

Lessard-Sams Outdoor Heritage Council

Agenda Item Memo

DATE December 13, 2011

SUBJECT: **Accomplishment Plan Amendment:
MN Laws 2011, 1st Special Session, Ch. 6, Art. 1, Sec. 2, Subd. 5(f)
Restoring Native Habitat and Water Quality to Shell Rock River**

Background

The Shell Rock River Watershed District has requested an accomplishment plan amendment to remove a 70 acre land donation, valued at \$280,000, from the leverage tables. This land donation is a separate transaction between the watershed district and the land owner and is not directly connected to the Headwaters project. The landowner has exercised his option and substituted another parcel of land (4.13 acres), with an appraised value of \$330,000. The new location is not directly related to the Headwaters project at this time.

Motion

“Motion to approve/deny the amendment request.”

Lessard-Sams Outdoor Heritage Council

2012 Accomplishment Plan

January 11, 2012

Program Title: Restoring Native Habitat/Water Quality to the Shell Rock River

Manager's Name: Andy Henschel
Title: Director of Field Operations
Organization: Shell Rock River Watershed District
Telephone: 507-379-2964
Email: andy.henschel@co.freeborn.mn.us
Fax: 507-377-4494

Funds Recommended: \$ 2,577,000

Legislative Citation: Minn. Laws 2011, 1st Special Session, Chapter 6, Article 1, Section 2, Subd. 5(f)
Restoring Native Habitat and Water Quality to Shell Rock River - Phase II

Abstract:

The SRRWD has proposed acquiring fee title to 257 acres of land that encompasses the headwaters of the Shell Rock River and develop long range resource management for recreation opportunities.

Program Narrative

Design and Scope of Work

Shell Rock River Watershed District (SRRWD) Management Plan developed in 2004 has identified goals for accelerating programs for improved habitat, water quality and flood control. Acquiring the 257 acre parcel allows SRRWD to meet these goals and open opportunities for the public that includes recreation, hunting, fishing and educational experiences incorporated in the habitat and recreational development plan for the project.

The project is time sensitive, it is essential to secure a US Army Corps of Engineers 206 Federal Grant for replacement of the current dam that controls the water level for Albert Lea Lake at the headwaters of the Shell Rock River which continues to flow south through the middle of the parcel to be purchased. The currently dam is in disrepair and at risk of failure. Requirements of the USCOE 206 Grant include that the watershed district owns the property adjoining the dam. The variable crest dam will allow for management of game fish and rough fish passage and the ability to manage water levels facilitating shoreline and littoral area restoration of Albert Lea Lake.

The 257 acre parcel has various natural amenities that include the headwaters and 1.4 miles of the River, floodplain and mesic hardwood forest, undisturbed highly diversified wetland complexes and

riparian and stream bank corridor on a parcel that is a mile long and approximately ½ mile wide. Parts of the site have undisturbed native plant communities, other parts are thought to have pre-historic Native American habitation sites and others have already been mined for sand and gravel. Opportunities of native habitat restoration for the parcel include seed bank development, wetland creation and restoration, native prairie establishment, floodplain forest and mesic forest restoration and shoreland restoration of the Shell Rock River. The parcel can provide unique recreational opportunities to utilize the River for canoeing, tubing and fishing; the lands can be developed with nature trails, interpretative programs about ecology, water and archeology and both day use and camping can be developed. The development of a resource inventory and management plan would address all the opportunities for public ownership and public use of the parcel.

The habitat development portion of the plan includes protection, preservation and enhancement of the existing natural resources, which includes wetland and forest restoration, sediment retention, aquatic and shoreline restorations. The Plan also includes restorations and habitat structures for amphibians and reptiles, aggregate resource and sand pit restoration plans. The Watershed District will work in conjunction with local DNR fish and wildlife agencies to establish a fisheries management plan for the Shell Rock River, a fish rearing basin and wetland habitats, located on the existing site. The recreation development portion of the plan includes walking trails with interpretive information and recreational access. These will all be elements of the development plan. The Long-term Habitat Management plan will be identifying the baseline environmental conditions on site, the conditions proposed for the project and how these conditions will be maintained in the future.

The Shell Rock River Watershed District will be the fiscal agent receiving funds for the project with the following local agencies providing technical input and assistance: Freeborn County Soil & Water Conservation District, Minnesota Natural Resources Conservation Service, Freeborn County, Minnesota Department of Natural Resources, US Army Corps of Engineers and the City of Albert Lea.

