

FACT SHEET

Title Corrections and Legal Adjustments

Improving stewardship practices strengthens conservation but navigating the Natural Resource Conservation Service (NRCS) process of enforcing easements and easement plans can be complex. The Land Trust Alliance is here to provide you with the tools you need. In addition to highlighting the relevant *Land Trust Standards and Practices* adopted by all member land trusts, this document summarizes NRCS policy on title corrections and legal adjustments, which is available in full in the Title 440 Conservation Programs Manual, Agricultural Conservation Easement Program (ACEP), (CPM Part 528.173).

LAND TRUST ROLES AND RESPONSIBILITIES

STANDARD 11—Conservation Easement Stewardship

F. Approvals and Permitted Rights

2. Establish written procedures to guide the land trust's decision-making if using discretionary approvals or if conservation easement deeds contain such clauses

H. Amendments

1. Adopt and follow a written policy or procedure addressing conservation easement amendments that is consistent with the *Land Trust Alliance Amendment Principles*
2. Evaluate all conservation easement amendment proposals with due diligence sufficient to satisfy the Amendment Principles
3. If an amendment is used to adjust conservation easement boundaries (such as to remedy disputes or encroachment) and results in a de minimis extinguishment, document how the land trust's actions address the terms of Practice J, Partial or Full Extinguishment.

Title corrections and other legal adjustments include:

- Typographical errors
- Minor changes in legal descriptions as a result of survey or mapping errors
- Address changes
- Internal changes on an FRPP or ALE easement that will have a neutral or a positive easement benefit, such as adjusting a building envelope boundary
- Relocation of easement access
- Temporary work areas
- Acceptance of overlay easements to enhance easement protections
- Donations of easements
- Additional interests or protections, such as unification of legal estates



NRCS Role and Responsibilities

ADAPTED FROM THE CONSERVATION PROGRAM MANUAL

528.173 Title Corrections and Legal Adjustments

- The state conservationist may preliminarily determine that a minor title correction or legal adjustment is appropriate and submit a request to the Easements Program Division (EPD) director.
- The EPD director will approve or deny the proposed title correction or legal adjustment, providing their determination and associated requirements in writing.
- Title corrections and other legal adjustments are case specific and may require different documentation based on the nature of the request.

Example: The relocation of a building envelope on an agricultural land easement (ALE) requires the landowner or entity to provide a legal survey prior to approval. The EPD Director may request additional documentation.

- At minimum, a signed decision memorandum and completed Environmental Evaluation Worksheet (Form NRCS-CPA-52) analyzing the action and its alternatives are required.
- Additionally, based on the specific action being proposed, draft deeds, agreements or memorandums of understanding, legal surveys or other supporting documents must be submitted to the EPD Director by the state conservationist as part of the request package.
- Execution of an approved title correction or legal adjustment action may also require Office of General Counsel (OGC) review, approval and action. The state conservationist must consult with OGC prior to submitting a title correction or legal adjustment request for EPD Director approval. Requests approved by the EPD Director may require the state conservationist to receive specific direction or final approval from OGC prior to proceeding with the title correction or legal adjustment.
- Subdivision of a Farm and Ranch Lands Protection Program (FRPP) or ALE easement specifically described in the terms and conditions of an entity-held easement deed is not considered a title correction or other legal adjustment and does not need EPD Director review unless required by a deed term.