

Lessard-Sams Outdoor Heritage Council

Agenda Item Memo

DATE September 20, 2011

SUBJECT: UPM Blandin/MN Power Utility Easement Change

Background

The council approved changes to its Operating Procedures at its March 18, 2011 meeting. ML 2009, Ch. 172, Art. I, Section 2, Subd. 14 and ML 2010, Ch. 361, Art. I, Sec. 2, Subd. 13 requires the L-SOHC to “establish procedures to review requests from recipients to alter the use of or convey interest in real property.” Minnesota Power has received a permit to place a power line across UPM Blandin property covered by the OHF financed Forest Legacy easement. In return, Minnesota Power will abandon a large, similarly situated utility easement. This request from the Department of Natural Resources is based upon its interpretation that the exchange of utility easements results in no net loss of value or habitat. Denial by the council of this exchange will result in condemnation of the new alignment.

Motion

“Motion to approve the DNR’s request that the conversion of eased lands under the Forest for the Future program is minor and does not require formal council review and approval.”

Suggested Procedure

Once motion is before the Council, it is up for discussion, amendments and final passage.

Attachments

Operating Procedures

R. Peterson’s Sept. 6, 2011 letter

Minnesota Department of Natural Resources

1810 - 30th St. NW Faribault, MN 55021



September 6, 2011

William H. Becker
Executive Director
Lessard-Sams Outdoor Heritage Council

Bill:

The Public Utilities Commission has issued to Minnesota Power a Route Permit that authorizes the construction and operation of a High Voltage Transmission Line (HTVL) in Itasca County that will provide power to the Essar Steel Facility near Naswauk, MN. Minnesota Power desires to obtain easements across Blandin Property on property described and shown in attachments A - map and B-legal description. Those affected lands are subject to a conservation easement between Blandin and the State of Minnesota. As a result of the Conservation Easement, the new easement is subject to the Operating Procedures of the Lessard-Sams Outdoor Heritage Council (LSOHC) and those procedures call for a replacement plan for the conversion, alteration or conveyance of the affected lands.

Minnesota Power and Blandin are currently engaged in negotiations to abandon an existing power line over 153 acres of Blandin land and replace that line with the new PUC permitted line that covers 127 acres of Blandin land. The abandoned line would be vacated and restored.

LSOHC staff has directed the Department to evaluate the proposed utility line exchange and to consider impacts of the exchange on old growth forest, rare species and habitats, shoreline, wildlife habitat as well as valuation and to provide an opinion as to whether this exchange constitutes a conversion under the LSOHC appropriation law and requires replacement under LSOHC procedures.

I have evaluated the proposed exchange which I have included as attachment C. My recommendations to the Council are as follows:

1. To conclude that this exchange is not a conversion and therefore not be subject to the LSOHC procedures. I believe this exchange will not constitute a conversion under the LSOHC procedures and will therefore not require further action by the Council. The exchange will exchange a power line easement from one location on the Blandin lands to another location on Blandin lands. The Outdoor Heritage Fund and State interests will remain whole as there will be no net loss of either value or habitat as a result of this exchange. Rather, the exchange will be a net gain of habitat for the Blandin lands as the vacated power line acreage exceeds the new power line acreage by 26 acres.

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Minnesota Department of Natural Resources

1810 - 30th St. NW Faribault, MN 55021



The new line is needed for the operations of Essar Steel and Minnesota Power will avoid the condemnation process that might otherwise occur if this exchange is not approved. Blandin lands will have reduced fragmentation through a large contiguous block of ownership as the 9+ miles of abandoned line is reforested. From both an ecological and operations standpoint, this will be an improvement. Even though the new power line will remove some forested lands and result in new fragmentation, there will be a net decrease in fragmentation (approximately 5 fewer miles of power line corridor) across Blandin lands. Also, using an existing power line right-of-way for a portion of the new power line reduces new fragmentation. The value of the vacated power line, as calculated by an analysis of county parcel information, estimates a value of approximately \$171,000 on the abandoned ROW while the new right of way has an approximate value of \$124,000 making this exchange advantageous to Blandin and the State.

