

## Amanda Brazee

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**From:** Amanda Brazee  
**Sent:** Monday, January 04, 2016 2:55 PM  
**Subject:** RE: LSOHC - Bill language re White Earth  
**Attachments:** LSOHC Meeting Minutes\_Dec 3 2015.pdf

Dear members,

For your information, attached is a draft of the December 3<sup>rd</sup>, 2015 LSOHC meeting minutes. Approval of these minutes is on the January 7<sup>th</sup> meeting agenda.

The draft bill discussion begins at the start of [Part II of the meeting audio posted online](#). The council's discussion of the White Earth Nation's proposal begins after minute **00:39:00**, after the roll call vote on Senator Saxhaug's motion (motion at minute 00:22:47 of Part II).

Sincerely,

Amanda

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**From:** Mark Johnson  
**Sent:** Monday, January 04, 2016 12:27 PM  
**Cc:** Amanda Brazee <amanda.brazee@lsohc.leg.mn>; Sandy Smith <sandy.smith@lsohc.leg.mn>; Joe Pavelko <Joe.Pavelko@lsohc.leg.mn>  
**Subject:** LSOHC - Bill language re White Earth

Dear Council members

I thought it may be wise to inform you of a potential issue in advance of this week's council meeting so you can ponder the information. Within the constraints of the Open Meeting Law, I remind you to not discuss this material or forward your thoughts with other Council members. I will gladly receive any feedback you may wish to provide to me, but beyond that we are best advised to save our discussion until the actual Council meeting on Thursday.

Last week I received a telephone call from Chris Knopf regarding the White Earth Nation proposal and potential bill language. Mr. Knopf mentioned the following:

"My recollection is that the gist of the motion was that DNR could expand its seasons and limits to coincide with White Earth Nation's seasons and limits on the project site. What I heard when I reviewed the tape was something along these lines:

To move the package with an amendment that White Earth Nation and DNR create a single special hunting zone on the project property that is based upon White Earth Nation's hunting, fishing, trapping, and gathering seasons and limits.

The proposed legislative language is different from this language. White Earth Nation does not envision needing the approval of DNR to establish a management plan for the property."

In his subsequent email (below) that I received this morning, Chris suggests alternative language that definitely changes the intent from "joint" cooperation by the tribe and DNR to one where DNR "may establish a special zone" where nontribal persons may hunt, trap, fish, etc., under tribal seasons & bag limits.

After extensive review of the meeting's audio archives, it is very apparent to me that the intent of the council was much more directive in stating that the tribe and DNR are to work together and that the funding is conditional upon the "joint" cooperation and single management hunting unit. The "proposed legislative language" currently in the bill attempts to succinctly forward that intent.

With the previous in mind, in addition to the parameters within the bill language, Council staff will need to work with White Earth to include additional directive language within the final accomplishment plan underscoring the intent that without the jointly agreed upon management plan no land can be purchased and without continued implementation of such plan any purchased land will revert to state ownership.

Within item 5b of the Council meeting agenda we will be discussing the White Earth Nation bill language to ensure that Staff has adequately captured the Council's intent. That discussion has potential to be robust, hence my hope that we will each be able to give it some advanced "think time."

Thank you for your consideration. I hope you find this email informative, thought provoking, and conducive to constructive discussion.

Personal regards,

Mark

Mark Wm. Johnson  
Executive Director  
Lessard Sams Outdoor Heritage Council  
651-296-6397  
[Mark.johnson@lsohc.leg.mn](mailto:Mark.johnson@lsohc.leg.mn)

Mark –

I hope that you are doing well and that 2016 is off to a good start for you.

Below is your proposed legislative language and alternative language from White Earth Nation that reflects our understanding of the LSOHC's actions at the last meeting.

### **Proposed Legislative Language from Mark Johnson**

#### **(j) Protecting Forest Wildlife Habitat in the Wild Rice River Watershed**

\$2,188,000 in the second year is to the commissioner of natural resources for an agreement with the White Earth Nation to acquire lands in fee in Clearwater County to be managed for wildlife habitat purposes. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. The White Earth Nation, in cooperation with the commissioner of natural resources, shall create a jointly agreed upon management plan for all lands acquired with this appropriation to include a single management unit where White Earth Nation tribal hunting, trapping, fishing, and gathering seasons and bag limits will be utilized for tribal and nontribal members alike. The management plan must be provided as part of the required accomplishment plan.

### **Alternative Legislative Language Reflecting White Earth Nation's Understanding of the LSOHC's Actions**

**(j) Protecting Forest Wildlife Habitat in the Wild Rice River Watershed**

\$2,188,000 in the second year is to the commissioner of natural resources for an agreement with White Earth Nation to acquire lands in fee in Clearwater County to be managed for wildlife habitat purposes. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. The commissioner of natural resources may establish a special zone on the properties acquired by White Earth Nation under this grant in which the hunting, fishing, trapping, and gathering seasons and limits for non-tribal members coincide with those for tribal members.

