



**St. Croix National Scenic Riverway
National Park Service**

**Policy Statement on the Management and
Interpretation of the Terms of
St. Croix National Scenic Riverway Scenic Easements
June, 2002**

Common Questions and Answers

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When was the St. Croix National Scenic Riverway (NSR) created?

Congress established the St. Croix NSR in 1968 under authority of the Wild and Scenic Rivers Act and expanded it in 1972 to include the Lower St. Croix NSR. The Riverway was created to preserve and protect the remarkable scenic beauty and recreational opportunities of the St. Croix River and its major tributary, the Namekagon River.

The Riverway north of Stillwater, Minnesota is managed as a unit of the National Park System (NPS) to preserve, protect, restore, enhance and interpret the rivers' exceptional natural, cultural and scenic resources and to provide enjoyment of the river for present and future generations.

The most southern 25 miles of the Riverway, from the north city limits of Stillwater to the river's confluence with the Mississippi River at Prescott/Point Douglas, is jointly administered by the states of Wisconsin and Minnesota in cooperation with the National Park Service.

How was the Riverway's boundary determined?

The boundary of the Riverway was determined in accordance with Section 3(b) of the Wild and Scenic Rivers Act. Section 3(b) states that the boundary of any component "... shall include an average of not more than 320 acres per mile measured from the ordinary high water mark on both sides of the river...".

This equates to an average depth of ¼ mile land-ward from the ordinary high water mark on both sides of the river. The boundary of the St. Croix NSR generally follows identifiable property lines and roads rather than natural features.

How much land may the United States acquire in fee title within the Riverway?

Section 6(a)(1) of the Act states:

"The Secretary of the Interior and the Secretary of Agriculture are each authorized to acquire lands and interest in lands within the authorized boundaries of any component of the national wild and scenic rivers system ... but shall not acquire fee title to an average of more than 100 acres per mile on both sides of the river".

This authorized fee title area equates to approximately 50 acres per mile (an average width of 412 feet) on each sides of the river. This does not include any water surface, backwaters and sloughs, submerged river-bottom lands, or islands.

How is the remaining land within the Riverway protected?

Those lands not owned in fee by the United States or other public agencies are protected by purchased easement and/or state and local zoning and land use requirements. In all cases the most restrictive condition applies.

What is an easement?

Section 16(c) of the Act defines an easement as:

"... the right to control the use of land (including the air space above such land) within the authorized boundaries of a component of the wild and scenic river system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement".

Generally, an easement is the right to use the real property of another owner for a specific purpose. It is considered an encumbrance on the real property on which the easement is located. Use does not always

include physical access. Scenic Easements purchased by the Federal government for the St. Croix NSR protect the river's scenic and conservation values and do not allow access by the public.

There are two basic types of easements acquired by the NPS on behalf of the United States for the protection of the St. Croix NSR.

Scenic Easements make up the majority of easements acquired by the NPS and control general use and development of the property within the intent and spirit of the terms of the easement and the National Wild and Scenic Rivers Act. Scenic Easement tracts usually do not have river frontage and the easements do not give the general public any right to enter onto or use the land for any reason, unless allowed by the landowner. These easements permit all existing, legal single family residential and family farming uses to continue and generally permit new or additional development of that type with permission of the NPS if the tract has:

- at least 1 ½ acres of land and at least 250 feet of width on the side facing the river,

and the development or use is:

- not visible when viewed from the river, and is permissible under local and state zoning ordinances.

Riverfront Scenic Easements (also called Conservation Easements) are much more restrictive and protect large tracts of land with river frontage not acquired in fee by the NPS. These easements generally freeze development and use of the property to the conditions existing on the date the easement was acquired. The construction of new or additional residential structures is not allowed. However, all existing structures and uses can be maintained and continued and some limited additions or improvement to existing structures may be allowed with permission of the NPS if:

- the structure is not visible when viewed from the river, and
- the addition does not increase the width or height of the existing structure, or extend the structure closer to the river, and
- the development or use is permissible under local and state zoning ordinances.

Some Riverfront Scenic Easements may allow the general public to use unimproved land immediately adjacent to the river for limited purposes such as beaching a watercraft and fishing from shore. Long term use like picnicking or camping is not permitted unless specifically allowed by the landowner.

How is the value of the easement determined?

All real property appraisals are completed by private, professional appraisers and reviewed by professional NPS reality specialists/appraisers in compliance with the requirements of the *Uniform Appraisal Standards for Federal Land Acquisitions* manual.