2. Alternatively, if the Council believes this is a conversion, to treat this as a minor conversion approvable by staff. The replacement plan recommended is the plan outlined above and further detailed below.
 - a. Minnesota Power and Blandin are proposing that Minnesota Power vacate an existing power line easement over approximately 153 acres of Blandin lands (approximately 8/100 of 1% of the total easement acres). The 153 acre easement will be permanently vacated, lines will be removed and the area will be reforested once the line is vacated. The line to be abandoned crosses 9.4 miles of Blandin lands. The vacated line is intended to mitigate the impacts on the conservation values of the new line.
 - b. The new power line crosses 8.3 miles and impacts 127 acres of Blandin lands (approximately 6/100 of 1% of the total easement acres). Approximately 1/2 of the new power line will follow an existing power line right-of-way which will result in a widening of the existing power line along those portions.

Let me know if the Council is in agreement with my recommendations. Please contact me if you have any questions and I will be happy to provide additional information or answer questions from the Council as requested.

Sincerely,
Richard Peterson
Forest Legacy Coordinator
1810-30th St. NW
Faribault, MN 55021

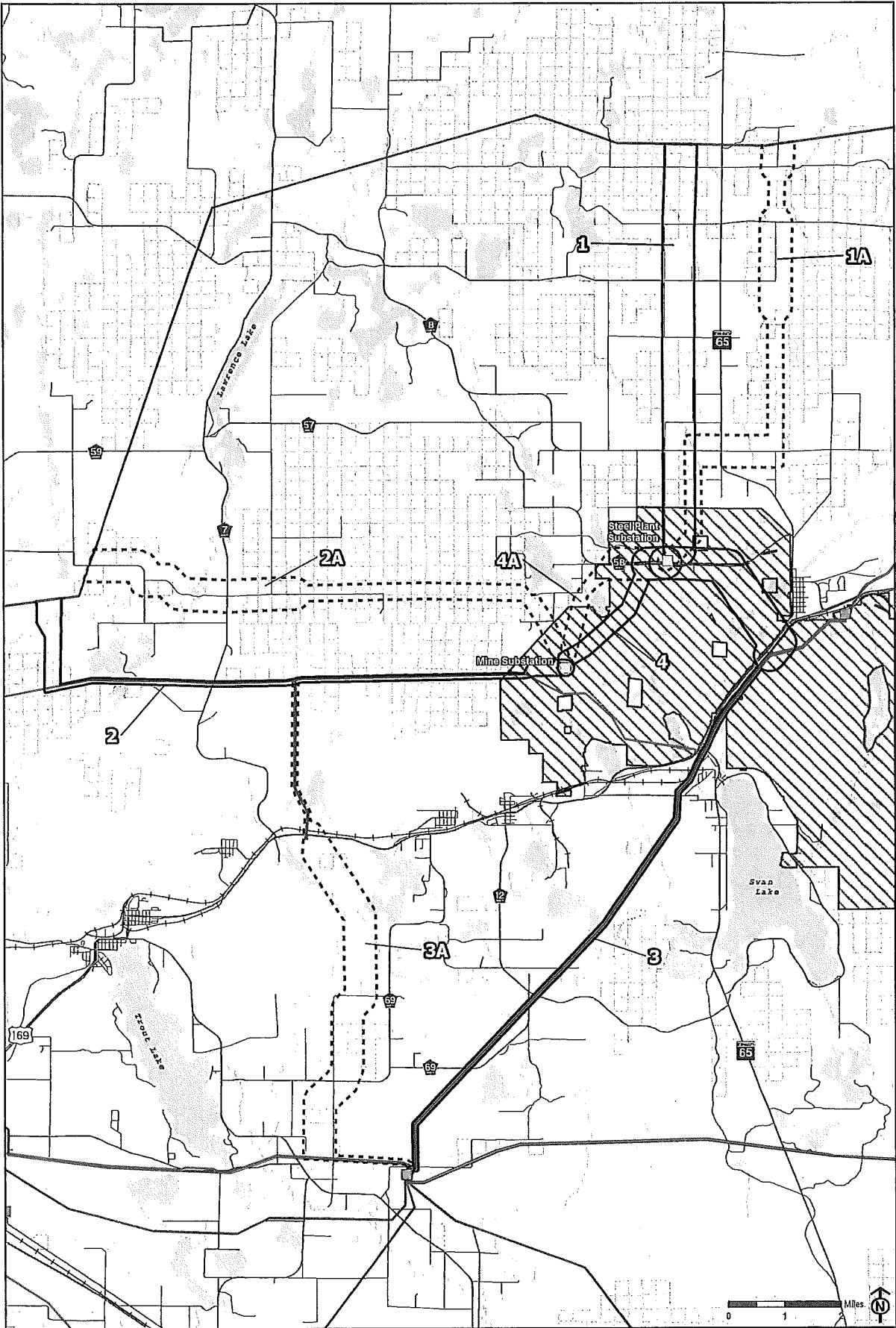
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C:\Users\jbl\Documents\GIS\Projects\Blandin_Ce\MapDocs\MapDocs\Blandin_Ce_01.mxd