Planning

This project would be working under the following published resource management plans;

The Minnesota Conservation and Preservation Plan Phase II provisions that address the control of invasive species, the restoration of shallow lakes, water quality improvements in impaired waters and the protection and enhancement of fish and waterfowl breeding habitat (pg 57-90).

The 2004 Shell Rock River Watershed Management Plan addresses the project as a top priority (Appendix E, F &J).

The Minnesota Department of Natural Resources Invasive Species Control Program.

Freeborn County Comprehensive Water Plan

These projects are within the stated goals of the Basin Alliance for the Lower Mississippi in Minnesota (BALMM)

Endorsed by local Chamber of Commerce and Sportsmen's Club

Relationship to Other Constitutional Funds

After acquisition, this project will co-ordinate with another grant opportunity, a US Army Corps of Engineers 206 Federal Grant. A \$4.8 million grant for replacement of the current dam and ecosystem restoration. The USCOE 206 Grant requires the District owns the property adjoining the dam. The variable crest dam will allow for management of game fish and rough fish passage and the ability to manage water levels, facilitating shoreline and littoral area restoration of Albert Lea Lake. ~~As part of the purchase agreement for the 257 acre land parcel the landowner has agreed to donate an additional 70 acres of land to the SRRWD. This proposed donation is within the statutory boundary of Helmer Myre State Park and would allow for habitat restoration and expanded public use, possibly as an extension of Helmer Myre State Park.~~ The SRRWD will provide \$2.6 million in funding and/or in-kind services. The project is time sensitive, it is essential the District acquire this land to secure the 206 Federal Grant.

Relationship to Current Organizational Budget

Acquisition of these parcels will be provided through L-SOHC funding. The purchase is essential to secure the US Army Corps of Engineers 206 Federal Grant. The District currently operates under \$2 million annual budget and has the matching funds available. The District has budgeted funds for a small portion of the overall proposed project and for continued annual maintenance.

Sustainability and Maintenance

Future long-term priorities for the project include natural resource restoration, management and enhancement, in addition future facility development that may include campgrounds, walking trails, canoe access and various other amenities determined in the habitat and recreation development plan efforts. Requests in the future to the LSOHC and LCCMR for this project could include continued requests for acquisition funds, natural resource restoration funds for the purpose of restoring and managing plant communities and recreation development funds for future project facilities.

Long-term costs and maintenance for the property are part of the Minnesota Department of Natural Resources and a small part of the operating budget for the SRRWD, which derives its financial support from a local option sales tax, grants and donations. The District has a public budgeting process. The SRRWD will be the purchasing agent and would then turn the property over to the Department of Natural Resources as a new Aquatic Management Area for the citizens of Freeborn County and the State of Minnesota.

Accomplishment Timeline

Activity	Milestone	Date completed
<i>257 Acre Land Acquisition</i>	#1	August 31, 2012
<i>Habitat and Recreation Development/Management Plan</i>	#2	December 31, 2012

Attachments (*on spreadsheet workbook – 3 separate tabs*):

