



Open Space Interests in Property

Cataloging and Mapping Conservation and Scenic Easements in

Washington County, Minnesota

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Office of Administration
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Cataloging and Mapping Conservation & Scenic Easements in Washington County, Minnesota

Project Description

Project Purpose

Dating back several decades, landowners have voluntarily entered into a variety of legal agreements to protect natural areas and ecosystems throughout Washington County. Although each organization that has entered into these agreements has a listing of its agreements, a single database of these holdings has never been created. Prior to undertaking this project, it was difficult, if impossible, to search, analyze and map all the conservation easements in the county. The main purpose of this project was to accurately catalog all conservation and scenic easements agreements within Washington County, and to create a database that is easily accessible and updated when future holdings are established. A student intern, working 200 hours, accomplished the research portion of the work. The mapping is not yet complete.

The two outcomes from this project are:

1. A database that contains all conservation and scenic easements and associated primary attribute data that allows users to search, analyze and map the agreements. This database would be made available to communities and organizations.
2. An efficient process in which future holdings can be added to the database.

The county's interest in this project was two-fold:

1. To ensure that accurate information is easily available to all organizations needing to know about these interests in property.
2. To have baseline data available for tracking progress of land protection.

The following document describes the process that the county went through to achieve these outcomes and recommends actions to keep the data accurate.

Project Goals

Primary Goals

1. Catalog all conservation easements in Washington County and be able to locate them in the county's parcel data base.
2. Develop protocol for cataloging future conservation easements.

Secondary Goal

3. Catalog all scenic easements in Washington County.

Future Goal

To encourage local municipalities, state and federal agencies, and environmental organizations to record all conservation-related easements and to ensure that the county's Property and Taxpayer Services Department properly codes all future recorded conservation and scenic easements.

Project Team

Several departments are involved in cataloging and mapping open space agreements. The departments and their roles are:

Administration Department

- Oversees programs which generate conservation easements, such as the Land and Water Legacy Program.
- Provides expertise on the acquisition and maintenance of conservation easements.

Property Records and Taxpayer Services Department (PRTS)

- Records conservation and scenic easements in the property records database in a searchable format.
- Maintains property and tax records pertaining to these easements.

Survey and Land Management Division, Department of Public Works (Survey)

- Maintains the legal description of conservation and scenic easements, including easements boundaries.
- Creates spatial file in CAD or similar formats for mapping.

GIS Support Unit, Information Technology Department (GIS)

- Attaches attributes from the easement database file to a GIS coverage.
- Analyzes the data and produces maps and summary tables as requested by county departments.

Steps

The following steps were taken in conducting this study.

Project Initiation

- Step 1: Determine the project scope by agreeing on the information that is important to track. This project catalogued the primary legal tools by which large tracts of land are permanently protected from development (conservation and scenic easements).
- Step 2: Determine the best method for collecting and cataloging data.
- Step 3: Conduct a pilot test. This involved the following steps:
- a. Draft database template.
 - b. Determine pilot test area.
 - c. Collect data in pilot test area.
 - d. Revise database template.
 - e. Set priorities and schedule for collecting all data.

Locate All the Agreements

- Step 4: Perform a section by section search of property records in PRTS to locate all scenic and conservation easements by using search codes EAS (Easements) and CVE (Conservation Easements). Print legal descriptions for all conservation and scenic easements found.

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- Step 5: Perform a section by section search of the Surveyors CAD files for scenic and conservation easements. Extract all easement lines and verify all conservation easements found in the CAD layer with those found in the property records database. If there was a discrepancy and the agreement found in the CAD layer was not found in the search outlined in Step 4, locate and print the legal description.
 - Step 6: Review the development agreements from a list provided by PRTS for each township to identify those that contain conservation easements or other provisions restricting the development within the open space. Print legal descriptions.
 - Step 7: Contact municipalities to obtain or verify information on agreements they hold. The county received a response from all 33 municipalities in the county regarding the existence of conservation easements within their respective jurisdictions.
 - Step 8: Contact state-wide organizations to obtain or verify information on agreements that they hold. The county contacted the National Park Service (NPS), Minnesota Department of Natural Resources (DNR), Metropolitan Council, 1000 Friends of Minnesota, Minnesota Land Trust (MLT), and the Trust for Public Land. All groups responded except the DNR.

