Pre-Existing Violation Decision Flowchart

Complete Violation Worksheet

Pre-Closing

Start here to analyze a violation that potentially existed prior to closing the easement.

Review aerial imagery and easement case file, including all items listed in **Box 1**, to assess the violation age.

Box 1 – File Review Items

Easement deed	Survey
Limited Phase-1	Title Report
Site Photos	Maps
Aerial imagery	Baseline report
Easement plan	CUAs

Monitoring forms
Preliminary and Final Certificates of Inspection and Possession
OGC Preliminary and Final Title Opinions
Restoration documents
File notes (Conservation-6)
Certificate of Use and Consent
Communications, letters or emails
Any other relevant documents

Based on the aerial imagery and file information, have you determined that the issue existed prior to the easement closing?

NO → Follow standard enforcement protocols

YES

Prior Owner

Start here to analyze a violation potentially committed by a prior landowner

Can it be determined that the current landowner (individual or legal-entity) and the prior landowner are in fact the same?

Consider the following questions to help make the determination:

- Is the prior landowner a member of a legal-entity landowner (Corp, LLC, etc.) that currently owns or manages the property?
- Is the current landowner the parent or spouse of the previous landowner?
- Did the current landowner take part in operating or recreating on the land prior to their ownership?

YES → Follow standard enforcement protocols

NO → Review aerial imagery and easement case file, including all items listed in Box 1, to assess the violation age.

Based on the aerial imagery or file information, have you determined that the issue existed prior to the change in ownership?

NO → Follow standard enforcement protocols

YES

YES

Ascertain the current landowner's willingness to remediate. Is the current landowner willing to remediate the pre-existing violation?

YES → Work with landowner on voluntary remediation plan

NO

Complete analysis, using Form NRCS-CPA-52 "Environmental Evaluation Worksheet" to decide whether NRCS should remediate the violation or allow the condition to remain in place. Violation cases with significant impacts may require additional NEPA studies.

Does the analysis show that remediating the pre-existing violation will improve the functions and values of the easement, provide other benefits, or cause more overall good than harm?

YES → Remediate the violation

NO → Do not remediate the violation

Document the decision to remediate the pre-existing violation in a State Conservationist Decision Memo.

- Develop a violation remediation plan (see CPM 440-527 Subpart S).
- Attach standards and specifications.
- Ensure that the NRCS State maintenance budget related to the specific easement program is available.
- Include a narrative description of why the violation was not discovered and addressed, and affirmative steps you have taken to avoid similar issues on other easements.
- STC signs Violation Remediation Plan.

Document the decision not to remediate the pre-existing violation in a State Conservationist Decision Memo.

- Include a narrative description of why the violation was not discovered and addressed, and affirmative steps you have taken to avoid similar issues on other easements.
- STC signs Violation Remediation Plan.

Submit the signed Decision Memo, Violation Remediation Plan, and any supporting documents to the EPD Stewardship Team via business tool.

EPD decision returned to the STC. → Implementation of the decision. → Update the easement case file in the system of record.