Each appraisal requires the determination of two values: 1) a "before" market value based upon the current value including recent sale of nearby comparable properties in the private market (as if the Riverway did not exist), 2) an "after" market value based upon the value of the property (including consideration of any termination or restriction of any existing legal use) after the easement is imposed. The difference between these two values is the amount of just compensation the NPS will offer to pay for the purchase of the easement.

Is there special meaning to any words used in a St. Croix NSR easement?

Yes, as defined below:

The Land means all the land covered by the easement as described in the easement or in an attachment to the easement. Each easement is particular to an individual tract of land and will be identified on the

easement instrument as a discrete tract number, e.g., for the upper Riverway – SACN 01-001, for the Lower Riverway – LOSA 01-001.

NPS means the National Park Service, its agents, employees and assigns.

USA means the United States of America and its assigns.

Grantor means the person, persons or other entity conveying the easement to the USA. Because the easement runs with the land, *Grantor* also identifies any subsequent owner of the property after the property is sold or passed to another owner.

Riverway means both the Upper and Lower St. Croix National Scenic Riverway projects.

River means both the St. Croix and Namekagon Rivers, their islands, sloughs, backwaters and tributaries lying within the project boundaries.

Trees means all vegetation of every species measuring four and one half inches (4 ½) or more in diameter at a point four and one half feet (4 ½) above the ground (also known as DBH, or diameter at breast height).

Line of Sight (LOS) is a determination made by the NPS of areas of land that are inadequately screened from view from the river by the physical characteristics of the land. These characteristics may include, but are not limited to, topography and the existence of permanent vegetation and trees during the summer months when they are fully leafed out. The NPS LOS Determination is made at the time of purchase of the easement and remains with the property in perpetuity. In other words, once a property is determined to be in line of sight, it remains in line of sight even if vegetation grows enough to screen the property. This is because a higher value (greater damage) is paid for properties or lands considered in LOS.

Do I need NPS permission to sell or mortgage my property or leave it to my heirs by will or trust?

No, the easement in no way limits your ability or right to mortgage, sell or leave your property to your heirs or anyone else nor do you need NPS permission to do so. The NPS would, however, appreciate written notice of any permanent transfer of ownership to keep our records up-to-date.

May I lease or rent part or all of my property to another person?

Yes, you may lease or rent part or all of your property to another person as long as that person uses the property in accordance with the terms of the easement and local and state zoning ordinances.

Does the easement continue if the property is split, subdivided, sold or left by estate to another individual?

Yes, the easement covers the real property in perpetuity and continues automatically with the transfer of ownership or title of the property or any piece of the property. If the property, a piece of the property or use and enjoyment of the property is transferred by any means to another individual, the owner of the property must inform the receiving individual that the property is subject to the terms and conditions of the easement.

Must I continue to meet local zoning requirements once the easement is purchased?

Yes, a scenic easement is a purchased right and does not replace local zoning ordinances or requirements. In some cases the easement may be more restrictive while in other cases local zoning may be more restrictive. In all cases the most restrictive condition applies.

How may I continue to use my property once an easement has been purchased?

Activities that can continue under a scenic easement would include:

- All legal activities, uses and stages of development existing on the property at the time of purchase of the easement.
- All regular and normal maintenance and upkeep of the property including painting and replacement of roofing, siding, windows and doors on structures and the maintenance of lawns, gardens and existing open green space adjacent to structures.
- Repairs and rehabilitation of structures required to comply with safety or sanitation standards.
- Shoring up of structures affected by subsidence of soil.
- Repair, replacement or installation of service utility lines necessary for the reasonable use and enjoyment of the property.

Activities that may be allowed with permission of the National Park Service include:

- New or additional farming or grazing activities on land suitable for such activities if they are performed using good husbandry practices, if they do no harm or damage to cultural and natural resources and values, and if the activity is approved under local zoning ordinances.
- In-home or cottage-type businesses or activities which take place completely within an approved structure, do not involve significant or continuous on-site public participation or attendance, occur out of sight from the river, and are approved activities under local zoning ordinances.
- The installation of wind electric generators, solar collector panels, large satellite dishes, ham radio towers or other towers or structures used for the sole benefit and enjoyment of the property owner. Permission will generally be granted as long as the installation does not adversely affect the scenic values and natural and cultural resources of the Riverway and meets local zoning requirements.