Create a Database of Attribute Information Linked to the Document Number

- Step 9: Create a database of information regarding each agreement using Document Numbers as a unique identifier. See the section titled Issues and Recommendations for a list of the attributes used in the database.

Map all Agreements

- Step 10: Provide printed legal descriptions to Survey. Survey will draw easement boundaries in a CAD layer and update the easement database based on the information from legal documents.
- Step 11: Survey provides the CAD layer and the easement database to GIS, who will merge these two products into a geodatabase.
- Step 12: PRTS assigns a code to each document number in the property records database to update the Tract Index. In 2007, the county created a document code for conservation easements (CVE) in its property records database. PRTS plans on updating its property records system by assigning this code to all conservation easement documents identified in this study. Currently, no code exists for scenic easements. PRTS is considering either creating a unique code for them or using the same code as for conservation easements.

Interim Information

It is expected to take some time before all the easements are coded appropriately in the property records data base and digitally drawn in the county's parcel data base. In the interim, County Administration will maintain the database. In the future, information about the conservation and scenic easements will be readily available through the county's property records data base or through the electronic parcel data base.

Findings

1. A total of 258 conservation easements covering approximately 10,320 acres, 98 scenic easements, and 1 open space development agreement were identified in Washington County. A summary table by municipality can be found in Appendix B. (Note: The acreage was estimated by summing the area of all quarter quarters which contain a conservation easement. A more accurate figure will be available once all the easements are mapped.)
2. Of the 258 conservation easements, 201 are associated with platted subdivisions.
3. No one database currently exists that identifies all conservation and scenic easements within the county. Currently, it is not possible to perform an analysis or generate a map of all conservation and scenic easements.
4. There is confusion over the definition of “conservation easement” and “scenic easement”. When speaking with local municipalities and organizations, some did not know what these easement types were or categorized them under different titles, such as “open space” in platted property.
5. For some of the conservation and scenic easements, the original grantor of record is no longer the owner of record, making it difficult to search for the affected property by just the grantor’s name.
6. Until recently, conservation and scenic easements were not assigned a unique code in the property records database, making it impossible to identify the presence of a conservation or scenic easement without performing a title review.
 - a. Most conservation and scenic easements are cataloged under the general code Easement (EAS). This code includes all easement types such as roadways, drainage, utilities, etc.
 - b. The County Recorder recently established a unique Conservation Easement code (CVE); however none of the conservation easements identified in this study were found using this code because they predated the new code.
 - c. Scenic easements do not have a unique code.
 - d. Development agreements do not have a unique or searchable code.
7. The computerized portion of the property records database only lists records entered since 1984. There may be a few agreements unidentified that predate 1984.
 - a. Most of the scenic easements held by the NPS were established prior to 1984 and thus require a search through paper-bound catalogs to verify their existence.
 - b. Scenic easements held by the DNR that were established after 1984 are recorded in the computerized property records database and can be found by searching that data base. Pre-1984 agreements must be verified by contacting the agency. The existence of all holdings was not verified with the DNR at the writing of this report.

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- c. Most activity with conservation easements occurred after 1984; therefore the catalogue of conservation easements is likely substantially complete.
 - d. Some open-space related development agreements may predate 1984 and therefore would not be contained in this catalogue.
8. Agencies and organizations holding conservation easements provided information regarding their holdings. Their list was cross referenced with the property records database. Inconsistencies were found between the two datasets. For example, a list provided by the MLT list of their conservation easement holdings was missing one agreement that was found in the property records database. Also, some of the MLT's legal descriptions were not compliant with property records.
 9. Some of the conservation and scenic easement line work has been maintained in a general CAD drawing and within the county's parcel data base. As new easements are found, staff is adding the new easement information to the parcel database. Staff is also creating separate CAD drawings for each conservation and scenic easement.
 10. This study assumed and did not verify that the conservation and scenic easements are perpetual easements. The property records database does not contain this information. Each agreement would need to be reviewed to verify this assumption.

Issues and Recommendations

The following issues were dealt with in this project. Listed along with these issues are recommendations for solving each issue.

Issue 1: What is the primary source of conservation and scenic easements?