Preferred Route	Mine Stockpile	Essar Property	Blandin_Ce_Own
Alternative Route	Mine Pit or Reservoir	69kV Transmission	
Proposed Substation	Tailings Basin	115kV Transmission	
Existing Substation	Forested Land	230kV Transmission	

Blandin_Ce_Own
 Nashauk 230 kV Route Application
 Nashauk Public Utilities Commission

Attachment A

**Minnesota Forests
for the Future
Upper Mississippi
Forest Project**

**UPM-MN Power
Right-of-Way
Exchange**

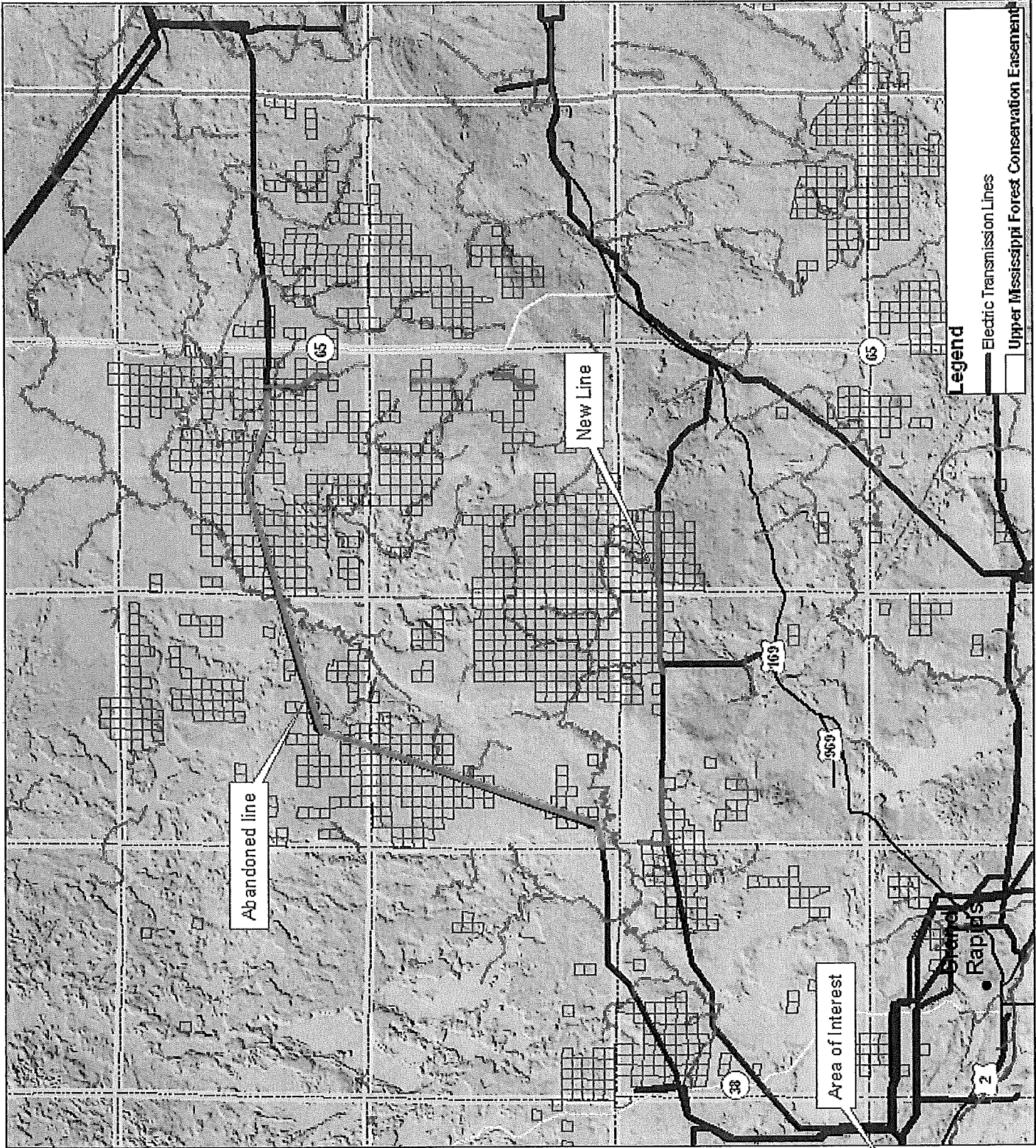
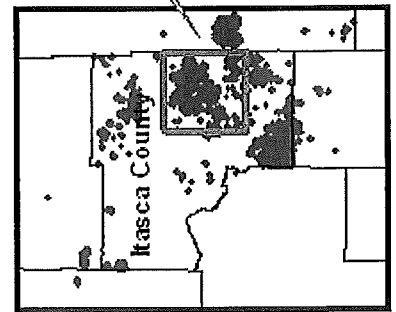
Portions of Sections