- A. Budget
- B. Proposed Outcome Tables
- C. Parcel List

No Map is needed for the accomplishment plan

Attachment A. Budget Spreadsheet

Total Amount of Request \$ 2,576,500 *From page 1 on the funding form.*

Personnel

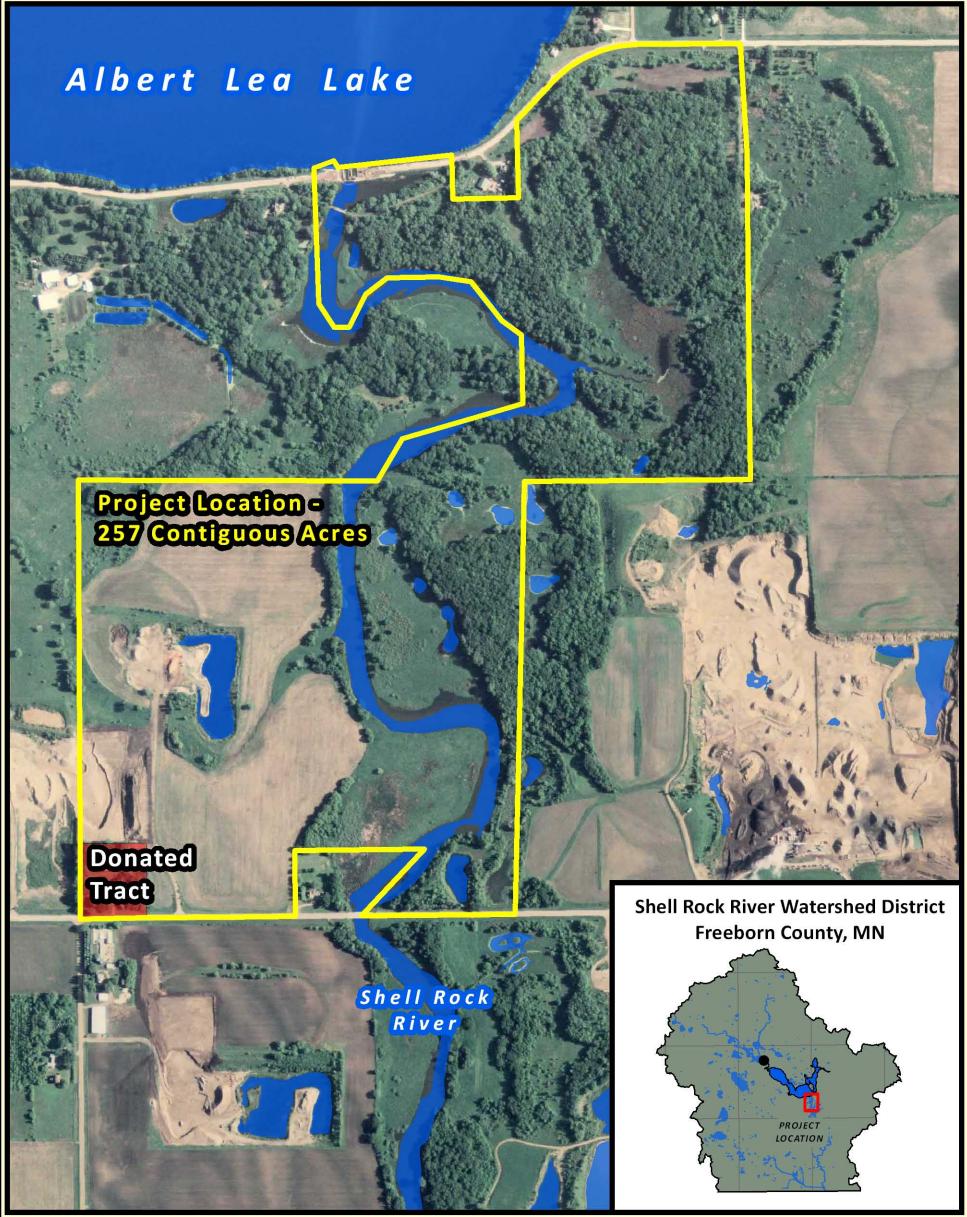
Position breakdown here	FTE	Over # of years	LSOHC Request	Anticipated Cash		Total
				Leverage	Cash Leverage Source	
<i>Manager of Programs</i>	0.5			\$ 40,300	<i>SRRWD Sales Tax</i>	\$ 40,300
<i>Admin Asst</i>	0.2			\$ 10,400	<i>SRRWD Sales Tax</i>	\$ 10,400
<i>Technician</i>	0.3			\$ 18,700	<i>SRRWD Sales Tax</i>	\$ 18,700
<i>position 4</i>						\$ -
<i>position 5</i>						\$ -
<i>position 6</i>						\$ -
<i>position 7</i>						\$ -
Total			\$ -	\$ 69,400	\$ -	\$ 69,400

Budget and Cash Leverage *(All your LSOHC Request Funds must be direct to and necessary for program outcomes.)*

Please describe how you intend to spend the requested funds.

