

Outdoor Heritage Fund County Board Approval / Notification Requirements

Fee-Title Land Acquisition

November 2017

LSOHC County Board Approval Requirements

- No requirements in statute
- All OHF applicants/recipients are required to answer and detail within their proposals and accomplishment plans regarding their procedures for local government approval. During the summer of 2017, this question was updated and clarified to state, *"Will county board or other local government approval be formally sought prior to acquisition?"* Within the online system, this question is further clarified that *"To formally seek approval entails requesting approval from the county board or other applicable government body by affirmative vote at a public meeting."*
- Requirements found within "Attachment E", the document that outlines the land acquisition reporting procedures for LSOHC.
https://files.dnr.state.mn.us/lands_minerals/appraisal_mgmt/ohf_grant_attachment_e_land_acquisition_reporting_procedures.pdf
- Attachment E for OHF requires if a property is to be conveyed to the DNR (acquired by an NGO), the OHF recipient must provide to DNR Land and Minerals "evidence that the County Board was notified of the acquisition and any comments/concerns stemming from the notification."
- There are no OHF county board approval requirements for lands to be acquired for federal agencies, however Federal rules do require that Federal agencies notify the county board of the acquisition.

LCCMR County Board Approval Requirements

- No requirements in statute
- Requirements found within the "Environment and Natural Resources Trust Fund (ENRTF) Fee Title Acquisition Requirements" document. https://www.lccmr.leg.mn/pm_info/enrtf_fee-title-acquisition-project-requirements.pdf
- Exact language is as follows..."7. For each parcel to be conveyed to a State of Minnesota entity (e.g., DNR) after purchase, provide a statement confirming that county board approval will be obtained." This closely follows existing DNR county board approval requirements in statute.
- There are no ENRTF county board approval requirements for lands to be acquired for federal agencies, however Federal rules do require that Federal agencies notify the county board of the acquisition.
- In addition, "Attachment E," the document that outlines the land acquisition reporting procedures for ENRTF, requires if a property is to be conveyed to the DNR (acquired by an NGO), the ENRTF recipient must provide to DNR Land and Minerals "evidence that the County Board was notified of the acquisition and any comments/concerns stemming from the notification."
https://files.dnr.state.mn.us/lands_minerals/appraisal_mgmt/enrtf_grant_attachment_e_land_acquisition_reporting_procedures.pdf
- It appears that the ENRTF requirements are more restrictive than the DNR grants requirements.

The following is more of a general synopsis of the requirements for land acquisition county board approval requirements and processes.

DNR State Requirements

When DNR acquires land using OHF.

County board **approval is required** for the purchase or lease **of wildlife management area lands, wildlife management area easements, scientific and natural areas, and any lands purchased with Reinvest in Minnesota (RIM) match funds** (Minn. Stat., secs. 84.033, subd. 3; 84.944, subd. 3; and 97A.145, subd. 2)."

DNR's Operational Order 6 (Land Acquisitions) contains department-wide policy:

"The DNR will **notify** the appropriate county official of all proposed land acquisitions and easements, including donations. The DNR discipline initiating the transaction is responsible for the notification. For each transaction, the timing as to when the notification will occur will vary, but it will normally occur after an option has been signed but before there is an election to purchase.

For OHF recipients who acquire lands for the DNR.

Recipient must **notify** the County Board of the acquisition (attachment E requirements). They must also provide documentation to the DNR Lands and Minerals of the notification and any comments/concerns stemming from the notification.

USFWS Acquisition Procedure

All requirements based on source of funding used for the acquisition (fee-title and easement).

Migratory Bird Hunting and Conservation Stamp Act (Federal Duck Stamp)

- In 1961 the federal Wetlands Loan Act provided that "No land shall be acquired with moneys from the migratory bird conservation fund unless the acquisition thereof has been approved by the Governor of the State or appropriate State agency."
- In Minnesota, the Land Exchange Board (LEB) is the state agency delegated responsibility to approve use of the MBCF to acquire land. The LEB (Governor, Attorney General, and State Auditor) may concur with land acquisitions by the U.S. by a majority of the members of the LEB.
- USFWS will seek county board **certification** for both easement and fee-title acquisitions.
- If certified, project then goes to LEB for approval.
- If not certified, USFWS can bring the uncertified project to the LEB. LEB then votes on it and can approve the proposed acquisition.

In the past five years, a total of three acquisitions have not been certified by Counties that were approved by the LEB (one Polk County easement and two Lac Qui Parle County easements).

Other Federal Funds (North American Wetlands Conservation Act (NAWCA), Land and Water Conservation Fund (LWCF))

- USFWS is not required to **notify** counties of acquisition (fee and easement)
- USFWS is not required to seek approval for acquisition (fee and easements)
- Project managers/USFWS do notify the Counties however.

Other Funds (LSOHC OHF)

- LSOHC funds do not require county notification or approval for federal projects.
- Project Partners and USFWS do notify the Counties however

USFWS believes they are the only federal agency that have the county certification/ notification requirements when using MBCF for fee-title and easement acquisitions (ex. NRCS easements do not seek local approval).