

**WETLAND COMPENSATORY
MITIGATION EASEMENT**
Sec. 281.37(2M), Wis. Stats.

DRAFT REVISIONS

State of Wisconsin
Department of Natural Resources
Box 7921
Madison, Wisconsin 53707

This GRANT OF CONSERVATION EASEMENT and these COVENANTS are made by and between _____, hereinafter referred to as the "Grantor", and the State of Wisconsin Department of Natural Resources, hereinafter referred to as "Grantee", as a holder of the easement pursuant to the provisions of ss. 281.37(2M), Wisconsin Statutes.

WITNESS THAT:

WHEREAS, the Grantors are the owners in fee of certain real property located in the Town of _____, _____ County in the State of Wisconsin, more particularly described on Attachment A, said property hereinafter referred to as the "Conservancy Area"; and

WHEREAS, the Grantors desire and intend that the natural elements and the ecological and aesthetic values of the Conservancy Area be maintained and improved in accordance with the terms and conditions of this Easement and these Covenants;

WHEREAS, the Grantors and Grantee both desire, intend and have the common purpose of conserving and preserving in perpetuity the Conservancy Area in a relatively natural condition by placing restrictions on the use of the Conservancy Area and by transferring from the Grantors to the Grantee, by the creation of a conservation easement on, over and across the Conservancy Area, affirmative rights to ensure the preservation of the natural elements and values of the Conservancy Area; and

WHEREAS, the Grantors have received valuable consideration for the granting of this Easement and the making of these Covenants.

NOW THEREFORE, the Grantors, for valuable consideration received, do hereby give, grant, bargain and convey to the Grantee, its successors and assigns, forever, a Conservation Easement in perpetuity over the Conservancy Area consisting of the following:

I. PURPOSE OF THE EASEMENT

The purpose of this easement is to ensure that a wetland compensatory mitigation site will not be destroyed or substantially degraded by any subsequent owner of or holder of interest in the property on which the compensatory mitigation wetland is located.

This space reserved for recording data:

Return to: Dept. of Natural Resources
Karl Hansen LF/4
PO BOX 7921
Madison, WI 53707

II. RIGHTS OF THE GRANTEE (DNR):

1. The Grantee shall have the right to enforce by proceedings at law or in equity the Covenants hereinafter set forth. The right shall include but not be limited to, the right to bring an action in any court of competent jurisdiction to enforce the terms of this Easement or these Covenants, to require the restoration or enhancement of this property, consistent with the Site Mitigation Plan, a copy of which is attached hereto and marked Exhibit A, or to enjoin non-compliance by appropriate injunctive relief. The Grantee does not waive or forfeit the right to take action as may be necessary to ensure compliance with terms of this Easement and these Covenants by any prior failure to act. Nothing herein shall be construed to entitle the Grantee to institute any enforcement action against the Grantors for any changes to the Conservancy Area due to causes beyond the Grantors' control and without the Grantor's fault or negligence (such as changes caused by fire, flood, storm, civil or military authorities undertaking emergency action or unauthorized wrongful acts of third parties).
2. The Grantee, its contractors, agents and invitees, shall have the right to enter the Conservancy Area, in a reasonable manner and at reasonable times, for the purpose of inspecting the Conservancy Area to determine if the Grantors are complying with the Covenants and purposes of this grant, and further to observe, study, record and make scientific studies and educational observations.
3. The Grantee shall have the right to install, operate and maintain water control structures for the purpose of protecting, re-establishing and enhancing wetlands and their functional values. This includes the right to transport construction materials to and from the site of any existing or proposed water control structure.
4. The Grantee shall have the right to establish or re-establish vegetation through seedings or plantings.
5. The Grantee shall have the right to manipulate vegetation, topography and hydrology on the Conservancy Area through diking, pumping, water management, excavating, burning, cutting, pesticide application and other suitable methods for the purpose of protecting and enhancing wetlands and wetland vegetation.