Budget Item	LSOHC Request	Anticipated Cash		Total
		Leverage	Cash Leverage Source	
Personnel - <i>auto entered from above</i>	\$ -	\$ 69,400	\$ -	\$ 69,400
Contracts				\$ -
Fee Acquisition w/ PILT <i>(breakout in table 6 & 7)</i>				\$ -
Fee Acquisition w/o PILT <i>(breakout in table 6 & 7)</i>	\$ 2,560,000	\$ 280,000	Landowner Donation	\$ 2,840,000
Easement Acquisition				\$ -
Easement Stewardship				\$ -
Travel (in-state)				\$ -
Professional Services	\$ 16,500	\$ 23,000	<i>SRRWD Sales Tax</i>	\$ 39,500
DNR Land Acquisition Costs		\$ 21,000	<i>SRRWD Sales Tax</i>	\$ 21,000
Other				\$ 7,551,600
Capital Equipment		\$ 7,486,000	<i>206 Federal Grant</i>	\$ 7,486,000
Other Equipment/Tools				\$ -
Supplies/Materials		\$ 65,600	<i>SRRWD Sales Tax</i>	\$ 65,600
	\$ 2,576,500	\$ 7,945,000 7,665,000	\$ -	\$ 10,521,500 10,241,500

SHELL ROCK RIVER HEADWATERS RESTORATION PROJECT



November 17, 2011

Mr. Matthew L. Benda
Attorney at Law
Shell Rock Watershed District
211 South Newton
Albert Lea, MN 56007

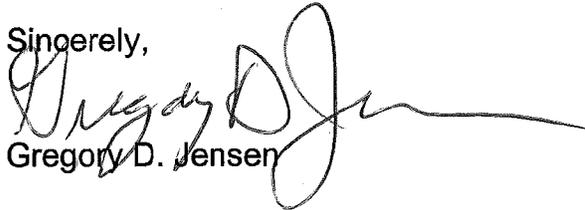
Re: **Shell Rock River Watershed District Headwaters Restoration
Project**

Dear Mr. Benda:

Your correspondence of November 14, 2011 requested that I write to the Watershed District relative to the "donated property" mentioned in the Option Agreement dated July 14, 2010. That property being in the SE 1/4 of the SE 1/4 of Section 11 and the NE 1/4 of the NE 1/4 of Section 14, less a tract, all in Township 102 North, Range 21 West has been sold by me.

I propose to donate the following described property in its place: The West 400 feet of the South 450 feet of the SW 1/4 SE 1/4 of Section 25-T102N-R21W. This is also identified as Parcel No. 08-025-0020 and is shown on the survey as Beau Jensen's excepted tract.

Sincerely,


Gregory D. Jensen

LAW OFFICES
PETERSON, SAVELKOUL & BENDA, LTD.

AUG 30 2010

211 SOUTH NEWTON AVENUE
ALBERT LEA, MINNESOTA 56007
Phone: 507-373-6491
Facsimile: 507-373-7863
www.albertlealaw.com

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Matthew L. Benda
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Stephanie A. Haedt

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Richard N. Davies (of counsel)
Henry J. Savelkoul (of counsel)

Writer's e-mail address: mbenda@albertlealaw.com
Assistant's e-mail: doneil@albertlealaw.com

August 25, 2010

John Hareid
Christian & Peterson
314 South Broadway
Albert Lea, MN 56007

RE: Shell Rock River Watershed District/Shell Rock Headwaters Restoration
Project
Our File No.: 9768-022

Dear John:

Enclosed please find a copy of the recorded Memorandum of Option Agreement
for your records.

As always, please contact me if you have any additional questions.

Very truly yours,



Matthew L. Benda
FOR THE FIRM

MLB/dlo

Enc.

cc: Brett Behnke (w/Enc.)

OFFICE OF COUNTY RECORDER
FREEBORN COUNTY MINNESOTA

I hereby certify that the within instrument was
filed in this office for record this 28th day
of July, 2010 at
10:15 o'clock A. M, and was duly recorded
as Document No. 489635
Kelly Callahan, County Recorder

By: Catherine N. Wittman,
Deputy

MEMORANDUM OF OPTION AGREEMENT

14th THIS MEMORANDUM OF OPTION AGREEMENT is made and entered into this
day of July, 2010, by and between Pensco Trust Co. (hereinafter
"Pensco"); Osterbroen Properties, LP, by Gregory D. Jensen, its General
Partner (hereinafter "Osterbroen Properties"); Osterbroen Family, LP, by
Gregory D. Jensen, its General Partner (hereinafter "Osterbroen Family");
and Gregory D. Jensen, a single person (hereinafter "Jensen") (collectively referred to as
"Sellers"); and Shell Rock River Watershed District, a political subdivision under Minnesota law
(hereinafter "Buyer").

Sellers and Buyer have entered into an Option Agreement dated July 14, 2010 (the
"Option"), under which Buyer and Sellers have agreed to sale terms for certain real estate located
in Freeborn County, Minnesota described in attached Exhibit A, and incorporated herein by
reference (the "Property").