Recommendations:

1. The county's property records database could be the primary source of these agreements if a unique code was assigned to each agreement.
2. Because the county's computerized property records only exist since 1984, records were missed for any easements recorded prior to 1984. To find these records, the tract index books containing property records need to be researched. Because of time limitations, this research was not performed. Steps that need to be taken are:
 - a. Use existing information from agencies and organizations to determine the existence of older easement holdings and obtain as much information as possible.
 - b. Search the tract index books using the landowner name to obtain a document numbers.
 - c. Use the document number to obtain a copy of the easement document.
3. The county's parcel data layer may contain the easement line work with an associated document number.
4. If easements are not uniquely identified in the county's property records database or parcel data base, the best source of data is to contact each agency that may hold these types of interests in property.

Issue 2: What information and what column headings should be used in the database and subsequent attribute table?

Recommendation: The attribute table should contain the most common questions asked about these agreements. The following fields are suggested. (See Appendix E for a sample spreadsheet and metadata.)

1. Document number or book and page for earlier documents
2. Date of acquisition
3. Easement type (conservation or scenic)
4. Grantee
5. Grantor
6. Ownership type (private or development)
7. Location of the easement (by section, township, and range)
8. Legal description of the easement (part of)
9. City or town
10. Plat name (if applicable)
11. Land use
12. Acreage

Issue 3: What should be used as the geographic locator for each agreement?

Recommendation: Use the legal description. Although a parcel identification number (PIN) is useful in identifying the specific piece of property in question, it can be problematic over the long-run because PINs may change and even disappear as future property splits occur.

Issue 4: What should be used as a unique identifier?

Recommendation: Since all these agreements are recorded documents the document number (or book and page for older documents) can be used as the unique identifier.

Issue 5: Is it important to include amendments to the original document in the attribute data?

Recommendation: Yes, all amendments related to a single, unique document number should be included and recorded as a separate column in the database in such a way so as to be connected to the original document number.

Issue 6: Should a unique code be used in the property records database?

Recommendation: Yes, this is the only way to easily identify where these exist.

Issue 7: Is it important to use a consistent definition for conservation and scenic easements between the county, municipalities, and land conservation organizations?

Recommendations: The various entities and organizations involved in the creation and maintenance of conservation easements use different verbiage for conservation easements. To fix this issue, the county can:

1. Create a definition for a conservation easement that is easily understood and applicable.
2. Use this report to educate communities and organizations about the differences that exist.
3. Work closely with land conservation organizations (such as the MLT) to promote this definition while creating conservation easements.

Appendix A - Background

Definitions

Conservation Easement

A nonpossessory interest in real property whereby the holder may impose certain limitations or affirmative obligations the purpose 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. (*Minnesota Statutes, Chapter 84C.*) Conservation easements are typically held in perpetuity.

Development Agreement

An agreement with the owner of the whole parcel as charged on the tax lists of the county specifying the number of density units allocated amongst the parcels being created, the zoning district the particular parcels are located in, the fact that the use and development and further conveyance of the parcels is subject to the regulations contained in the County's Development Code. (*Washington County Development Code.*) These agreements specify that no further development may occur on the applicable parcel of land.

Scenic Easement

An agreement between a landowner and a municipality or a state or federal agency to protect and preserve scenic views and areas in the viewsheds of state- or federal-designated scenic river districts or byways. Ones held by the DNR and NPS are held in perpetuity; those held by municipalities may not be.

Legal Authority

The county may acquire conservation easements over any eligible land within the county by purchase, gift, grant, bequest, devise, covenant or contract and may use any legally available revenue source for the acquisition through state statutes and county ordinances.

State Statutes

Statute 84C

The statute defines a conservation easement as well as its method of creation, conveyance, acceptance and duration. The statute also grants the title of a conservation easement "holder" as (i) a governmental body empowered to hold an interest in real property under the laws of this state or the United States; or (ii) a charitable corporation, charitable association, or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open-space values of real property. "Third-party right of enforcement" is also granted in this statute, thereby granting a right to enforce terms provided in a conservation easement to a governmental body, charitable corporation, association, or trust, which, although eligible to be a holder, is not a holder.

Statute 373.40

The statute allows the county to use capital improvement bonds for maintaining conservation easements. The definition of "capital improvement" in the statute includes the acquisition of development rights in the form of conservation easements under chapter 84C.

Statue 394.25

The statute grants power to county officials to set controls through ordinances. These powers include zoning and setting specific controls to protect public property for "public use as parks, recreational facilities, playgrounds, trails, wetlands, or open space."

