

Lessard-Sams Outdoor Heritage Council

MEMO: **Agenda Item #8**
DATE: June 23, 2022
SUBJECT: Request of OHF Conveyance - ML2012, Ch. 264, Art. 1, Sec. 2, Subd. 2(a) MN Buffers for
Wildlife & Water, Ph 2
PRESENTER: Sharon Doucette, Easement Section Manager, BWSR

Suggested Motion:

Motion by Member XX to approve proposed access and maintenance agreement (conveyance) as presented.

Background:

Ducks Unlimited is in negotiations with a private landowner to purchase a parcel containing a RIM buffer easement (51-06-14-09) for eventual addition to the WMA to the west. The landowner (who also owns property to the north) is requesting an access and maintenance agreement between themselves and DU as part of the sale to maintain the existing ditch and tile on the sale property to continue the historical drainage path from their property north of 166th Street. DU is requesting written documentation that this agreement is acceptable to BWSR as the agreement will be subordinate to the RIM easement. Due to the RIM easement being originally acquired using LSOHC funds, BWSR believes that LSOHC approval is needed to approve this request from DU.

BWSR finds the proposed agreement acceptable because it will avoid additional drainage through the property and not negatively impact the wildlife benefits of the existing conservation easement. The agreement states:

“Farmer further agrees that under no circumstances shall any existing tile lines (including newly discovered tile lines) or existing drainage ditching be enlarged, expanded, extended, deepened, or realigned nor shall any new tile lines or drainage ditches be constructed on the Burdened Property.”

Suggested Procedure:

1. Council should review requirements for conversion and conveyances of OHF interests in acquired lands.
2. Council should review presented information from BWSR staff and ask questions as deemed necessary.
3. Council should vote and direct Council staff to notify legislative leadership if approved by Council.

M.S. 97A.056, Subd. 15 requires that all conversions and conveyances of OHF interests in acquired lands must be approved by the Council and “shall notify the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the outdoor heritage fund at least 15 business days before approval.”

From 97A.056.....

Subd. 15. Land acquisition restrictions.

(a) An interest in real property, including, but not limited to, an easement or fee title, that is acquired with money appropriated from the outdoor heritage fund must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was made. The ownership of the interest in real property transfers to the state if:

(1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan; or

(2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation.

(b) A recipient of funding that acquires an interest in real property subject to this subdivision may not alter the intended use of the interest in real property or convey any interest in the real property acquired with the appropriation without the prior review and approval of the Lessard-Sams Outdoor Heritage Council or its successor. The council shall notify the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the outdoor heritage fund at least 15 business days before approval under this paragraph. The council shall establish procedures to review requests from recipients to alter the use of or convey an interest in real property. These procedures shall allow for the replacement of the interest in real property with another interest in real property meeting the following criteria:

(1) the interest must be at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and

(2) the interest must be in a reasonably equivalent location and have a reasonably equivalent useful conservation purpose compared to the interest being replaced, taking into consideration all effects from fragmentation of the whole habitat.

(c) A recipient of funding who acquires an interest in real property under paragraph (a) must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of the interest in real property is filed. The notice of funding agreement must contain:

(1) a legal description of the interest in real property covered by the funding agreement;

(2) a reference to the underlying funding agreement;

(3) a reference to this section; and

(4) the following statement: "This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Lessard-Sams Outdoor Heritage

Council or its successor. The ownership of the interest in real property transfers to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation."

Attachments:

- Map
- Draft Agreement