Are there any activities that are prohibited?

Activities that are prohibited include:

- Any new or additional industrial, mining, quarrying, oil, gas, sand, gravel or other minerals development projects, including the removal of topsoil.
- Any other change in the general character or topography of the land including the draining of wetlands or the creation of lakes, ponds or bogs.
- The creation of or continued use and expansion of a public health hazard or nuisance including trash dumps, dumps for spoiled soils and hazardous waste dumps.
- The accumulation and storage of junk and other unsightly materials including (but not limited to) vehicles, machinery, tires, lumber, wood, scrap metal, wire, household and plumbing fixtures and appliances.
- Any new or additional business or commercial activities that involve significant or continuous on-site public participation or attendance.
- The granting of any new access rights, public utility easements or rights of way across the property.
- The placement of signs, billboards or advertisements except:
 - A single permanent sign or marker identifying the property address and/or owner.

- No more than two additional temporary signs offering the sale of products raised or produced on the land, political expression signs during elections, and signs offering the property for sale or lease.
- No sign, whether permanent or temporary, may be larger than 720 square inches (roughly 24 x 30 inches).
- Any new use or activity not in compliance with local zoning ordinances.

May I replace my structure if destroyed by fire, storm or other casualty loss?

Yes, existing structures damaged or destroyed by fire, storm or other casualty loss may be replaced as long as the new structure is essentially the same size, is designed to serve the same purpose, occupies essentially the same site, presents no additional surface area along the side facing the river and adheres to local zoning requirements. In addition the replacement of a structure for the convenience of the owner is allowed under the same conditions listed above. The replacement of any structure requires written approval of the NPS.

Internal or external renovation or remodeling of an existing structure is acceptable provided the structure will continue to be used for the same purpose as before and the renovation or remodeling meets local zoning standards.

May I enlarge an existing structure?

Yes, if the following conditions are met:

- The structure is a detached single family home or accessory building subordinate to and serving the principal use of the property, which is as a single family residence.
- The structure is out of line-of-sight, or if in line-of-sight, does not extend the structure nearer to the river nor increase either the width or height of the structure as seen from the river.
- The site is a minimum of one and one-half acre (1 ½) acres with at least 250 feet of frontage on the side most parallel to and facing the river.
- The project is in compliance with local zoning requirements.
- The project has received written approval of the NPS.

May I build a new residence or structure if my property is undeveloped?

Yes, if the following conditions are met:

- The structure is a detached single family home or accessory building subordinate to and serving the principal use of the property, which is as a single family residence.
- The structure is out of line of sight.
- The site is a minimum of one and one-half acre (1 ½) acres with at least 250 feet of frontage on the side most parallel to and facing the river.
- The project is in compliance with local zoning requirements.
- The project has received written approval of the NPS.

May the structure be a trailer (mobile) home?

No, a trailer home may not be used as a long-term or permanent residence on lands covered by an easement.

However, a travel trailer, motor home or similar recreational vehicle, or other structure (hunting shack or accessory building) may be used for temporary occupancy if:

- It is located out of line of sight of the river or in an area screened from view of the river by an existing permanent structure, topographic feature or vegetative screen
- It is occupied for no more than 15 consecutive days at a time or for a total of no more than 45 days in any given calendar year

In addition, a travel trailer, motor home or other similar recreational vehicle may be stored (unoccupied) on the property if it is located out of line of sight of the river, in an area screened from view of the river by an existing permanent structure, topographic feature or vegetative screen, and allowed under local zoning ordinances.

May the structure be a manufactured (mobile) home?

Yes, manufactured homes are allowed if the following conditions are met:

- The towing hitch and all running gear (tongues, axles, brakes, wheels and lights) are removed
- The structure is classified and taxed as real estate by local taxing authorities
- The structure is constructed in conformance with the Federal Manufactured Home Construction and Safety Standards
- The structure is permanently attached to a site-constructed foundation
- The structure is serviced by permanently installed utilities including water and sewer
- The structure has a properly enclosed crawl space with a continuous permanent foundation.

May I harvest timber from my land?

Yes, provided that the harvesting is performed after obtaining written permission of the NPS and is completed using light on the land harvesting practices in accordance with a written forest management plan approved by a state or county forester, and local government, if required. The plan must be sent to the NPS when requesting permission to harvest and include a re-vegetation component that includes the restoration of the area with the random planting, as necessary, of a mixture and variety of native plants, shrubs and trees. The development of new or the continuous re-establishment after harvest of existing single-species tree farms or plantations is prohibited.