Sellers and Buyer desire to give notice of the existence of the Option against the property
until July 14, 2012.

NOW, THEREFORE, in consideration of the Option Agreement and the covenants
contained therein, the parties hereto agree as follows:

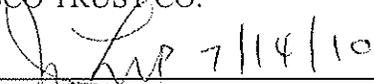
1. The Property is subject to an option to purchase granted to Shell Rock River
Watershed District, a political subdivision under Minnesota law for purchase of the Property for
a period until and including July 14, 2012.

2. All of the terms, covenants, and conditions contained in the Option are hereby
incorporated in this Memorandum by reference, and this Memorandum shall be deemed to
constitute a single instrument.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Option Agreement as of the day and year first above written.

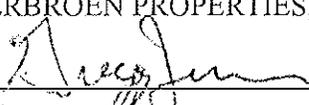
Dated: _____, 2010

PENSCO TRUST CO.

By: 
Name: _____
Title: _____

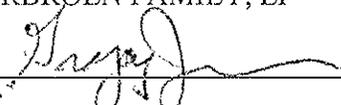
Dated: 6/30, 2010

OSTERBROEN PROPERTIES, LP

By: 
Name: _____
Title: General Partner

Dated: 6/30, 2010

OSTERBROEN FAMILY, LP

By: 
Name: _____
Title: General Partner

Dated: 6/30, 2010


Gregory D. Jensen

SHELL ROCK RIVER WATERSHED DISTRICT, a political subdivision under Minnesota law

Dated: _____, 2010

By: _____
Name: Gary Pectorious
Title: Chairman of the Board of Managers

Dated: _____, 2010

By: _____
Name: Arthur Ludtke
Title: Secretary of the Board of Managers

IN WITNESS WHEREOF, the parties have executed this Memorandum of Option Agreement as of the day and year first above written.

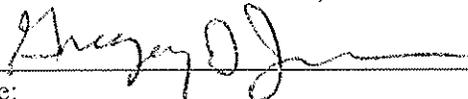
PENSCO TRUST CO.

Dated: _____, 2010

By: _____
Name: _____
Title: _____

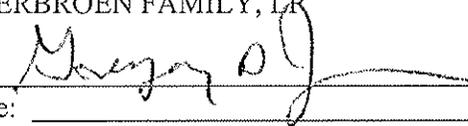
OSTERBROEN PROPERTIES, LP

Dated: July 14, 2010

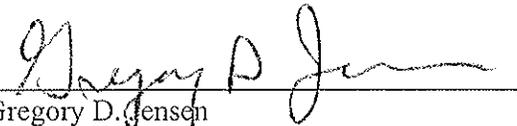
By: 
Name: _____
Title: General Partner

OSTERBROEN FAMILY, LP

Dated: July 14, 2010

By: 
Name: _____
Title: General Partner

Dated: July 14, 2010

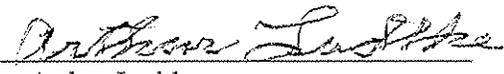

Gregory D. Jensen

SHELL ROCK RIVER WATERSHED DISTRICT, a political subdivision under Minnesota law

Dated: July 15, 2010

By: 
Name: Gary Pestorius
Title: Chairman of the Board of Managers

Dated: July 15, 2010

By: 
Name: Arthur Ludtke
Title: Secretary of the Board of Managers

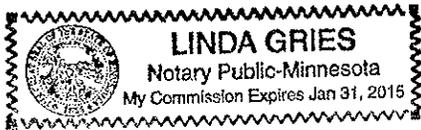
STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

On the _____ day of _____, 2010, before me, personally appeared _____, to me personally known, who, being by me duly sworn, did say that he is the _____ of Pensco Trust Co., the corporation named in the foregoing instrument, and that said instrument was signed and sealed on behalf of said corporation and said _____ acknowledged said instrument to be the free act and deed of said corporation.

Notary Public

STATE OF MINNESOTA)
)ss.
COUNTY OF FREEBORN)

On the 14th day of July, 2010, before me, personally appeared Gregory D. Jensen, to me personally known, who, being by me duly sworn, did say that he is the General Partner of Osterbroen Properties, LP, the limited partnership named in the foregoing instrument, and that said instrument was signed and sealed on behalf of said partnership and said General Partner acknowledged said instrument to be the free act and deed of said partnership.

