

Subject: **CONSERVATION EASEMENT**

BACKGROUND

Pursuant to section 29(1) of the Alberta Land Stewardship Act, a registered owner of land may, by way of agreement, grant to a qualified organization, as defined in section 28(c), a conservation easement in respect of all or part of the land for the purposes listed in section 29(1)(a) to (d). Conservation easements may be registered at the Land Titles Office (1) and run with the land and may be enforced whether they are positive or negative in nature and notwithstanding that the grantee does not have an interest in any land that would be benefited by the conservation easement. (2)

REGISTRATION PROCEDURE

1. The parties to a conservation easement agreement must be as grantor, the registered owner of a parcel of land, and as grantee, a qualified organization as defined in section 28(c) of the Act. If the qualified organization is a corporation, compliance with section 27 of the Land titles Act is required. The registered owner of the parcel against which the agreement is to be registered will execute the document. Attestation requirements must be complied with.
2. **FORM 2** - Declaration by grantee must accompany the agreement. (3) The registrant must update the Declaration to reflect the name of the current Act that governs the registration of a conservation easement. Specifically sections 33 and 33(2) of the Alberta Land Stewardship Act.
3. It is not necessary for Land Titles to determine if the grantee is a qualified organization or if the rights granted are for the purposes listed in section 29(1)(a) to (d).
4. **Legal Description Requirements**
 - a) The conservation easement may be granted in respect of an entire parcel (e.g., section, quarter-section, lot or block) or
 - b) The conservation easement may be granted in respect of only a portion of the parcel in which case the portion must be described by
 - (i) reference to a registered plan of survey, which should be checked to ensure that it affects the parcel described in the title, or
 - (ii) a metes and bounds description which has been approved by the Surveys section. A sketch may be attached to illustrate an acceptable metes and bounds description but cannot be used in lieu of such a description.

5. Dower requirements must be complied with (see procedure under [DOW-1](#)).

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Conservation Easement

The code used for registration at Land Titles is: CONE

6. Fees - [Tariff item 11\(6\)](#) is charged for the registration of a conservation easement and [Tariff item 13](#) is charged for each endorsement after the first. If description approval is required, [Tariff item 9](#) is charged.

7. **Amendment of Conservation Easement** - An agreement amending a conservation easement which is executed by the registered owner and by the grantee can be registered. The usual requirements for the registration of the conservation easement itself must be complied with (e.g. attestation, dower, etc.). [\(4\)](#)

8. **Transfer of Conservation Easement** - A conservation easement can be transferred by the current grantee to a qualified organization. Although there is no prescribed form, [\(FORM 18\)](#), which is the prescribed form for transferring a mortgage, encumbrance or lease, **can be adapted** to transfer a conservation easement. Execution requirements must be complied with. See the procedures under [AFF-1](#), [AFF-2](#) and [COR-1](#) with respect to attestation requirements. [\(5\)](#) A Form 2, Declaration by Grantee, must accompany the transfer document. [\(3\)](#) [Tariff item 11\(6\)](#) is charged for the registration of the transfer and [Tariff item 13](#) is charged for each endorsement after the first.

9. **Discharge of Conservation Easement** - As there is no prescribed form, any document releasing or discharging the conservation easement which is properly executed by the grantee, or the transferee where the conservation easement has been transferred, can be accepted for registration. [\(4\)](#)

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Discharge

The code used for registration at Land Titles is: DISC

10. **Expiry of Conservation Easement** - An owner of land affected by an easement agreement may request that the Registrar cancel the registration of the instrument where the interest created by the instrument has expired. The Registrar must be satisfied that the interest has expired through an express provision in the instrument. This requirement may be met by a provision which states that the interest will expire on a specific date or following a specific period of time after the date of execution of the instrument. [\(6\)](#)

The written request signed by the owner of the land or the grantee is registered as a discharge. Normal attestation requirements do not apply.

11. **Modification or Termination of Conservation Easement by Order** – A Designated Minister, whether or not the Minister is a grantor or grantee, may, by order, modify or terminate the conservation easement. (7)

STATUTE AND CASE REFERENCES

Statute references are to the Alberta Land Stewardship Act, R.S.A. 2009, c. A-26.8, unless otherwise indicated.

1. s. 33(1)(a), (3)
2. s. 34(1)
3. s. 4 of Conservation Easement Registration Regulation (AR 215/96)
4. s. 31(a), 33(4)
5. s. 30(3)
6. s. 33(5)
7. s. 31(b). 33(4)