forest Stewardship Council, the American Tree Farm System and the Sustainable Forestry Initiative.

However, these efforts have typically included only lands owned in fee by federal or state public agencies. They have not included lands protected by conservation easements held by either public agencies or private nonprofit organizations.

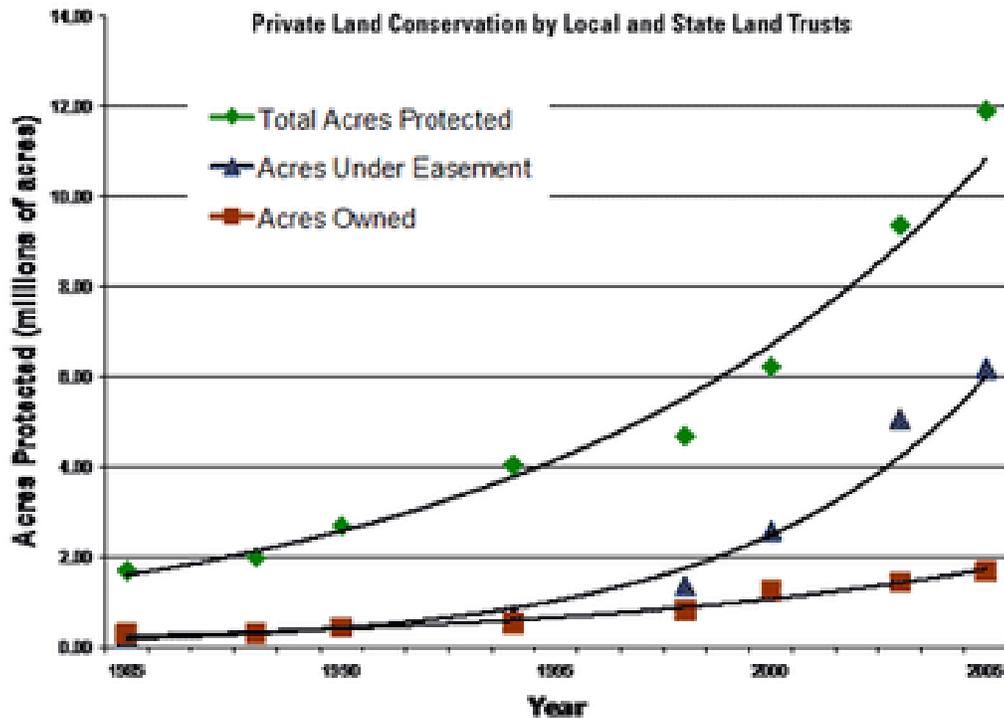
Nor have the systems compiled data consistently.

Recognizing the importance of compiling such data, particularly the missing conservation easement data, the U.S. Endowment for Forestry and Communities has just recently funded a collaborative effort to create a single, up-to-date, sustainable nationwide system for managing and accessing data about conservation easements. The National Conservation Easement Database (NCED) will be the first comprehensive national database of conservation easement information, collecting information from both public agencies and private conservation organizations.

This data will not, however, be available for some time.

Currently, the only cumulative national data available on conservation easements are what has been collected by the Land Trust Alliance, a national association of conservation organizations and others dedicated to strengthening land conservation across the country. For several decades, the Land Trust Alliance, has been periodically conducting voluntary surveys tracking national trends in *private* land conservation by *nonprofit land trusts* defined as those nonprofit organizations that, as all or part of their mission, actively work to conserve land by undertaking or assisting in land or conservation easement acquisition, or by the stewardship of such land or easements.

With efforts now underway to collect 2010 data, the 2005 National Land Trust Census is the Land Trust Alliance’s most recent compilation. That survey, available in full at www.landtrustalliance.org, notes that the effectiveness and popularity of private conservation are demonstrated by the vast gains in acreage protected and by the establishment of new land trusts in so many communities across the country. This is evidenced by a tripling of the pace of private land conservation, a 148% increase in the use of conservation easements from the prior survey, and a doubling of total acres conserved.



From the Land Trust Alliance 2005 National Land Trust Census, available in full at www.landtrustalliance.org.

Private *state* and *local* land trusts have helped protect more *37 million acres* of land and now hold conservation easements on more than *6,245,900 acres of land*, a dramatic increase from 2000. The Nature Conservancy, Ducks Unlimited and other national organizations hold easements on more than another *4 million acres* of land.

While private conservation easement activity is increasing across the country, much of that conservation activity has taken place in parts of the country that have the longest history of working with conservation easements and private land trusts.

In the forested northeast where conservation easements have the longest history, as of 2005 land trusts held conservation easements on 1,492,279 acres in Maine (with a single easement accounting for half of that acreage), 399,681 acres in Vermont, 191,095 acres in New York and 133,836 acres in New Hampshire.

In the west, easement activity focused on huge swaths of unprotected forests and grazing lands.

The existence of public funding or other conservation incentives, such as transferable tax credits in Colorado and Virginia, fueled much this conservation easement activity.