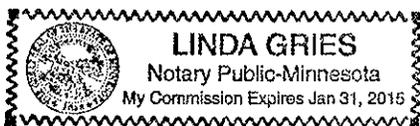


Linda Gries
Notary Public

1-31-2015

STATE OF MINNESOTA)
)ss.
COUNTY OF FREEBORN)

On the 14th day of July, 2010, before me, personally appeared Gregory D. Jensen, to me personally known, who, being by me duly sworn, did say that he is the General Partner of Osterbroen Family, LP, the limited partnership named in the foregoing instrument, and that said instrument was signed and sealed on behalf of said partnership and said General Partner acknowledged said instrument to be the free act and deed of said partnership.

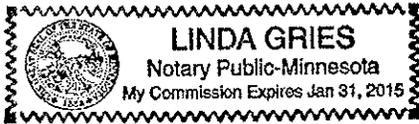


Linda Gries
Notary Public

1-31-2015

STATE OF MINNESOTA)
)ss
COUNTY OF FREEBORN)

On the 14th day of July, 2010, before me, personally appeared Gregory D. Jensen, a single person.



Linda Gries
Notary Public

STATE OF MINNESOTA)
)ss. 1-31-2015
COUNTY OF Freeborn)

On the 15th day of July, 2010, before me, personally appeared Gary Pestorous, to me personally known, who, being by me duly sworn, did say that he is the Chairman of the Board of Managers of Shell Rock River Watershed District, a political subdivision under Minnesota law, and that said instrument was signed and sealed on behalf of said political subdivision and said Chairman acknowledged said instrument to be the free act and deed of said political subdivision.

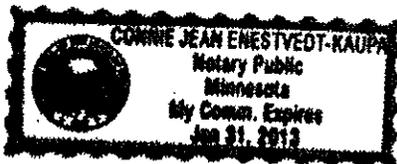


Connie Jean Ernestvedt-Kaup
Notary Public

1-31-2013

STATE OF MINNESOTA)
)ss.
COUNTY OF Freeborn)

On the 15th day of July, 2010, before me, personally appeared Arthur Ludtke, to me personally known, who, being by me duly sworn, did say that he is the Secretary of the Board of Managers of Shell Rock River Watershed District, a political subdivision under Minnesota law, and that said instrument was signed and sealed on behalf of said political subdivision and said Secretary acknowledged said instrument to be the free act and deed of said political subdivision.



Connie Jean Ernestvedt-Kaup
Notary Public

1-31-2013

EXHIBIT A

1. All that part of Government Lot 1, Section 25-T102N-R21W, Freeborn County, Minnesota: described as follows:

Commencing at the E ¼ corner of said Section 25: thence North 89° 48' 33" West a distance of 1734.00 feet, on an assumed bearing on the south line of the NE ¼ of said Section 25; thence North 02° 04' 02" West a distance of 1045.00 feet, to the southwest corner of that certain tract of land described in Document No. 281902, recorded In the office of the Freeborn County Recorder: thence North 87° 55' 58" East a distance of 534.90 feet, on the south line of said tract in Document No. 281902, to the southeast corner of said tract, which is the point of beginning:

thence North 02° 04' 02" West a distance of 816 feet more or less, on the east line of the tract of land described in said Document No. 281902, to the southerly shoreline of Albert Lea Lake;

thence Northeasterly a distance of 833 feet more or less, on the southerly shoreline of said Albert Lea Lake, to a point 396.00 feet west of the east line of said Government Lot 1;

thence South 01° 13' 41" East a distance of 276 feet more or less, parallel with the east line of said Government Lot 1, to a point which is South 88° 46' 17" West a distance of 396.00 feet from a point on the east line of said Government Lot 1, which is 1706.04 feet north of the southeast corner of said Government Lot 1;

thence North 88° 46' 17" East a distance of 396.00 feet, to a point on the east line of said Government Lot 1, said point being 1706.04 feet north of said E ¼;

thence South 01° 13' 41" East a distance of 825.00 feet, on the east line of said Government Lot 1;

thence North 53° 41' 46" West a distance of 145.83 feet;

thence North 38° 23' 27" West a distance of 299.13 feet;

thence North 81° 41' 27" West a distance of 218.68 feet;

thence South 88° 16' 21" West a distance of 289.34 feet;

thence South 52° 48' 42" West a distance of 159.72 feet;

thence South 26° 08' 42" West a distance of 224.10 feet;

thence North 89° 07' 08" West a distance of 91.70 feet;

thence North 33° 00' 02" West a distance of 168.34 feet, to the point of beginning.

subject to highway easement on the north side thereof.