County Ordinance 175: Acquisitions of Development Rights

Washington County establishes its authority to acquire and improve land and interests in land for the purpose of preserving open space, including natural and scenic areas and agricultural land. The policies, rules and official controls governing the acquisitions are adopted in this ordinance, hereafter known as the Acquisition of Development Rights Ordinance. Practices for carrying out the authorities in this ordinance will be contained in the attendant policy and procedure documents and the Washington County Development Code.

Programs

Washington County

The county may participate jointly in acquiring interests in eligible lands with other qualified organizations empowered to hold interests in real property in accordance with Minnesota Statutes, Sections 84C.01-05. The county may also contract with a recognized and legally established nonprofit conservancy, land trust, or other individual or organization qualified under Minnesota Statutes Section 84C.01 and 170(H) of the United States Internal Revenue Code, in order to share in the process of negotiating conservation easements and establishing the baseline studies management plans and the procedures for monitoring of any conservation easements acquired under this ordinance. (*County Ordinance 175: Acquisitions of Development Rights*)

Washington County Land and Water Legacy Program

A program of Washington County for the purpose of preserving open space through the acquisition of land and interests in land from landowners outside the development process. To fund the program, the citizens passed a referendum in 2006 “To protect and preserve the rural landscape and high-quality natural areas through open space protection, including but not limited to improving water quality of rivers, lakes and streams; protecting drinking water sources; purchasing parklands including trail corridors, preserving wetlands and woodlands; and protecting land along water bodies from development.” (*2006 ballot language.*) The county currently holds 7 conservation easements through this program.

Open Space Development Code

Standards within the official controls adopted by the county regulating the physical development of land in the unincorporated areas of the county that allow a grouping of residential structures on smaller lots than allowed in the specific zoning district, leaving some land dedicated as open space. Many municipalities also have adopted official standards that allow for open space developments. The county currently holds 5 conservation easements through this code.

Other Governmental and Non-governmental Organizations

National Park Service (NPS)

The NPS is an agency of the federal government. It is charged with establishing and maintaining scenic easements along the stretch of the St. Croix River north of Stillwater. Responsibility of enforcement falls upon the St. Croix National Scenic Riverway.

Minnesota Department of Natural Resources (DNR)

The DNR established and maintains scenic easements along the stretch of the St. Croix River south of Stillwater. The agency also holds conservation easements in several communities within the county. Most of the easements are managed through the Metro Greenways Program.

Municipalities

Cities and townships may hold conservation easements under the authority of Minnesota Statute 84 C. In Washington County, 10 municipalities currently hold a total of 165 conservation easements. Some of these are connected with open space developments.

Watershed Districts

Watershed districts may hold conservation easements under the authority of Minnesota Statute 84 C. Currently, three watershed districts (Carnelian Marine, Brown's Creek and South Washington) hold a total of 11 conservation easements.

Minnesota Land Trust (MLT)

The MLT is a non-profit that protects lands and waters through establishing and monitoring permanent conservation easements. The Land Trust is the only statewide organization that extensively uses conservation easements as a land protection strategy. It completed its first easement in 1993. Since then it has completed 333 projects protecting 29,188 acres throughout Minnesota 47 of which are within Washington County.