The Land Trust Alliance data do not include detailed land cover information on land protected by these easements. It notes only the general land type reported as being the primary focus of land trust efforts: natural areas and wildlife habitat (39%), followed by open space—which can include farmland and forestland (38%) and water resources (26%), especially wetlands.

While these data do not include any information on conservation activities or conservation easement holding by government agencies, the following summarizes some general information available regarding conservation easements held by selected federal agencies:

- USDA/Natural Resources Conservation Service: The NRCS manages a number of programs that employ conservation easements including its Wetland Reserve

TOP 10 STATES WITH THE MOST LAND UNDER CONSERVATION EASEMENTS HELD BY STATE AND LOCAL LAND TRUSTS	
STATE	ACRES UNDER EASEMENT
Maine	1,492,279
Colorado	849,825
California	427,411
Vermont	399,681
Virginia	365,355
Maryland	191,330
New York	191,095
New Mexico	142,072
Pennsylvania	139,301
New Hampshire	133,836
TOTAL (including states not listed)	6,245,900
Data from the Land Trust Alliance 2005 National Land Trust Census, available in full at www.landtrustalliance.org .	

Program, Farm and Ranchland Protection Program and Grassland Reserve Program. In 2008, the NRCS estimated that it held approximately 11,000 easements protecting more than 2 million acres of land under these programs, with this number anticipated to increase by 250,000 acres annually.

- Department of the Interior/U.S. Fish and Wildlife Service: Using conservation easements since the 1950s to protect the prairie wetlands or “potholes” of the Dakotas, Minnesota, and Montana, the USFWS estimated that by 2007 it held more than 29,000 wetland easements covering 2.5 million acres of land. At least another 400,000 acres of land are estimated to be protected by a companion grasslands protection program. USFWS holds other conservation easements as part of its National Wildlife Refuge System.
- USDA/Forest Service: While holding few easements itself, the U.S. Forest Service manages the largest federal program funding the purchase of conservation easements on privately owned forest lands by state or other local units of government.

As of August, 2009, the Forest Legacy Program had provided funding to support the purchase of conservation easements protecting 1,855,222 acres of forest land in 41 states.

ACRES PROTECTED WITH FOREST LEGACY FUNDING AUGUST 2009					
Alabama	10,127	Iowa	1,986	North Carolina	6,696
Alaska	2,924	Kentucky	3,144	Ohio	436
Arizona	630	Maine	659,606	Oregon	25
Arkansas	31,846	Maryland	1,247	Pennsylvania	2,956
California	14,215	Massachusetts	6,751	Puerto Rico	2,867
Colorado	9,231	Michigan	37,076	Rhode Island	3,392
Connecticut	7,911	Minnesota	59,531	South Carolina	71,200
Delaware	2,032	Missouri	154	Tennessee	38,473
Florida	4,742	Montana	169,996	Utah	62,363
Georgia	20,926	Nevada	111	Vermont	67,603
Hawaii	37,055	New Hampshire	215,104	Virginia	5,971
Idaho	57,223	New Jersey	5,413	Washington	30,535
Illinois	493	New Mexico	7,593	West Virginia	764
Indiana	6,786	New York	133,118	Wisconsin	54,970
TOTAL	1,855,222				

B. Minnesota data.

As is the case throughout the country, there is no statewide registry, compilation or list of conservation easements or easement holders in Minnesota.

In order to address the vacuum in knowledge, in 2006 the Minnesota Land Trust commissioned a study of conservation easement activity in Minnesota. This data was then updated by the Land Trust in 2009.

Entities contacted for the study were those that the Minnesota Land Trust believed would be most likely to hold conservation easements in the State.

- All federal agencies owning or potentially owning land in Minnesota were contacted: Department of the Interior—U.S. Fish and Wildlife Service, National Park Service, and the Bureau of Land Management; U.S. Department of Agriculture—Natural Resources Conservation Service (NRCS) and Farm Service Agency (FSA) and U.S. Forest Service; and the Department of Defense.
- All state agencies known to hold easements or potentially holding easements were contacted: the Minnesota Department of Natural Resources (DNR), the Board of Water and Soil Resources (BWSR), the Minnesota Pollution Control Agency, and the Minnesota Department of Transportation.
- Only selected local units of government were contacted. Contacting *all* local units of government was beyond the scope of this study. Instead, counties and cities that were known to hold conservation easements or to be interested in holding conservation easements along with other selected local units of government such as soil and water conservation districts and watershed districts were contacted. Most of these were in the greater metropolitan area with a sampling of others.

Additionally, the study looked at information collected by Washington County, the only county known to have attempted to inventory all the conservation easements in its jurisdictions, regardless of ownership.

- All those private, nonprofit conservation organizations known to hold easements or thought to be interested in easements were contacted along with a selection of other nonprofit conservation organizations that could possibly hold easements.

In addition, several other organizations such as The Conservation Fund and the Trust for Public Land help facilitate conservation easement transactions but do not typically hold them long-term. Therefore, they are excluded from this study.