- T56NR23W,
- T58NR23W,
- T57NR23W,
- T57NR24W,
- T58NR24W,
- T58NR23W

Itasca County

New Line

Line to be
abandoned



**Attachment B: UPM Minnesota Power ROW Exchange
NEW EASEMENT PROPERTY**

102 LINE

	Sec	Twp	Rng
SW-SW	5	56	23
SE-SW	5	56	23
SW-SE	5	56	23
SE-SE	5	56	23
LOT 7	6	56	23
SE-SW	6	56	23
SW-SE	6	56	23
SE-SE	6	56	23
SW-SW	1	56	24
SE-SW	1	56	24
SW-SE	1	56	24
SE-SE	1	56	24
SW-SW	2	56	24
SE-SW	2	56	24
SW-SE	2	56	24
SE-SE	2	56	24
Lot 10	6	56	24
LOT 1	7	56	24
NE-NW	7	56	24
NW-NE	7	56	24
Lot 9	7	56	24
Lot 1	8	56	24
NE-NW	8	56	24

94 LINE

	Sec	Twp	Rng
NW-SW	24	58	23
SW-SW	24	58	23
NW-NW	25	58	23
SW-NW	25	58	23
NW-SW	25	58	23
NE-SW	25	58	23
SE-SW	25	58	23
NW-NW	12	57	23
SW-NW	12	57	23
NW-SW	12	57	23
SW-SW	12	57	23
NE-NW	24	57	23
SE-NW	24	57	23
NW-SW	24	57	23
SW-SW	24	57	23

EXISTING EASEMENT PROPERTY

	Sec	Twp	Rng	Doc No.
SW-NE	31	57	24	297141
NE-NE	31	57	24	297141
SW-SE	30	57	24	297141
NE-SE	30	57	24	297141
SE-NE	30	57	24	297141
SE-SW	17	57	24	297141
SW-SE	17	57	24	297141
NW-SE	17	57	24	297141
SW-NE	17	57	24	297141
NW-NE	17	57	24	297141
SE-NE	8	57	24	296291
SW-NW	9	57	24	297141
NW-NW	9	57	24	297141
SW-SW	4	57	24	297141
NW-SW	4	57	24	297141
NE-SW	4	57	24	18208
SE-NW	4	57	24	297141
LOT 3	4	57	24	297141
SE-SW	33	58	24	297141
SW-SE	33	58	24	297141
NW-SE	33	58	24	297141
SW-NE	33	58	24	297141
SE-SE	28	58	24	319526
NE-SE	28	58	24	297141
NW-SW	27	58	24	297141
NE-SW	27	58	24	297141
NE-SW	19	58	23	297141
NW-SE	19	58	23	297141
NE-SE	19	58	23	297141
NW-SW	20	58	23	297141
SW-NW	20	58	23	297141
NE-SW	20	58	23	297141
SE-NW	20	58	23	297141
NW-NW	21	58	23	297141
SW-NW	21	58	23	297141
NE-NW	21	58	23	297141
NW-NE	21	58	23	297141
NE-NE	21	58	23	297141
NW-NW	22	58	23	297141
SW-NW	22	58	23	297141
SE-NW	22	58	23	297141
SW-NE	22	58	23	297141
SE-NE	22	58	23	296517
NE-SE	22	58	23	296517
NW-SW	23	58	23	297141
NE-SW	23	58	23	297141

NW-SE	23	58	23	297141
NE-SE	23	58	23	297141
NW-SW	24	58	23	297141

Lessard-Sams Outdoor Heritage Council Procedures Exerpt

8. Land Acquisition Restrictions – Council Process

1. Duties of Land Holders

Holders of an interest in real property must submit a written application to alter land at least 60 days prior to a proposed change occurring. The application will describe the land being altered, the parties involved and any replacement plans.