Appendix B – Summary Table

Conservation and Scenic Easements by Municipality in Washington County								
Municipality	Conservation Easements (#)	Acres*	Conservation Easement Holders (#)					Scenic Easements (#)
			<i>State</i>	<i>Washington County</i>	<i>Municipality</i>	<i>Minnesota Land Trust</i>	<i>Other organizations</i>	
Afton	8	320	1	0	0	7	0	40
Bayport	1	40	0	0	0	1	0	0
Baytown Twp	7	280	0	4	0	3	0	0
Birchwood Village	0	0	0	0	0	0	0	0
Cottage Grove	5	200	1	0	0	4	0	0
Dellwood	0	0	0	0	0	0	0	0
Denmark Twp	8	320	0	0	7	1	0	4
Forest Lake	2	80	0	0	1	0	1	0
Grant	3	120	0	0	0	1	2	0
Grey Cloud Island Twp	0	0	0	0	0	0	0	0
Hastings	0	0	0	0	0	0	0	0
Hugo	3	120	2	0	0	0	1	0
Lake Elmo	36	1440	1	0	16	18	1	0
Lake St. Croix Beach	0	0	0	0	0	0	0	0
Lakeland	0	0	0	0	0	0	0	3
Lakeland Shores	0	0	0	0	0	0	0	0
Landfall	0	0	0	0	0	0	0	0
Mahtomedi	1	40	0	0	1	0	0	0
Marine on St. Croix	9	360	2	0	2	5	0	0
May Twp	16	640	2	2	1	4	7	7
Newport	0	0	0	0	0	0	0	0
Oak Park Heights	0	0	0	0	0	0	0	0
Oakdale	2	80	1	1	0	0	0	0
Pine Springs	0	0	0	0	0	0	0	0
St. Mary's Point	0	0	0	0	0	0	0	0
St. Paul Park	0	0	0	0	0	0	0	0
Scandia	12	480	4	0	6	2	0	39
Stillwater	130	5200	1	0	129	0	0	1
Stillwater Twp	11	440	0	2	2	1	6	3
West Lakeland Twp	0	0	0	0	0	0	0	0
White Bear Lake	0	0	0	0	0	0	0	0
Willernie	0	0	0	0	0	0	0	0
Woodbury	4	160	2	2	0	0	0	1
TOTALS	258	10320	17	11	165	47	18	98

* estimated by summing area of all quarter quarters which contain a conservation easement

Appendix C - Update Process and Maintenance

Purpose

To maintain an efficient and responsive database of conservation and scenic easements within Washington County.

County Role

When a conservation easement, scenic easement, or development agreement has been created, the county is responsible for:

1. Maintain the official easement document of all recorded agreements.
2. When a new easement document is recorded, an entry is created in the property records database.
3. Map the boundaries of new easements and add attribute information to a database of conservation and scenic easements.
4. Update any change to tax records.

Departmental Roles

Administration Department

- Oversees programs which generate conservation easements, such as the Land and Water Legacy Program.
- Provides expertise in the acquisition and maintenance of conservation easements.

Property Records and Taxpayer Services Department (PRTS)

- Records conservation and scenic easements into the property records database in a searchable format.
- Maintains property and tax records pertaining to these easements.

Survey and Land Management Division, Department of Public Works (Survey)

- Interprets the legal description of conservation and scenic easements.
- Maintains copies of all easement documents.
- Maintains the database file containing all easement attribute data.
- Creates and maintains a CAD file of boundaries of each conservation and scenic easement.

GIS Support Unit, Information Technology Department (GIS)

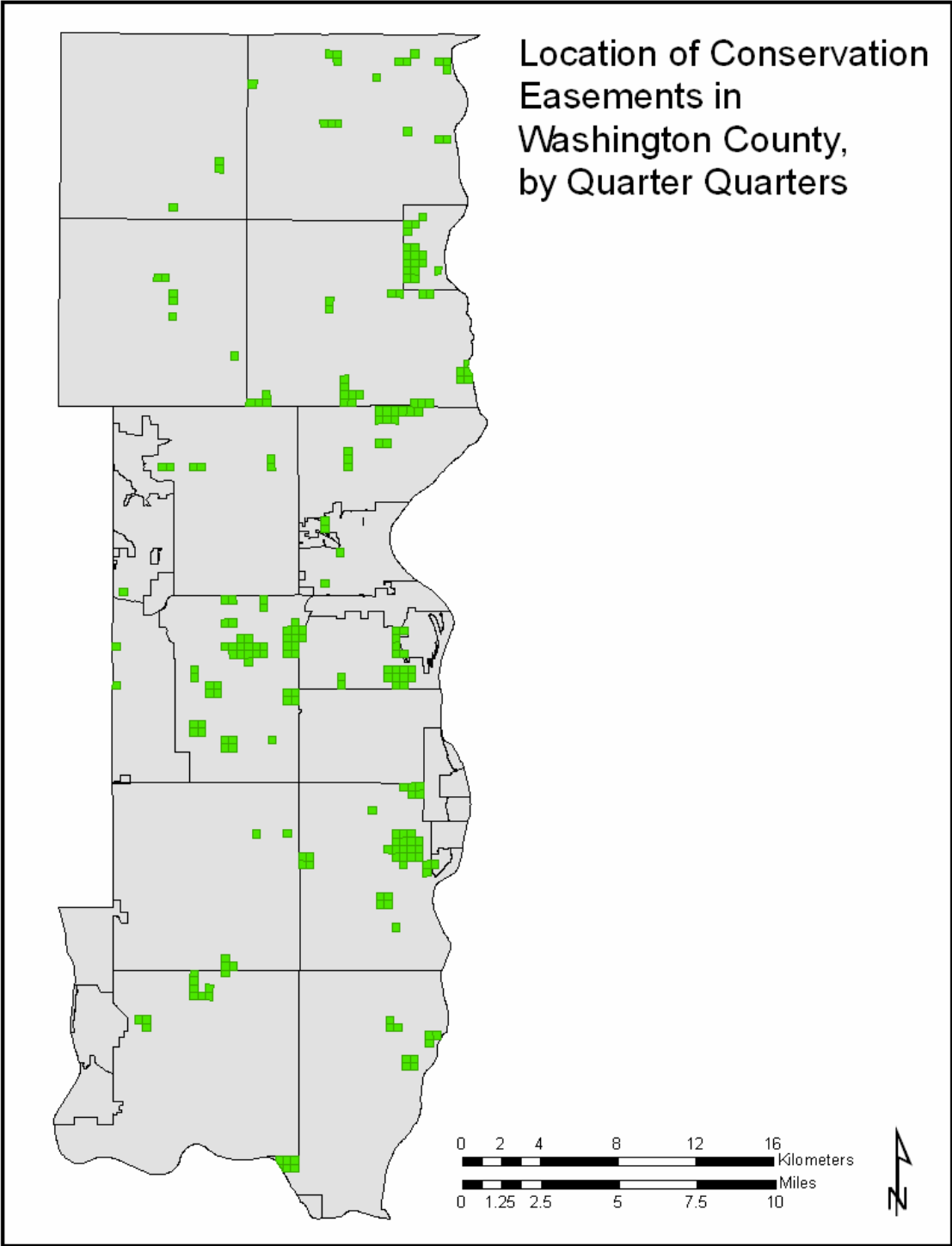
- Attaches attributes from the easement database file to a GIS coverage.
- Analyzes the data and produces maps and summary tables as requested by county departments.