During the course of the study, a number of previously unknown conservation easement holders were discovered. Accordingly, it is likely that there are no doubt other entities that hold easements in Minnesota, particularly at the local level, that are not included here.

Those contacted were asked for the following:

- Number of conservation easements held, both perpetual or permanent easements and those for a term of years.
- Acres protected by those easements.
- Data on the programs under which the easements were acquired, including statutory or programmatic authority for acquiring easements, geographic or other focus of the easement programs, funding sources and other similar programmatic information.
- Components of easement acquisition programs, as appropriate, including nature of easements drafted, existence of baseline property or documentation reports and mapping.
- Information on management and monitoring of easements held.

Not all entities contacted knew whether they held easements. This was particularly true at the local level. And not all of those that knew that they held conservation easements knew how many, their acreage or location.

As discussed below, DNR—a major conservation easement holder in Minnesota—is currently in the process of comprehensively reviewing and analyzing its easement holdings under a study funded by the Legislative-Citizens Commission on Minnesota Resources (LCCMR.) DNR data will be more complete and accurate when that study is completed but are relatively accurate at this stage.

Additionally, some acreage may have been counted twice when easements were co-held or where there was more than one easement on the same parcel of land. NOTE: In some instances this has been identified and accounted for but co-holding or multiple easements on the same parcel of land was not always known and is difficult to otherwise discern.

Finally, data below is collected as of October 2009. However, not all agencies or organizations keep collective easement data or have reported data over the same time period. Many of the numbers here, therefore, are necessarily *estimates* as of October 2009.

Details are set out below, but the following are a few general comments and themes gleaned from the data:

- The study uncovered a greater level of conservation easement activity than originally anticipated—more than *12,000 easements* protecting approximately *524,400 acres* of land and almost *700 miles of shoreline*—positioning Minnesota as a major state in terms of numbers of conservation easements protecting the State’s natural resources.
- The level of activity is even greater than indicated when *pending* conservation easement activity that will close in coming months is added. This includes approved

and pending very large working forest easements that will protect an additional approximately *279,900 acres* and the most recent rounds of pending WRP/RIM Reserve easements that will protect an additional *105,000 acres*.

- By far, the majority of easements (more than 93%) are held by government agencies, with approximately one-half of those at the federal level and one-half at the state level. Much more *acreage* is protected by state held easements, an amount that will increase dramatically as currently pending easements close.
- Almost all easements held by nonprofit organizations are held by a single entity, the Minnesota Land Trust (91%).
- Most publicly held easements have been purchased, while nonprofit organizations rely more extensively on donations or discounted sales.
- 95% or more of all conservation easements are perpetual, with most current easement programs preferring perpetual or permanent easements.
- Compliance monitoring of conservation easements is handled inconsistently. Some holders monitor annually, some periodically and some not at all—a particular problem among public agencies. There is, however, growing recognition of the need to create and implement an easement monitoring program as a hedge against more costly violations and enforcement actions.
- Few easement holders—and NO public agencies—have funding dedicated to long-term stewardship and monitoring of easements. Public agencies typically rely on annual appropriations or using other general operating dollars.

Additional work is necessary to better understand conservation easement issues in Minnesota but the data summarized here is a good start.

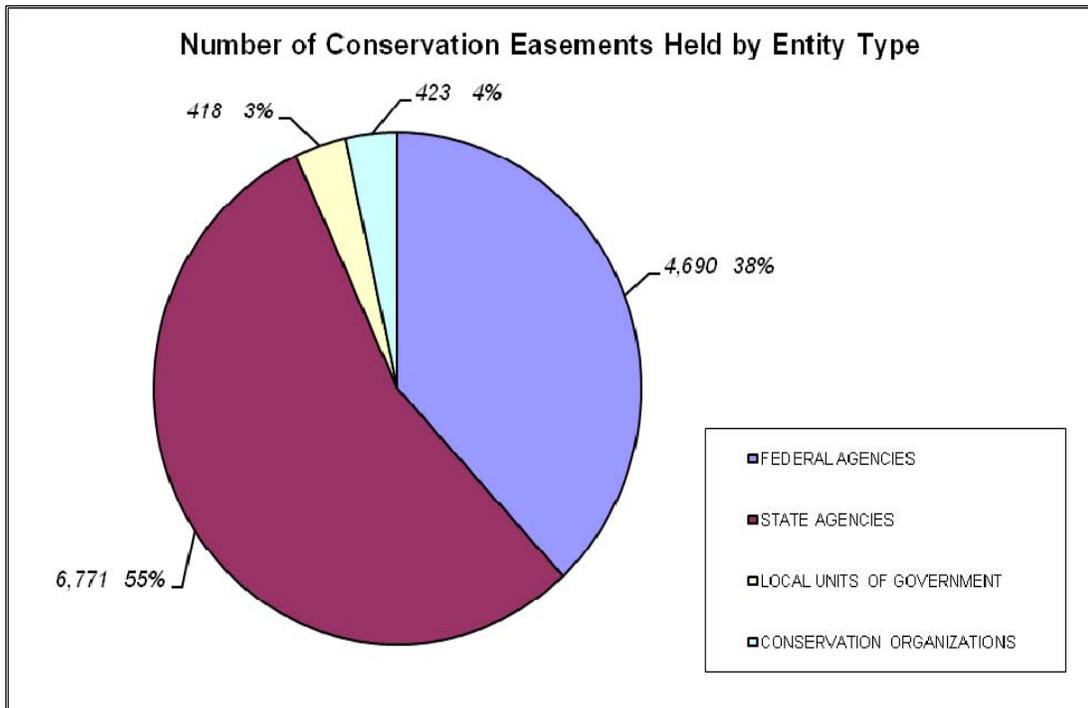
1. Overall data:

As summarized in the charts and graphs below created from the data collected by the Minnesota Land Trust, conservation entities hold more than 12,300 conservation easements in Minnesota.

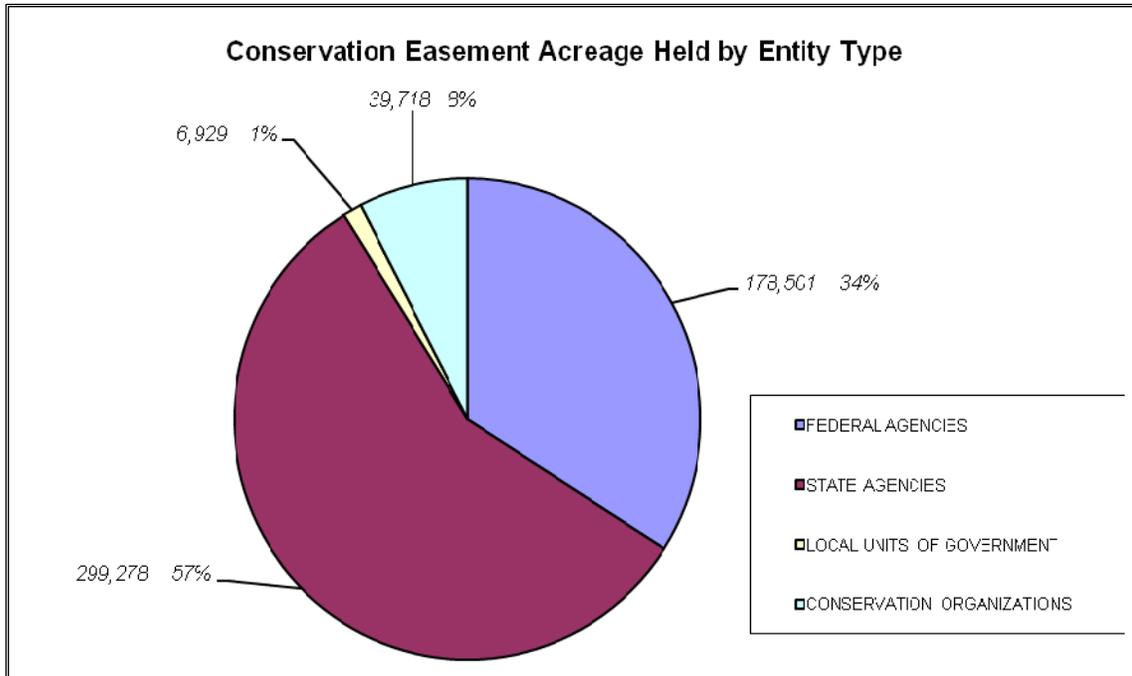
Almost all of these easements are permanent or perpetual. Most are held by public agencies at the state or federal level.

These easements protect over *one-half million acres of land*. Again, almost all of this acreage is under state or federal protection.

SUMMARY OF CONSERVATION EASEMENT ACTIVITY IN MINNESOTA						
October 2009						
	# OF EASEMENTS			ACRES UNDER EASEMENT		
	Permanent	Term	Total	Permanent	Term	Total
FEDERAL AGENCIES	4,528	162	4,690	164,439	14,062	178,501
STATE AGENCIES	6,277	494	6,771	289,250	10,028	299,278
LOCAL UNITS OF GOVERNMENT	418	0	418	6,929	0	6,929
CONSERVATION ORGANIZATIONS	423	0	423	39,718	0	39,718
TOTAL	11,646	656	12,302	500,336	24,090	524,426



NOTE ON EASEMENT NUMBERS: This includes 162 thirty-year easements held by NRCS that protect land also covered by permanent BWSR easements as part of the WRP/RIM Reserve program described below. It also includes a limited number of easements that are co-held and therefore may be counted twice.



NOTE ON ACREAGE: This includes at least 17,500 acres of land under co-held easements, most but not all under WRP/RIM Reserve program. Total protected acreage is accordingly somewhat less than depicted here.

The programs under which these easements have been acquired are listed on the next page and described in more detail below.

In general, about 75% of these easements have been acquired in agricultural areas in Minnesota, primarily focused on wetland and associated upland protection.

Increasingly, however, easements have been used to protect forest resources. With the completion of currently pending transactions, the Forestry Division of DNR will soon hold conservation easements on approximately 350,000 acres of land, which will comprise over *one-third* of all of the acreage protected by easements in the State.

**SUMMARY OF CONSERVATION EASEMENT HOLDING IN MINNESOTA
BY PROGRAM**

October 2009

	ORGANIZATION	# OF EASEMENTS	TOTAL ACRES UNDER EASEMENT
FEDERAL	USDA/ Natural Resources Conservation Service	622	78,754
	Department of the Interior/ US Fish and Wildlife Service	2,864	86,301
	Department of the Interior/National Park Service	504	3,196
	USDA/ Farm Service Administration	700	10,250
STATE	BWSR: Board of Water and Soil Resources	5,536	207,909
	DNR: Department of Natural Resources	1,235	91,369
SELECTED LOCAL COMMUNITIES	Counties	74	4,962
	Cities/Townships	323	485
	SWCDs: Soil and Water Conservation Districts	3	510
	Watershed Districts	18	972
CONSERVATION ORGANIZATIONS	Minnesota Land Trust	387	34,793
	The Nature Conservancy	14	2,426
	American Farmland Trust	4	1,110
	Leech Lake Watershed Association	2	249
	Ducks Unlimited	14	1,100
	Minnesota Forestry Association	2	40
	Pheasants Forever	none at this time	0

2. Federal agencies holding easements in Minnesota: Conservation easements in Minnesota are held under programs of the USFWS, the NRCS, the FSA and the National Park Service.

- U.S. Fish and Wildlife Service: The USFWS holds easements through its refuge program, a collection of public lands and waters set aside to conserve America's fish, wildlife and plants. In Minnesota, the focus is in the tallgrass prairie region, mostly wetland and grassland area with some riparian corridors for fish species. Typically, refuges involve acquisition of fee title. However, easements have been acquired as buffers or on inholdings where fee purchase is not possible. Additionally, the USFWS has an extensive Waterfowl Production Area program in Minnesota. This program consists entirely of conservation easements on wetlands and related uplands and grasslands in designated areas within each county in the prairie pothole region of Montana, North and South Dakota, Minnesota, and Iowa.

Conservation easements are monitored by annual flyovers, with landowners contacted if problems are suspected.

Easements held by USFWS tend to be small, covering only the identified wetlands and immediately associated uplands averaging 30 acres an easement. All have been purchased.

The program is active, depending upon available funding. USFWS has recently received support from the Outdoor Heritage Fund to continue to purchase conservation easements in western Minnesota.

- USDA/Natural Resources Conservation Service: The NRCS has been actively protecting wetlands in Minnesota for decades, primarily through its Wetland Reserve Program. This program specifically targets lands that have been partially drained or altered by farming but may include lands that have been restored or are important to the quality of the area overall. Easements cover wetlands and associated uplands with restoration typically required and are primarily located in the prairie pothole region of the state.

One of its most active current programs is a cooperative program with BWSR that couples a 30-year NRCS WRP easement with a permanent BWSR RIM Reserve easement. This cost share approach has resulted in Minnesota receiving the third largest share of WRP funds of any state in the country.

The NRCS also works with the Farm and Ranchland Protection Program and co-holds a number of easements under that program with Dakota County. See discussion below.

NRCS has just recently instituted a comprehensive easement monitoring program with current protocols calling for field monitoring at least once every three years and aerial monitoring with digital photography in other years.

All WRP easements are purchased, in the past using “before and after” appraisals and now using a calculation approach based upon average agricultural land values in a county.

- USDA/Farm Services Agency: The FSA holds conservation easements in Minnesota under two programs. The Debt for Nature Program, now known as the Debt Cancellation Conservation Contract Program, originally started in 1985 as a conservation easement program available to persons with FSA loans secured by real estate who qualified for cancellation of a portion of their FSA indebtedness in exchange for conveying fee title or a permanent conservation easement on part of their land. In 1991, the program was modified to provide only for conservation contracts with terms of 50, 30, or 10 years—no permanent easements.

Additionally, FSA evaluates all farms that come into its ownership for certain conservation features and values, placing easements on the property to protect those values before the land is resold on the market. FSA holds far more easements under this program than its Debt for Nature Program and continues to add easements to its portfolio as farms come into its ownership. Given current farm financing arrangements, however, FSA does not come into title currently as often as it did in the past.

Many of the easements created under these programs were conveyed to USFWS or to state agencies. FSA is currently working on better easement recordkeeping and creating guidance documents to improve and enhance monitoring. Annual monitoring is preferred but required no less than every 3 years.

- National Park Service—St. Croix Valley National Scenic Riverway. The National Park Service holds several hundred conservation easements within the designated St. Croix National Scenic Riverway—a corridor established to protect the viewshed from the river. The amount of land authorized to be acquired in fee was limited by enabling legislation so easements became extensively used. Most easements were purchased from voluntary landowners although early in the program, some easements were acquired through condemnation--a process no longer followed. The Park Service is not actively acquiring easements at this time.

The Park Service has been researching current land ownership of protected land and created a conservation easement monitoring plan which has not yet been implemented.

1. State Agencies holding easements in Minnesota: The Minnesota Department of Natural Resources and the Board of Water and Soil Resources are the only state agencies holding conservation easements at this time.
- Minnesota Department of Natural Resources: The Minnesota DNR has broad statutory authority to acquire land and conservation easements. Unless otherwise

specifically authorized, any lands acquired by DNR—whether in fee or through conservation easements—must fit into one of the 13 legislatively identified categories comprising Minnesota’s outdoor recreation system. See Minnesota Statutes Chapter 86A. DNR must also follow the legislatively prescribed process in acquiring any interests in land. See Minnesota Statutes §§84.0272 and 84.0274.

DNR has historically acquired easements under a number of programs, although that has never been a primary focus of most DNR programs and only a few easement acquisition programs are active at this time. Until recently, DNR has not had a comprehensive recordkeeping system for tracking its easements. Nor has DNR had consistent conservation easement acquisition or monitoring protocols applicable across DNR divisions and programs.

With assistance from LCCMR funding, DNR has created a staffed working group and is currently in the process of remedying this situation. An inventory of all DNR easements is now underway and is expected to be completed within the next six months. Once that inventory is complete, data on DNR easements will be much more accurate. In the meantime, the data included in this report are as accurate as possible and reflects the best information of the various DNR programs with responsibility for conservation easements.

DNR is also evaluating its easement acquisition, monitoring and enforcement protocols. The effort will be completed following completion of the easement inventory. In the meantime, the chart on the following pages summarizes currently known information about the various DNR easement programs.

Most DNR easements have been purchased, primarily at fair market value using comprehensive “before and after” appraisals, although alternative approaches have been legislatively authorized for specific situations. See, for example, Minnesota Statutes §84.0277 for the Camp Ripley ACUB project or §84.0272, subdivision 2 for trout stream easements.

DNR’s program to support working forests is among its most active easement programs, with ongoing efforts to locate appropriate projects and funding. Although the number of easements held through either the earlier *Forest Legacy Program* or the more current *Minnesota Forests for the Future Program*, Minnesota Statute §84.66, is relatively small—26—the acreage is quite substantial—65,750 acres protected. Another 8 easements are pending that will protect an additional 279,900 acres. By focusing more recently on the largest tracts of land available, DNR is able to keep up-front transaction costs to a minimum.

DNR monitors these easements annually, as funding and time allows. In recognition of the importance of monitoring, DNR has included \$750,000 for conservation easement stewardship as part of its budget for its pending purchase of an easement on 187,000 acres of land from UPM/Blandin Paper Company and is exploring mechanisms for protecting this funding to the extent possible.

**MINNESOTA DEPARTMENT OF NATURAL RESOURCES
CONSERVATION EASEMENTS**

October 2009

Conservation Easement Type	# of Easements	Acreage	Comments
ACUB—Camp Ripley			Both DNR and BWSR are actively acquiring land and easements as a part of the Camp Ripley—Army Compatible Use Buffer program. DNR easements, however, are acquired and held under one of the other DNR programs.
Aquatic easements—Aquatic Management Areas, others	15	405	DNR occasionally uses conservation easements to create Aquatic Management Areas—sites protected to preserve natural habitat along lakes and streams and provide angler access. Most AMAs are owned in fee by DNR but institutionally owned camps are a current focus for AMA conservation easements. AMA easements currently protect 7 miles of shoreline and are monitored annually. A few other miscellaneous easements are included here.
Aquatic easements—trout streams	880	7,379	DNR has an extensive and active trout stream program with easements designed to preserve habitat <i>and</i> access for fishing along designated trout streams. Found mostly in SE and NE Minnesota, these easements are typically strips of land extending 66 feet on either side of a stream measured from the center of stream and most give DNR affirmative rights to restore and manage the land. Many were created decades ago through the sale of tax-forfeited land or by county board resolution. Because of the method of creation, calculating the number of easements is challenging and the numbers here are under review. DNR relies on anglers to monitor easements, with back-up by fisheries crews. These easements protect 520 miles of shoreline along 2,000 streams. Some older northern pike spawning easements are also included here.
Conservation—miscellaneous	18	2,070	Easements included here are general conservation easements protecting wildlife, including non-game wildlife. Several easements are part of DNR's Wildlife Management Area system, bordering or buffering WMAs. Also included are unique 4 bat hibernacula easements related to the St. Cloud sewer system. Other easements included here were required during development processes or otherwise accepted by DNR outside of any specific program. Easements are not actively pursued by the Wildlife Division at this time, as WMAs are more typically owned in fee title and managed by DNR for public access for hunting and other recreational purposes.
Forest Legacy and Forests for the Future	26	65,750	Easements under the Forest Legacy and Forests for the Future programs protect important forest areas to keep land available for forest products production, wildlife habitat and other conservation purposes. This is one of DNR's most active easement programs, relying heavily on conservation easements to protect forested areas of the State. Many of these easements have used federal USFS funds. Annual monitoring is the goal as funding/time allow. Management plans are typically required by easement terms. 1 ACUB easement acquired under separate authority is also included here.

Metro Greenways	18	1,252	<p>Metro Greenways is a relatively recent DNR program providing funds to local units of government and NGOs to protect natural areas in the face of urban growth in the 11-county metro area. Some projects involved Metro Greenways acquiring a conservation easement as the appropriate protection for the site. In other cases, easements were required on land purchased through the Metro Greenways program.</p> <p>11 of these easements (313.3 acres) are on land owned by a public entity and protected by a conservation easement held by the DNR. 7 (401.8 acres) are on private land protected by a conservation easement held by the DNR.</p> <p>This program is being evaluated by DNR at this time and no new easements are currently being pursued.</p> <p>These easements are typically monitored annually.</p>
Native Prairie Bank	90	7,280	<p>This DNR program designed to protect unplowed native prairies uses easements as a primary protection tool. Easements are typically purchased at 65% of permanent marginal agricultural land payment rate set by BWSR, less if some limited haying and/or grazing.</p> <p>DNR originally purchased 95 easements and later bought fee title to 5. DNR has land management rights under all Prairie Bank easements.</p> <p>This is an active easement acquisition program, funding dependent. There are good Prairie Bank easement records but monitoring still irregular.</p>
Parks	6	192	<p>DNR has occasionally accepted gifts of easements adjacent to or within state park boundaries at 3 state parks but easements are not a focus of the Parks program that typically acquires land in fee for public access for recreation.</p> <p>Some easements have been monitored annually, others have not been monitored since they were created.</p>
Scientific & Natural Area	20	1,472	<p>Easements are a minor part of the SNA program that protects undisturbed natural areas with exceptional scientific or educational value.</p> <p>Sites under easement are actively managed by DNR. Monitoring is otherwise varied--some sites are monitored annually, others several times a year and others based upon noted violations.</p>
Water Bank	27	1,598	<p>The water bank program was a pre-cursor to other state wetland protection programs. It relied primarily on 20-year term arrangements rather than permanent easements. The program is no longer in existence but some easements remain.</p> <p>These easements include 10 term easements covering 525 acres, all which will expire by 2012.</p>
Wild & Scenic River	135	3,971	<p>Scenic easements are held along 1 federal and 6 state designated wild and scenic rivers as part of one of DNR's earliest easement programs. DNR is not actively seeking new easements in this program at this time.</p> <p>Historically easements were not monitored but DNR is working to identify and contact current landowners and implement a monitoring program.</p>
Total	1,235	91,369	

- Board of Water and Soil Resources: With more limited program authority than DNR, BWSR has a long history of more extensively working with conservation easements, particularly in the agricultural areas of Minnesota.

Operating primarily under the authority of the Reinvest in Minnesota Reserve Program (RIM Reserve), BWSR has specific authority to use conservation easements to restore certain marginal agricultural land and protect environmentally sensitive areas to enhance soil and water quality, minimize damage to flood-prone areas, sequester carbon, and support native plant, fish, and wildlife habitats. See Minnesota Statutes §103F.505.

Under the RIM Reserve legislation, land is eligible for enrollment only if the land:

- (1) is marginal agricultural land;
- (2) is adjacent to marginal agricultural land and is either beneficial to resource protection or necessary for efficient recording of the land description;
- (3) consists of a drained wetland;
- (4) is land that with a windbreak or water quality improvement practice would be beneficial to resource protection;
- (5) is land in a sensitive groundwater area;
- (6) is riparian land;
- (7) is cropland or noncropland adjacent to restored wetlands to the extent of up to eight acres of cropland or one acre of noncropland for each acre of wetland restored;
- (8) is a woodlot on agricultural land;
- (9) is abandoned building site on agricultural land, provided that funds are not used for compensation of the value of the buildings; or
- (10) is land used for pasture.

Minnesota Statute §103F.515, subdivision 2.

The enabling legislation also includes details on terms to be included in RIM Reserve easements, payment rates and State enforcement rights.

BWSR has implemented or participated in a number of programs under the overall RIM Reserve or related wetlands protection authority. These programs have all relied primarily on the use of conservation easements, with permanent easements as the preferred protection tool:

BOARD OF WATER AND SOIL RESOURCES CONSERVATION EASEMENTS			
Program	# of easements	Acres	Comments
RIM Reserve	2,041	61,220	
RIM Reserve/WRP partnership	147	11,509	This partnership combines multiple sources of funding and uses 30 year NRCS easements combined with permanent BWSR easements.
CREP 1	2,479	100,292	The CREP program combines federal Conservation Reserve Program (CRP) contract payments with RIM Reserve easements. Initial program focus was on the Minnesota River Valley.
CREP 2	275	7,058	The second round of CREP had a broader geographic focus than CREP 1 but less success due to lower payment rates and emphasis on term easements.
Permanent Wetlands Reserve	299	11,413	This was an earlier program that is no longer actively used.
ACUB-Camp Ripley	35	5417	This is a limited program with specific statutory authority focused on the land adjacent to Camp Ripley. Funding from the Department of Defense through its Army Compatible Use Buffer Program.
Wetland Banking Easements	260	11,000	Easements counted here are required under wetland protection programs associated with development that impacts wetlands.
TOTAL	5,536	207,909	

To date, easements have been focused on the Minnesota River Valley (2,500 easements protecting 100,000 acres of land) and other agricultural lands predominantly in the prairie/forest border region of the State.

Easements are very restrictive—prohibiting all development and agricultural activity—and are implemented using a standardized document. As a result, the BWSR easements exclude land suitable for even limited development or agricultural activities. Average easement size is about 40 acres. Public access is not required.

Conservation easements are purchased at fair market value, using a calculated value based upon average agricultural land values in the county. Appraisals are not used.

With more than 200,000 acres under easement, BWSR has implemented an easement monitoring program that relies on local county soil and water conservation districts.

Protocols generally involve monitoring every year for the first 5 years of the easement, with monitoring once every three years after that. More intensive monitoring may follow a change in land ownership.

BWSR has done little work in the forested areas of the State, but would consider implementing a forest-focused program if local units of government were also interested. It would likely follow the model that is currently used. It would be implemented under the authority of other RIM Reserve easement programs with a focus on riparian areas.

2. Local units of government: The least amount of information is known about conservation easements held by local units of government—counties, cities, townships and other similar entities. Collectively, local units of government contacted held only 418 easements protecting less than 7,000 acres of land—approximately 1% of easement-protected land in the State.

These numbers, however, are marginally accurate. Only a very small segment of local units of government were contacted.

Additionally, many local units of governments contacted for this study did not themselves know whether they held easements and if so where. This was particularly true in cases where easements were created through the regulatory process related to residential development.

Only two counties in the State—Dakota and Washington—are known to have funded land conservation programs that include the use of conservation easements to protect land. Dakota County has effectively used the federal Farm and Ranch Land Protection program along with local funding, now holding 39 easements protecting more than 3,700 acres of land. Washington County holds fewer easements, 13, and is now exploring expanded use of easements.

Other counties in the greater metropolitan area have expressed interest in creating and implementing similar conservation programs, but none that extensively use easements currently exist.

Cass County, the only rural county consulted in this study, has implemented a local shoreland conservation program that employs conservation easements as a protection strategy but its funding has been somewhat limited. Anecdotally, other counties may also hold some easements but this was not confirmed.

Many cities and townships, particularly in the metropolitan area, require easements under local ordinances related to conservation issues such as wetland or open space protection in conjunction with development. Few of these municipalities tracked or managed these easements, relying instead upon complaints or permit requests as an enforcement mechanism.

Washington County is unique in that it has also taken on a project to understand the extent of all conservation easement activity in the County. The County quickly recognized that it was hindered by the manner in which easement data was collected on the recorded land records. Nevertheless, the County was able to identify 542 conservation easements held in the county. Acreage was more difficult to calculate but is estimated at over 6,000 acres.

In general, easements held by local units of government protect smaller acreages on average and are less likely to be periodically monitored.

3. Private nonprofit entities holding easements: In contrast to some states, only a handful of private, non profit conservation organizations hold easements in Minnesota, and the vast majority of those are held by a single organization –the Minnesota Land Trust. Other easement holders include primarily national organizations with Minnesota programs including The Nature Conservancy and Ducks Unlimited. Pheasants Forever has established a national easement program, but holds no easements in Minnesota. The American Farmland Trust previously had an easement demonstration project but does not actively accept conservation easements in Minnesota at this time. A handful of locally based organizations also hold easements but none have active programs.

Private nonprofit conservation organizations hold fewer than 500 conservation easements protecting approximately 40,000 acres of land.

The Minnesota Land Trust, the only land trust in Minnesota that is currently accredited under the Land Trust Alliance national accreditation program, holds the vast majority of these easements—holding more than 90% of the easements protecting an equivalent amount of acreage. These easements protect natural and scenic lands throughout the State, with a concentration in the metro area and in other selected landscapes.

The Nature Conservancy, with a focus on identified ecologically significant lands, has expressed limited interest in holding easements in Minnesota, although it does acquire new easements if they meet program criteria.

Ducks Unlimited has an active easement acquisition program in Minnesota through its Living Lakes Initiative—a program directed at a few specifically selected shallow lake sites in the prairie pothole region of the State.

The Minnesota Land Trust, TNC and DU all have dedicated conservation easement stewardship funds and comprehensive monitoring programs. Smaller organizations holding easements appear to have neither.

This pattern of nonprofit activity is somewhat unusual in that many states have a far greater number of nonprofit conservation organizations that hold easements. However, given recent increased scrutiny and demands of easements and easement holders, a limited the number of nonprofit easement holders in Minnesota may be appropriate.