

Lessard-Sams Outdoor Heritage Council

MEMO: **Agenda Item #7**
DATE: October 3, 2024
SUBJECT: Acquisition of Parcel with Existing Protection
 M.L. 2022, Chapter 77, Article 1, Section 2, Subdivision 2(b) – RIM Grasslands
 Reserve, Phase 4
PRESENTER: Sharon Doucette, Easement Section Manager, BWSR

Suggested Motion:

Motion by Member XX to approve the conservation easement acquisition of previously protected land as presented. (An affirmative vote of at least nine members of the Council is required.)

Suggested Procedure:

The Council must determine if the proposed conservation easement acquisition meets the statutory requirements of MS 97A.056, Subd. 9, and if so, whether the Council feels the acquisition provides sufficient additional habitat benefit to demand approval.

Background:

The Board of Water and Soil Resources (BWR) is seeking approval from the Council to allow the use of OHF funding to acquire a RIM conservation easement in Meeker County, MN totaling 27.5 acres. The parcel has been “protected” since 1994 through a United States Department of Agriculture Farmers Home Administration (FmHA) easement. The FmHA easement terms specific to this parcel provide little to no value for wildlife habitat. BWSR is requesting to permanently protect the parcel for wildlife benefits through the RIM conservation easement program. The attached memo from BWSR fully describes the proposed acquisition.

Excerpt from the FmHA easement:

A. No dwellings, barns, outbuildings or other structures shall be built within the easement area when the easement manager determines, in consultation with the landowner, that a practicable alternative location outside the easement area is available to the landowner. Also, no dwellings, barns, outbuildings, or other structures shall be built within the easement area unless the construction conforms, at minimum, to the requirements of the National Flood Insurance Program (NFIP). Repairs to existing structures within the easement area may be made subject to the NFIP. The construction of fences needed for the purpose of livestock retention will be permitted within the easement area provided they do not impede the flow of water.

B. The vegetation or hydrology of the described easement area will not be altered in any way or by any means or activity on the property conveyed by this deed, or property owned by or under the control of the landowner, including: placing earthen or other material fill on the easement area, or; placing of refuse, wastes, sewage, or other debris. This restriction does not apply to application of agricultural chemicals in accordance with Environmental Protection Agency Use Restrictions, except that application of agricultural chemicals within 100 feet of a stream or river is prohibited. The landowner shall have the right to carry on farming practices such as grazing, hay cutting, plowing, working and cropping the easement area without further degradation of floodplain values.

MS 97A.056, Subd. 9 states:

(a) Money appropriated from the outdoor heritage fund shall not be used to purchase any land in fee title or a permanent conservation easement if the state of Minnesota or a political subdivision of the state owns the land in fee or if the land is wholly or partially subject to a conservation easement.

(b) Paragraph (a) does not apply if:

(1) the purchase creates additional direct benefit to protect, restore, or enhance the state's wetlands, prairies, forests, or habitat for fish, game, and wildlife, and the purchase is approved by an affirmative vote of at least nine members of the council; or

(2) the purchase is for land that is partially subject to a conservation easement and no money appropriated from the outdoor heritage fund is used to pay the purchase price for the portion of land that is subject to the easement. Nothing in this clause prohibits the use of money appropriated from the outdoor heritage fund to pay for costs and other expenses associated with the acquisition of the land as part of the larger acquisition.

(c) For purposes of this subdivision, "conservation easement" means a conservation easement as defined in section [84C.01](#).

Attachments:

- Memo from BWSR
- Map