



N.C. Department of Agriculture & Consumer Services
N.C. ADFP Trust Fund
Conservation Easement Grant Application Prescreens



Title Review Prescreen

During the grant contract period, title commitments and title opinions submitted by the Grantee are reviewed to ensure no issues prevent recording the conservation easement.

This Conservation Easement Grant Application Title Review Prescreen is a proactive measure to ensure that applicant organizations review the landowner's fee simple ownership in the conservation easement area for potential issues that may prevent completion of the easement acquisition.

Significant title concerns could jeopardize the project, and Grantees will be liable for returning grant contract funds if the conservation easement is not recorded.

Please review these potential issues and discuss them with the landowner. If potential title concerns are found, please identify them on the application and contact Farmland Preservation staff.

Any ownership and/or environmental concerns relating to title, access, and encroachments must be addressed by all USDA NRCS applicants before the contract is awarded. Please contact USDA NRCS staff for USDA program requirements and potential remedies.

Please note:

Title Review Prescreen is not an exhaustive list. Please be thorough in your discussions with landowners. Potential title issues may result in the termination of the contract despite attempts to remedy them. Before submitting a grant application or signing the grant contract, the Grantee should gather as much information as possible about the land and its ownership.

Issue	ADFPTF Requirements	Potential Remedy
Ownership Concerns that prevent title certification include but are not limited to ongoing civil actions, judgments, life tenants or remaindermen, and open estates.	A marketable title with a title search of at least 60 years, certified by an attorney licensed to practice law in North Carolina, is required. ALL landowners must sign all documents, including spouses.	All ownership concerns must be resolved before continuing the conservation easement project.
Are there now or have there been any unresolved boundary disputes, discrepancies, or encroachments?	Any uncertainty about the boundary line must be resolved with a recorded boundary line agreement before easement closing.	<ul style="list-style-type: none">• Resolve issue with adjacent landowner prior to application (this is necessary for any projects applying for NRCS-ALE partnership funding).• Remove the area of dispute from the easement (this will be reflected on the survey or any associated maps) if less than the total parcel will not be under easement.



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<p>Is there clear, legal access or right-of-way to the entire parcel?</p>	<p>The landowners are responsible for providing sufficient legal access to the entire easement area. This must be shown on the survey.</p>	<p>A deeded access agreement must be completed before easement recording.</p>
<p>Judgments, Liens, Mortgages, or other subordination needs.</p>	<p>Subordination Agreement signed by the lienholder, Release Deed releasing easement area, pay lien in full or cancellation must be identified. This must be communicated to NCDA&CS legal and satisfied before or at closing.</p>	<ul style="list-style-type: none"> • Subordination agreement agreed upon with the lender. Judgments must be terminated. • Pay off what is owed for judgments, liens, or mortgages.
<p>Bankruptcy</p>	<p>Any properties involved in a bankruptcy proceeding must be identified during the application period.</p>	<ul style="list-style-type: none"> • If the landowner has an active bankruptcy, the bankruptcy must be resolved before the contract award • The landowner must provide a court order approving the property's enrollment in the easement before the contract award.
<p>Environmentally Hazardous Sites, including brownfields or other recognized environmental concerns.</p>	<p>Phase I Environmental Assessment (ESA) or equivalent MUST be completed.</p>	<ul style="list-style-type: none"> • A Phase I ESA with recognized environmental concerns will require remedy and/or a Phase II with remedy before easement recordation. • If the Phase I or II ESA reveals concerns without applicable remedy, this may result in denial or cancellation of the contract award.
<p>Are the surface or subsurface resource rights (oil, gas, minerals, existing conservation easement, etc.) owned by a third party that is not a landowner of this property?</p>	<p>The Grantee and/or landowner will need to ensure rights have been terminated.</p>	<ul style="list-style-type: none"> • The fee owner must attempt to acquire mineral rights. • The title insurance company insures against financial loss resulting from the mineral rights reservation and all rights to mine the property.



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<p>Are there any leases on the offered area, such as wind or solar energy development leases, or others?</p>	<p>The current easement language is not compatible with these industry leases.</p>	<ul style="list-style-type: none"> • The leases must be terminated before the grant contract award. • Remove the area of dispute from the easement (this will be reflected on the survey or any associated maps) if less than the total parcel will not be under easement.
<p>Are there any other options, rights-of-way, or easements on the offered area, such as utilities, gas lines, fiber optic lines, pipelines, power lines, roads, railroads, access, ditches, flowage easements, etc.?</p>	<p>These must be identified in the application. Ensure none of these other options interfere with conservation purposes, including access, title, development, or other land restrictions.</p>	<ul style="list-style-type: none"> • The gas lease must be terminated before the grant contract award, or the leased property will be removed from the easement area. • Subordination, agreements, or other legal remedy necessary.
<p>Are there any leases on the offered area, such as agricultural leases, recreation or hunting leases, public access leases, or others?</p>	<p>These must be identified in the application and remedied during the due diligence period.</p>	<ul style="list-style-type: none"> • If the lease is incompatible with the easement, it must be terminated before the grant contract award, or the leased property will be removed from the easement area. • If the lease is compatible with the easement language, it must be subordinated to the conservation easement.



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Environmental Concern Prescreen

During the grant contract period, an environmental assessment (ESA) is conducted to ensure no adverse environmental concerns are on the property.

This Conservation Easement Grant Application Environmental Concern Prescreen is a proactive measure to ensure that applicant organizations review properties for environmental concerns and that landowners disclose any environmental concerns **BEFORE** a grant contract is awarded.

Significant environmental concerns could jeopardize the project, and Grantees may be liable for returning grant contract funds if the conservation easement is not recorded.

On the proposed conservation easement property, is there evidence of **ANY** of the following:

- Trash or garbage piles
- Abandoned vehicles or parts
- Abandoned machinery or appliances
- Toxic or hazardous waste
- Petroleum leaks
- Underground or above-ground storage tanks for nonagricultural use

If there is evidence of potential environmental concerns, you are required to disclose on the application. Failure to do so may result in the termination of the grant contract.

Please note:

- Evidence of environmental concerns does not automatically disqualify a conservation easement grant application. Depending on the environmental concern's size, scope, and severity, remedies may be required before recording the conservation easement.
- If a landowner knowingly and willingly conceals significant environmental concerns, the conservation easement project may be terminated, and the landowner may be held liable for expended grant funds.
- During the grant contract period, if the on-site inspection identifies environmental conditions that negatively impact the property, such as the presence of petroleum products or hazardous substances in the subsurface of the site, and these findings necessitate further investigation of environmental conditions with a Phase II ESA or equivalent, the Grantee is required to conduct these assessments through a qualified environmental firm.
- During the grant contract period, if the ESA or Phase I requires remediation to resolve environmental concerns, the Grantee must complete the actions to continue the project. All required actions must be completed prior to easement recordation. Recommended remediation actions should also be completed.

Please review the “Environmental Audit Requirements” for more information.