**Lessard-Sams Outdoor Heritage Council (LSOHC) Meeting  
Meeting Summary  
December 3, 2015**

**Members Present**

Bob Anderson, Chair  
Julie Blackburn  
David Hartwell  
Sen. Bill Ingebrigtsen

Jane Kingston  
Rep. Leon Lillie  
Rep. Denny McNamara  
Susan Olson

Sen. Tom Saxhaug  
Ron Schara  
Barry Tilley  
Elizabeth Wilkens

**Call to Order:** Call to order at 8:10 a.m. A quorum was present.

**Review and Approve Agenda**

Motion by Mr. Hartwell to approve the agenda for December 3, 2015 as presented. Motion adopted.

**Review and Approve Minutes – November 5, 2015**

Motion by Ms. Kingston to approve the minutes. Motion adopted.

**Conflicts of Interest:**

No new conflicts were noted.

**(00:02:10 – Audio File Part I) Executive Director’s Report**

Project Analyst Manager Sandy Smith provided an update on the status of ML 2009, ML 2010 and ML 2011 Final Reports and Annual Real Property Interest Reports. Members discussed the update. Bill Penning, Easement Section Manager, Board of Water and Soil Resources (BWSR) provided testimony regarding ML 2009 Ch. 172, Art. 1, Sec. 2, Subd. 4(d), Reinvest in Minnesota Wetlands Reserve Program Acquisition and Restoration.

Executive Director Mark Johnson provided a status update on the Land Acquisition Report mandated by ML 2015, First Sp. Session, Ch. 2, Art. 1, Subd. 6(d).

**(00:11:14) Action: Adopt 2016 Council Schedule**

Mr. Johnson reviewed the proposed 2016 council schedule.

**(00:17:10)** Motion by Ms. Kingston to adopt the council schedule with the following change: move the November 15, 2016 meeting to November 16, 2016. Motion adopted.

**(00:18:00) Discussion: RFP/Call Criteria**

Assistant Director Joe Pavelko reviewed the timeline for issuing the Call for Funding Request and options for moving forward should the council wish to make changes for FY 2018. Members discussed the issue.

**(00:50:15)** Motion by Ms. Blackburn to hold work sessions for the whole council after the council business meetings scheduled in January and February 2016 to review the Call and make recommendations to the full council for discussion and adoption. Administrative aspects of changes to the Call should be made by staff and presented to the council. Ms. Kingston will preside over the sessions. Members discussed the motion. Mr. Hartwell offered two additional comments for consideration during the work session regarding prioritizing Wildlife Management Areas and recommending the Conservation Partners Legacy (CPL) Grant program receive a

recommendation for funding at the outset each funding year, followed by funding recommendations for all other proposals using remaining funds.

**(01:04:00)** Motion adopted.

**(01:04:45) Treasurer Report**

Ms. Blackburn presented the Minnesota Management and Budget Office (MMB) November forecast for the Outdoor Heritage Fund (OHF).

**(01:07:35)** Motion by Ms. Blackburn to increase the council's allocation recommendation by \$3,945,000, the additional funds available for the OHF per the November forecast.

**(01:10:00)** Motion adopted.

Members discussed how the additional funds might be allocated. Jessica Lee offered testimony regarding the CPL program. Members discussed her testimony.

**(01:15:25)** Motion by Sen. Ingebrigsten to recommend the entire \$3,945,000 be added to the allocation for the CPL program. Members discussed the motion. Rep. McNamara suggested recommending some of the additional funds for projects that received funding recommendations from all twelve council members during the allocation process. Members identified proposal PA 04, Northern Tallgrass Prairie National Wildlife Refuge Land Acquisition, Phase VII, WA 01, Accelerating the Waterfowl Production Area Acquisition, Phase VIII and HRE 01, Minnesota Trout Unlimited Coldwater Fish Habitat Enhancement and Restoration, Phase VIII.

John Lenczewski, Trout Unlimited provided testimony regarding proposal HRE 01, Minnesota Trout Unlimited Coldwater Fish Habitat Enhancement and Restoration, Phase VIII and answered questions from members.

Eran Sandquist, Pheasants Forever, Inc. provided testimony regarding WA 01, Accelerating the Waterfowl Production Area Acquisition, Phase VIII. Members discussed his testimony.

**(01:32:48)** Members discussed the motion as put forth by Sen. Ingebrigsten. Division was requested on the vote. Motion failed (6-6).

**(01:37:25)** Motion by Ms. Kingston to recommend \$1,974,000 be added to the CPL program, and \$657,000 be added to proposals HRE 01, PA 04 and WA 01. Members discussed the motion.

**(01:42:15)** Ms. Kingston withdraws her motion.

**(01:43:30)** Motion by Ms. Blackburn to divide the surplus among the four projects in question, \$987,000 going to CPL, and \$986,000 each going to HRE 01, PA 04 and WA 01. Motion amended by Sen. Saxhaug to recommend half the surplus, or \$1,974,000, be added to the CPL program, and \$657,000 be added to proposals HRE 01, PA 04 and WA 01. Amendment is adopted.