2. Council Process

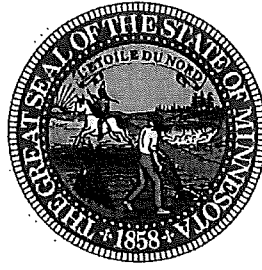
a. **Minor conversions or conveyances.** The executive director of the L-SOHC is granted the discretion to approve applications for minor conversions or conveyances and report minor approvals to the council and the proposed replacement plans. The chairs and ranking minority members of the committees with jurisdiction over the Outdoor Heritage Fund must be notified 15 business days before issuing such approval.

b. **Condemnations.** The executive director will notify council members and the chairs and ranking minority members of the committees with jurisdiction over the Outdoor Heritage Fund upon learning of condemnation of Outdoor Heritage Fund property. In the case of condemnation, the condemnation process will proceed without council consideration. Following the completion of the condemnation proceedings, the condemned party will notify the council of the settlement terms and replacement plans. The council may a) accept the replacement plans; or b) instruct the condemned party to deposit the state's share of the proceeds of condemnation in the Outdoor Heritage Fund.

c. **All Other Conversions or Alterations.** In the case of major conversions or conveyances, the executive director will forward the application to the council for review and approval and notify the chairs and ranking minority members of the committees with jurisdiction over the Outdoor Heritage Fund that the council will consider of the alteration and any replacement plans at the next meeting of the council 15 business days from the date of notification.

3. **Replacement Plans and Recordation.** The council must consider and approve the alteration or conveyance and any replacement as a whole. The replacement plan must include an appraisal of the land to be altered or conveyed and if appropriate, an appraisal of the land to be replaced for the altered or conveyed land. The replacement plan must meet the following criteria: (1) the interest is at least equal in fair market value, as certified by the commissioner of natural resources; to the interest being replaced; and (2) the interest is in a reasonably equivalent location and has a reasonably equivalent useful conservation purpose compared to the interest being replaced, taking into consideration all effects from fragmentation of the whole habitat. The applicant must complete the replacement plan and makes notice of funding restriction to the appropriate local government office or repay the Outdoor Heritage Fund within one calendar year of decision.

4. **Non-Approval.** If the action is not approved, LSOHC will provide applicant an explanation for decision, including, incomplete information, inappropriate exchange, lack of timely notification, and/or improper land use alteration.



Lessard-Sams Outdoor Heritage Council
The State of Minnesota

State Office Building, Room G95 100 Dr. Rev. Martin Luther King Jr. Blvd. Saint Paul, Minnesota 55155

September 6, 2011

Rep. Dennis McNamara
Minnesota House of Representatives
375 State Office Building
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St. Paul, MN 55155

Sen. Bill Ingebrigtsen
Minnesota Senate
303 Capitol
75 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155

Sen. Linda Higgins
Minnesota Senate
27 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155-4010

Rep. Jean Wagenius
Minnesota House of Representatives
251 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155

Rep. Dean Urdahl
Minnesota House of Representatives
571 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Blvd.
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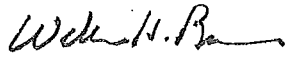
Rep. Bill Hilty
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Rep. David Dill
Minnesota House of Representatives
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Pursuant to procedures of the Lessard-Sams Outdoor Heritage Council, this letter notifies you that the Lessard-Sams Outdoor Heritage Council has received notice from the Minnesota Department of Natural Resources concerning a possible conversion of interest in land funded with Outdoor Heritage Funds (MN Laws 2009, Ch. 172, Art. 1, Sec. 2, Subd. 3). The attached letter from Mr. Richard Peterson, Minnesota Department of Natural Resources Forest Legacy Coordinator, describes the action. This will be a decision item on the Council's agenda for September 20, 2011.

Please feel free to contact me if you have questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "William H. Becker". The signature is fluid and cursive, with a long horizontal stroke at the end.

William H. Becker
Executive Director

Attachment: Letter from Richard Peterson to William H. Becker, September 6, 2011