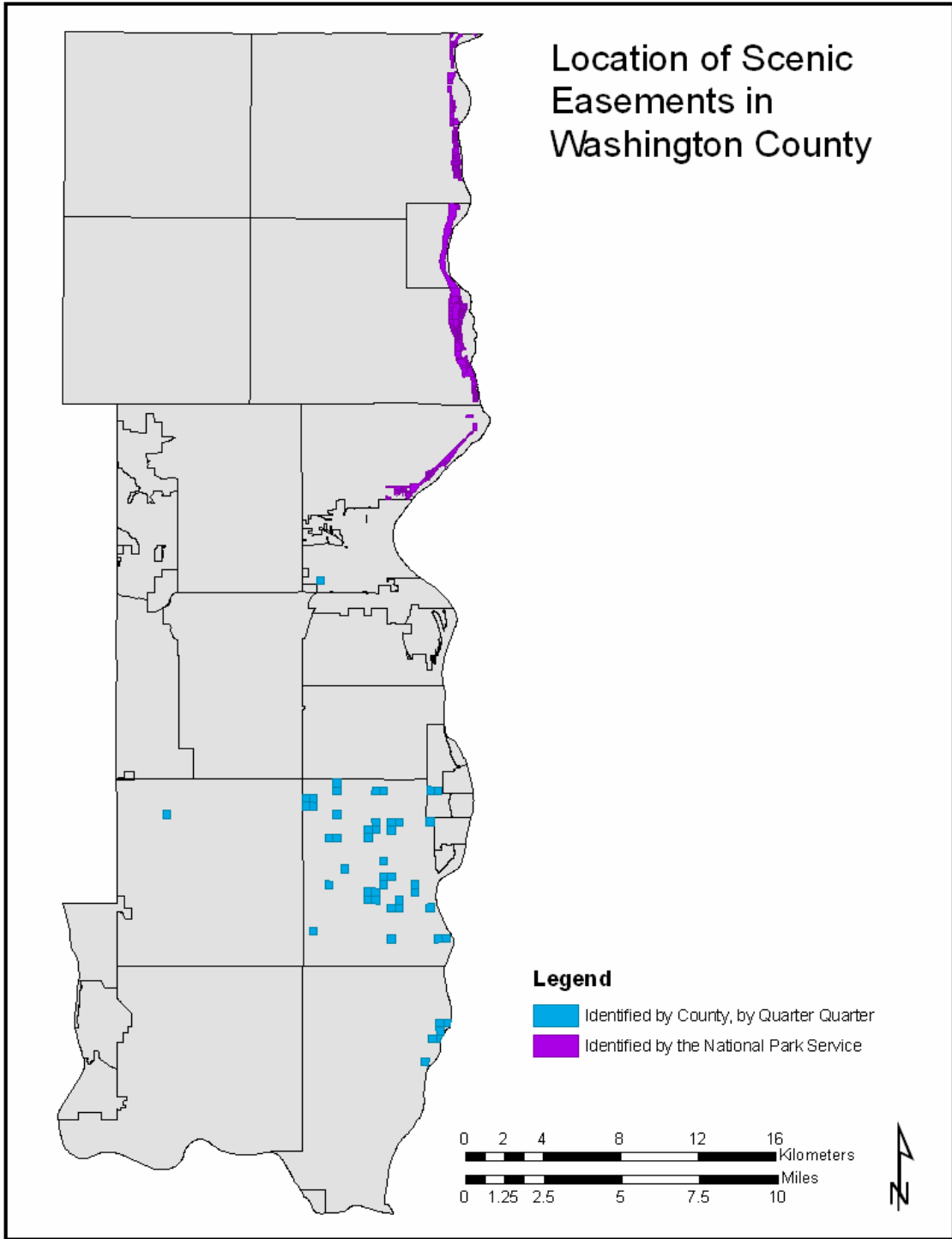
Easement Recording and Mapping Process

In order to maintain an accurate database of conservation easements, scenic easements, and development agreements, county officials will update and maintain the database at least monthly. The following steps outline the necessary actions and the responsible office for each.

-
- Step 1: PRTS (Jennifer Wagenius) receives the legal documents and assigns a document number.
 - Step 2: PRTS (Wagenius) assigns conservation easement code to the document number in the property records database.
 - Step 3: Survey (Mark Nieman) queries the property records database once a month for all new recorded easements.
 - Step 4: Survey (Nieman) adds the new easement boundary lines to the existing CAD drawing file and updates the database with new attribute information.
 - Step 5: Survey (Nieman) sends the newly created CAD layer and the updated database of conservation and scenic easements to GIS (David Brandt). These two products are merged to create a geodatabase of conservation easements, scenic easements, and development agreements. A product of this geodatabase is a detachable table that can be utilized by other departments.
 - Step 6: Administration sends a list of conservation and scenic easements and a corresponding map to each community annually.

Appendix D - Maps





Conservation and Scenic Easements in Washington County

Heading	Definition	Variables	Variable Definitions
Doc_Number	Document number assigned when easement is recorded.		For old projects this reference number will contain book and page number.
Doc_Amendment	Amendment to original recorded document.		
Date	Date that easement was recorded with the county.		
Doc_Type	Easement type	<p>Conservation</p> <p>Scenic</p> <p>Conservation Scenic</p> <p>Development</p>	<p>Conservation easement not associated with land platted as a conservation development that restricts all or most development rights.</p> <p>Scenic easement generally restricts the scenic values of the property by restricting development from certain areas of the property.</p> <p>An easement that restricts uses of the property to preserve both conservation and scenic values of the property.</p> <p>Development agreement used as a zoning tool to limit further development of the property.</p>
Holder_1	The primary grantee of the easement, generally the party that is responsible for monitoring and enforcing the terms of the agreement.		
Holder_2	A secondary grantee of the easement who may have only a right to enforce the terms of the easement.		
Holder_3	A secondary grantee of the easement who may have only a right to enforce the terms of the easement.		
Section	Location of holding by section, range, and township		
Legal_Desc	Legal boundary of holding		
City_Town	Municipal location of holding		
Plat_Name	Plat which encompasses holding		
Grantor_1	Property grantor		
Grantor_2	Property grantor		
Grantor_3	Property grantor		
Owner Type	Type of ownership of holding	<p>Private</p> <p>OSD</p> <p>Government</p>	<p>Property maintained by private organization or person.</p> <p>An outlot of a conservation development generally maintained by a homeowner's association or the developer of the plat.</p> <p>Property maintained by local, state, or federal government.</p>
Land_Use	Land use of property at time of document recording		General description of the property.