Parcel 08-025-0044

(hereinafter referred to as the "Pensco Property").

2. Beginning at the Northeast corner of Government Lot 1 in Section 25, Township 102 North, Range 21 West of the 5th P.M.; thence West 396 feet; thence South 392 feet; thence East 396 feet; thence North 392 feet to the point of beginning. AND Government Lot 1 in the Northwest Quarter Northwest Quarter of Section 30, Township 102 North, Range 20 West, less that part thereof which lies Northerly of the following described line: Beginning at the Northeast corner of said Government Lot 1; thence North 90 degrees 00 minutes West 643.9 feet on an assumed bearing, on the North line of said Government Lot 1; thence South 0 degrees 00 minutes West 0.87 feet to a point on the centerline of CSAH 19, which is the point of beginning of a curve, on said centerline; thence Southwesterly 576.96 feet on said curve; with a radius of 716.2 feet, and through a central angle of 46 degrees 09 minutes 24 seconds; thence North 47 degrees 00 minutes West 120 feet more or less, to the Southeasterly shore of Albert Lea Lake and there terminating; being part of Government Lot 1 in the Northwest Quarter Northwest Quarter of Section 30, Township 102 North, Range 20 West. Subject to highway easement over the Northerly side thereof. LESS all that portion of Government Lot 1 in the Northwest Quarter Northwest Quarter of Section 30, Township 102 North of Range 20 West which lies Easterly of the centerline of the traveled way of the present roadway (which present roadway runs in a generally North and South direction along the East side of said Government Lot 1 in said Northwest Quarter Northwest Quarter and adjacent to and Westerly of the following described tract: The Northeast Quarter Northwest Quarter of Section 30, Township 102, Range 20 West of the 5th P.M.

Parcel 07-030-0071, consisting of approximately 29.40 acres;

Parcel 07-030-0050, consisting of approximately 40.87 acres;

Parcel 07-030-0080, consisting of approximately 9.87 acres; and

Parcel 08-025-0030, consisting of approximately 40 acres

(collectively referred to as the "Osterbroen Properties Property").

3. All that part of Government Lot 1, Section 25-T102N-R21W, Freeborn County, Minnesota; described as follows:

Commencing at the E 1/4 corner of said Section 25;

thence North 89° 48' 33" West a distance of 885.00 feet, on the south line of the NE 1/4 of said Section 25;

thence North 30° 35' 11" East a distance of 297.00 feet;

thence North 73° 43' 42" East a distance of 754.00 feet, to a point on the east line of said Government Lot 1;

thence South 01° 13' 41" East a distance of 470.00 feet, on the east line of said Government Lot 1, to the point of beginning.

Parcel 08-025-0043, consisting of approximately 6.53 acres

(herein after referred as the "Osterbroen Family Property").

4. That portion of the SE 1/4 of Section 25, Township 102 North of Range 21 West, which lies East of the West bank of Shell Rock River, as the same flows through the E 1/2 of said SE 1/4; said river at the present time entering on the North line of the E 1/2 of the SE 1/4 running generally in a southerly direction for about 80 rods; thence turning in an easterly direction for about 30 rods; thence in a southwesterly direction crossing the South line of said SE 1/4 at about 30 rods West of the southeast corner of said SE 1/4; the Southwest corner of said tract hereby conveyed being at the westerly end of the bridge crossing said Shell Rock River where it intersects the South line of the SE 1/4.

subject to that certain Lease Agreement in favor of Ulland Brothers, Inc. recorded in the office of the Freeborn County Recorder on April 28, 2009, as Document No. 481913.

Parcel 08-025-0021, consisting of approximately 112.87 acres.

(hereinafter referred as the "Jensen Property").

5. The SE 1/4 SE 1/4 of Section 11; and

the NE 1/4 NE 1/4 of Section 14, less the South 684 feet of the East 636.7 feet thereof,

all lying and being in Township 102 North, Range 21 West of the 5th P.M.

Parcel 08-011-0180, consisting of approximately 40 acres; and

Parcel 08-014-0010, consisting of approximately 30 acres

(collectively referred to as the "Donated Property").