III. COVENANTS OF THE GRANTOR (owner)

1. **USES.** There shall be no commercial or industrial activity undertaken or allowed within the Conservancy Area.
2. **BUILDINGS AND STRUCTURES.** There shall be no buildings, dwellings, barns, roads, advertising signs, billboards or other structures not related to conservation of wetland-based recreation or education purposes built or placed in the Conservancy Area.
3. **LAND DISTURBANCE.** There shall be no dredging, filling, excavating, mining, drilling or removal of any topsoil, sand, gravel, rock, minerals or other materials within the Conservancy Area except in conjunction with authorized management activities.
4. **DUMPING/DISPOSAL.** There shall be no dumping of trash, plant materials or compost, ashes, garbage or other unsightly or offensive material, especially including any hazardous or toxic waste within the Conservancy Area.

5. **WATER.** The hydrology of the Conservancy Area will not be altered in any way or by any means including pumping, draining, diking, impounding or diverting surface or ground water into or out of the Conservancy Area, unless consistent with the Site Mitigation Plan.
6. **AGRICULTURAL USES.** All agricultural uses are prohibited within the Conservancy Area (e.g. plowing, tilling, haying, cultivating, planting or other agricultural activities). This does not include native seed production activities, mowing, planting, or herbicide use conducted for the purpose of enhancing the ecological functions and values of the Conservancy Area consistent with the Site Mitigation Plan. The Grantor shall not stock animals or allow the grazing of animals on the Conservancy Area without prior written permission of the Grantee.
7. **NOXIOUS WEEDS.** The Grantors are responsible for compliance with all federal, state and local laws governing the control of noxious weeds within the Conservancy Area.
8. **MOTORIZED VEHICLE USE.** There shall be no operation of motorized vehicles or equipment within the Conservancy Area except in conjunction with activities in conformance with Secs. II and III.

IV. RESERVED RIGHTS

1. This easement does not authorize entry upon or use of the Conservancy Area by the general public.
2. The Grantors and their invitees may hunt and fish in the Conservancy Area so long as they comply with all federal, state and local game and fishery regulations.
3. Nothing herein shall be construed as limiting the right of the Grantors to sell, give or otherwise convey the Conservancy Area, or any portion or portions thereof, provided that the conveyance is subject to the terms of this Easement and these Covenants.

V. GENERAL PROVISIONS

1. This Conservation Easement and these Covenants shall run with and burden the Conservancy Area in perpetuity and shall bind the Grantors and their heirs, successors and assigns. This Easement and these Covenants are fully valid and enforceable by any assignee of the Grantee, whether assigned in whole or in part. Prior to any assignment being effective, the Grantor must approve the assignment in writing.
2. The Grantors agree to pay any and all real property taxes and assessments levied by competent authority on the Conservancy Area.
3. The Grantors agree that the terms, conditions, covenants and restrictions set forth in this instrument will be inserted in any subsequent conveyance of any interest in said property. The Grantors agree to notify the Grantee of any such conveyance in writing and by certified mail no later than 30 days before the conveyance.
4. The Grantee may assign or transfer this Conservation Easement and the rights and Covenants contained herein to any Federal or state agency or private conservation organization for management and enforcement.

The terms "Grantors" and "Grantee" as used herein shall be deemed to include, respectively, the Grantors and their heirs, successors, personal representatives, executors and assigns, and the Grantee and its successors and assigns.

IN WITNESS THEREOF, the Grantors have hereto set their hand and seal on the day and year first above written.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS THEREOF Grantor and Grantee have set their hands on the day and year first above written.

_____(SEAL)
Grantor's name

_____(SEAL)
Grantor's name

State of Wisconsin)
) ss.
_____ County)

Personally came before me this _____ day of _____, 20____, the above named Grantor(s) _____, to me known to be the person(s) who executed the foregoing instrument and acknowledged to me that he or she executed the same.

Notary Public, State of Wisconsin

My commission (expires) (is) _____

ACCEPTED this _____ day of _____, 20_____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
For the Secretary

By _____

Natural Resources Real Estate Director

State of Wisconsin)
) ss.
_____ County)

Personally came before me this _____ day of _____, 20____, the above named _____ to me known to be the persons who executed the foregoing instrument and acknowledged the same.

This instrument drafted by:
State of Wisconsin Department of Natural Resources