May I cut, trim or otherwise remove any other vegetation from my property?

Yes, brush and small trees (less than 4 ½ inches DBH) may be cut, trimmed and removed without prior NPS approval to maintain existing roadways, driveways or access routes, to maintain existing lawns and open spaces around structures and to maintain existing vistas of the river. *However, the cutting, trimming or removal of any vegetation to establish a new or wider view of the river, or for any reason not mentioned above or below, is prohibited.*

Trees and brush may also be cut, trimmed and removed with prior written permission of the NPS to remove diseased or damaged hazard trees (trees that if they were to fall would cause damage to structures or personal property or injury to people). They may also be removed to develop wildland fire defensible space areas in accordance with accepted structure fire proofing standards. Lastly they may be cut and removed to accommodate a building site and project approved by the NPS.

May I cut and gather dead and down wood on my property for personal use as firewood?

Yes, dead and down wood may be gathered and cut for personal use as firewood.

May NPS employees enter my land?

Yes, NPS employees may enter upon and cross your land for official business including performing inspections to assure compliance with the terms and conditions of the easement. The NPS will provide reasonable notice of intent to enter the land, except when responding to emergencies or when investigating apparent gross violations of the scenic easement reported by the public.

In addition NPS employees may enter upon your land to erect and maintain public use signs no larger than 720 square inches (generally 24 x 30 inches). Prior to initial placement of a sign the NPS will notify you in writing of its wishes to install a sign and to arrange a meeting to discuss the size, placement and need for the sign.

May the public enter my land?

No, NPS easements generally do not grant the public the right to enter upon or use your land unless that right is specifically identified in the easement. Only those individuals granted the right by you to enter upon or use your land might do so.

Along with the conditions above, an NPS law enforcement ranger may enter upon your property to assist you in removing trespassers off of your land.

What will happen if I violate a term(s) of the easement?

Easement violations are a civil breach of agreement and may be referred to the U.S. Attorney's Office (Department of Justice) for civil litigation. However, the primary goal of the NPS in handling violation(s) of the easement is to seek compliance, not civil action.

If a minor violation of the easement is identified by the NPS, the Superintendent will inform you in writing of the violation and require you to comply with the terms of the easement within a specified time frame, usually 30 days. This would require that, if the violation(s) were ongoing, that the activity be stopped immediately, and that the property be restored to its original condition prior to the violation. If the violation is also a zoning violation the matter will be referred to the appropriate state or local government.

If the violation is a gross violation, or if you do not correct as required by the Superintendent, the NPS will seek through Federal Court an injunction, corrective action, and damages.

What process must I follow to perform an activity or action that requires NPS approval under the terms of the easement?

You must submit by mail or email a request to the Superintendent describing the action or activity you wish to perform. This request must include reference to the tract number, a detailed description of the action or activity along with a map, drawing or survey of the property showing the location of any existing structure(s) and the location of the proposed action or activity. After initial review of the proposal the NPS might request additional information, such as house drawings and elevations, a legal survey of the property, photographs, and variance applications, building permits, or other approval documents required by other Federal agencies or state and local government. As needed, the NPS will also attempt to meet with you to

review the proposal on site and to answer any questions or concerns. Please include with your request a phone number, FAX number and/or email address where we may contact you.

The NPS will reply in writing, usually within 10 working days, either granting or denying the request or asking for additional information. If the NPS has all the information it needs to make an informed decision and the proposed project is permissible under the terms of the easement and requires no action by another Federal or state or local governmental body, the NPS will provide you with a letter to proceed.

If the project is permissible under the terms of the easement, but requires review and action by state or local governmental agencies to meet local zoning standards, the NPS will provide tentative approval contingent upon the actions of the other governmental agencies. Once all the requirements of the easement are fulfilled the NPS will provide you with a final letter to proceed.

Telephone requests to remove hazard trees will be accepted and approved if the tree(s) in question poses an immediate threat to life or property. This telephone request, however, must be followed up with a written request within seven calendar days.

Please submit all requests to:

Superintendent
ATT: Lands
St. Croix National Scenic Riverway
P.O. Box 708
401 North Hamilton Street
St. Croix Falls, Wisconsin 54024

For further information or questions please call:

Brian R Adams
Chief, Resource Protection
715-483-3284 ext. 629

Or email to:

SACN_LANDS@nps.gov