**(01:48:20)** Motion is adopted as amended.

Rep. McNamara requested the DNR confirm that the scoring criteria for the metro and traditional/outstate CPL programs are similar, and that both metro and traditional proposals are evaluated based on those criteria. Ms. Lee testified that the criteria are similar. For metro proposals, additional language was added regarding wildlife benefits for the public beyond hunting and fishing, and habitat corridors are mentioned in addition to the quantity of habitat. Additionally, metro projects can apply through either the metro funding process or the

traditional process. After projects that do not meet the criteria or do not reach a designated scoring threshold are turned down, a second proposal round occurs to grant any remaining funds.

**(00:02:20 – Audio File Part II) Draft Outdoor Heritage Fund Bill Language**

Rep. McNamara suggested additional language for the OHF bill be added proposal FA 02, Jack Pine Forest/Crow Wing River Watershed Habitat Acquisition. Members discussed the suggestion. Craig Engwall, Executive Director of the Minnesota Deer Hunters Association provided testimony and responded to questions from members. Mr. Hartwell stated for the record he does not support ATV trails on OHF lands as they do not provide wildlife habitat. Members discussed trails on OHF lands.

**(00:16:13)** Mr. Johnson provided an overview of the draft OHF bill language.

**(00:22:47)** Motion by Sen. Saxhaug to approve the draft bill with the changes presented by Mr. Johnson, and send the bill on to the Minnesota legislature for approval.

**(00:25:12)** Amendment to the motion by Rep. McNamara to add the following language to proposal FA 02 (draft bill Subd. 3(b)), Jack Pine Forest/Crow Wing River Watershed Habitat Acquisition, “Preference must be given to parcels that will be transferred to a government entity or non-governmental organization with expertise in land management.” Mr. Engwall testified his organization is not opposed to the amendment. Members discussed the amendment.

**(00:38:00)** Amendment adopted.

**(00:39:00)** A roll call vote on the motion was requested (supermajority required).

Roll call vote on the motion:

Bob Anderson, Chair - No	Jane Kingston - Yes	Sen. Tom Saxhaug - Yes
Julie Blackburn - Yes	Rep. Leon Lillie - Yes	Ron Schara - No
David Hartwell - Yes	Rep. Denny McNamara - No	Barry Tilley - Yes
Sen. Bill Ingebrigsten - No	Susan Olson - Yes	Elizabeth Wilkens - Yes

Motion failed (8-yes, 4-no).

Members discussed the recommendation package and proposal FA 09, Protecting Forest Wildlife Habitat in the Wild Rice River Watershed. There was disagreement over including that project in the package by several members which was discussed extensively.

**(01:25:02)** As a result of an apparent stalemate, Sen. Saxhaug made a motion to adjourn. Division requested. Motion failed.

**(01:31:35)** Chris Knopf, Indian Land Tenure Foundation and Lorena Vogt, White Earth Nation, provided testimony regarding proposal FA 09, Protecting Forest Wildlife Habitat in the Wild Rice River Watershed and answered questions from members.

Members continued to discuss the package. It was pointed out that as a result of their treaty rights, Native Americans are entitled to different hunting and fishing seasons on this and other land covered by those treaty rights, regardless of who owns the land. Mr. Knopf suggested as part of his testimony perhaps the DNR could increase the seasons on the properties in question to match the White Earth Nation’s so non-tribal hunters

would have the opportunity to hunt seasons that coincide with White Earth's, which they have as a result of their treaty rights.

**(01:47:25)** Motion by Mr. Hartwell to approve the package with the additional language added to FA 09, Protecting Forest Wildlife Habitat in the Wild Rice River Watershed, the White Earth Band and the Department of Natural Resources create a special single hunting zone on the properties in question that is based upon the White Earth Band's tribal hunting, trapping, fishing, and gathering seasons and bag limits. Rep. McNamara stated for the record that waterfowl seasons are set federally, therefore the White Earth Band's waterfowl season must be equal to or less than the federal season as the State of Minnesota does not have the authority to increase that season for non-tribal members.

**(02:13:25)** A roll call vote on the motion was requested (supermajority required).

Roll call vote on the motion:

Bob Anderson, Chair - No	Jane Kingston - Yes	Sen. Tom Saxhaug - Yes
Julie Blackburn - Yes	Rep. Leon Lillie - Yes	Ron Schara - Yes
David Hartwell - Yes	Rep. Denny McNamara - No	Barry Tilley - Yes
Sen. Bill Ingebrigsten - No	Susan Olson - Yes	Elizabeth Wilkens - Yes

Motion adopted (9-yes, 3-no).

**(02:15:30) Opportunity for Public to Address the Council**

No public comment was heard.

Meeting adjourned at 12:50 p.m.

APPROVED:

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Bob Anderson, Chair

Date:

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David Hartwell, Secretary

Date: