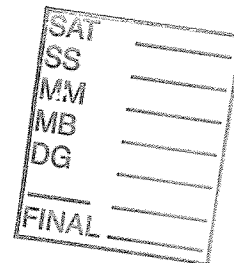




24543 COUNTY HIGHWAY 124 • FERGUS FALLS, MINNESOTA 56537 • 218-739-6545 • rusgaard@ducks.org

Robert Usgaard
MN Regional Biologist

With more than a million supporters, Ducks Unlimited is the world's largest and most effective wetland and waterfowl conservation organization. The United States alone has lost more than half of its original wetlands - nature's most productive ecosystem - and continues to lose more than 80,000 wetland acres each year.



June 5, 2009

Susan Thornton, Director
Legislative-Citizen Commission on Minnesota Resources
Room 65 State Office Building
100 Reverend Martin Luther King, Jr. Blvd
St. Paul, MN 55155

Dear Director Thornton,

This letter refers to a packet of information I delivered to your office on April 27, 2009 informing you that Grant County and Douglas County plan to widen and pave County Road 19 that borders the west side of a conservation easement Ducks Unlimited (DU) holds on property owned by Andrew and Louise Lang. The Lang conservation easement was purchased by DU using funds from the Environment and Natural Resources Trust Fund provided through the 2005 and 2007 LCCMR grants to part 3c of the Habitat Conservation Partnership, Phases III and IV.

I am pleased to report that the legal protection of the Lang property afforded by DU's conservation easement funded by the Trust Fund greatly helped us minimize the negative impacts of this road improvement project to wetland and grassland habitat on the Lang property. As I stated in my initial letter, the original design plans called for sloping and borrow work to extend 80 to 160 feet into existing grassland in several areas. Because of the DU conservation easement, the county revised their plans to keep damaging impacts along grassland/wetland habitats within or directly adjacent to the road right of way. In the absence of the Trust Funded conservation easement that DU holds on the Lang property, the county could have continued with their original plans under threat of condemnation and impacts would have been far more severe.

The purpose of this letter is to address the questions you posed in your April 30, 2009 email regarding the information I provided on April 27, 2009. Specifically, you requested that DU provide the following:

- What was the appropriation and when did it occur?
- What dollar amount was spent?
- What dollar value has been assigned to the road impacts to the easement?

The Lang Conservation Easement was partially funded from our 2005 appropriation to part 3C of the HCP Phase 3 grant (as noted in the attached final report) and partially funded from our 2007 appropriation to part 3C of HCP Phase 4 grant (final report pending in July) as follows:

Total Trust Fund Cost = \$94,697.25

Professional Services = \$9,338.75 (2005 appropriation)

Personnel = \$1,358.50 (2005 appropriation)

Easement Purchase = \$84,000 (\$26,871.58 from 2005 appropriation and \$57,128.42 from 2007 appropriation)

In addition, DU spent \$2,453.13 on Personnel and the landowner donated \$11,308 to DU for stewardship (both listed as "Other Funds" in the report). Thus, the total project cost to secure the Lang Conservation Easement was \$108,458.38.

DU Recommendation

To the extent possible, Grant County has adjusted its design plans as DU requested to minimize impacts to the grass and wetland habitats on the Lang property and shifted slope work to cropland areas. Because of this, DU recommends that LCCMR grants approval for DU to consent to the Grant County Highway and Slope Easements as drafted in the design plans provided to the LCCMR. A copy of the draft Consent document developed by DU for this purpose is enclosed for your review.

In consenting to the Grant County Road Easements, DU will require a payment of \$4,044.00 from the landowners as required under Section 5.12 in the Lang DU Conservation Easement. I have attached a Calculation of Compensation sheet which lists in full Section 5.12 from the Lang Conservation Easement and the computations used to derive the \$4,044.00 value. In summary, the \$4,044.00 compensation payment is 37% of the total easement payment Grant County would make to the Langs for 3.04 acres of permanent easement (payment of \$10,640) and 2.61 acres of temporary easement (payment of \$289.00). The permanent easement extinguishes acres covered by the conservation easement, and the sloping is a practice that would otherwise not be granted by DU and thus is treated as extinguishment. Enclosed is a detailed map and calculation summary.

Therefore, Ducks Unlimited recommends that DU (Wetlands America Trust) reimburse the full amount of the compensation to be received (\$4,044) back to the Environmental and Natural Resources Trust Fund and reference this modification of the project in the final grant report to LCCMR due later this summer. Thank you for your consideration of this important request. I plan to attend the June 16, 2009 LCCMR meeting to answer any questions you and Commission Members may have regarding this request.

Sincerely,



Robert Usgaard
Regional Biologist

Enclosures Compensation Calculation Sheet, LCCMR HCP Phase III Grant Report, Consent Document,
Copies: Ryan Heiniger and Jon Schneider

Calculation of Compensation

Andrew and Louis Lang DU Conservation Easement

From the Lang DU Conservation Easement Document Section 5.12—Compensation states:

This section is applicable only to the determination of compensation payable to Grantee in the event of a termination or extinguishment of this Easement pursuant to Section 5.11. The value of the Protected Property at the date of execution of this Easement, shall be the value established by the Grantor's qualified appraisal taken for that purpose (pursuant to Treasury regulation Section 1.170A-14 or its successor regulation) for federal income tax purposes ("Appraisal").

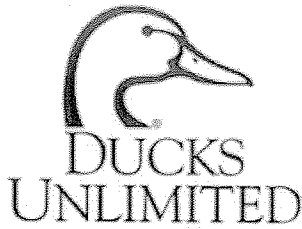
The parties agree that the compensation payable to Grantee in the event of termination or extinguishment of this Easement pursuant to Section 5.11, shall be the amount determined by dividing the fair market value of the Easement shown in the Appraisal by the fair market value of the Protected Property, prior to the Easement, shown in the Appraisal. That figure is then multiplied by the fair market value of the Protected Property at the time of termination or extinguishment, minus improvements made after the date of Appraisal.

Crown Appraisals, Inc. determined a Before value for the Lang DU Conservation Easement of \$228,000 and an After value of \$144,000. Dividing the difference (Easement Value) of \$84,000 by the Before value of \$228,000 equals 0.368 (rounded to 0.37).

Grant County has proposed a permanent easement payment to the Langs (based on 3.04 acres of permanent easement) of \$10,640.00 and a temporary easement payment (based on 2.61 acres of temporary easement) of \$289.00. The total Grant County Easement Payment equals \$10,929.00.

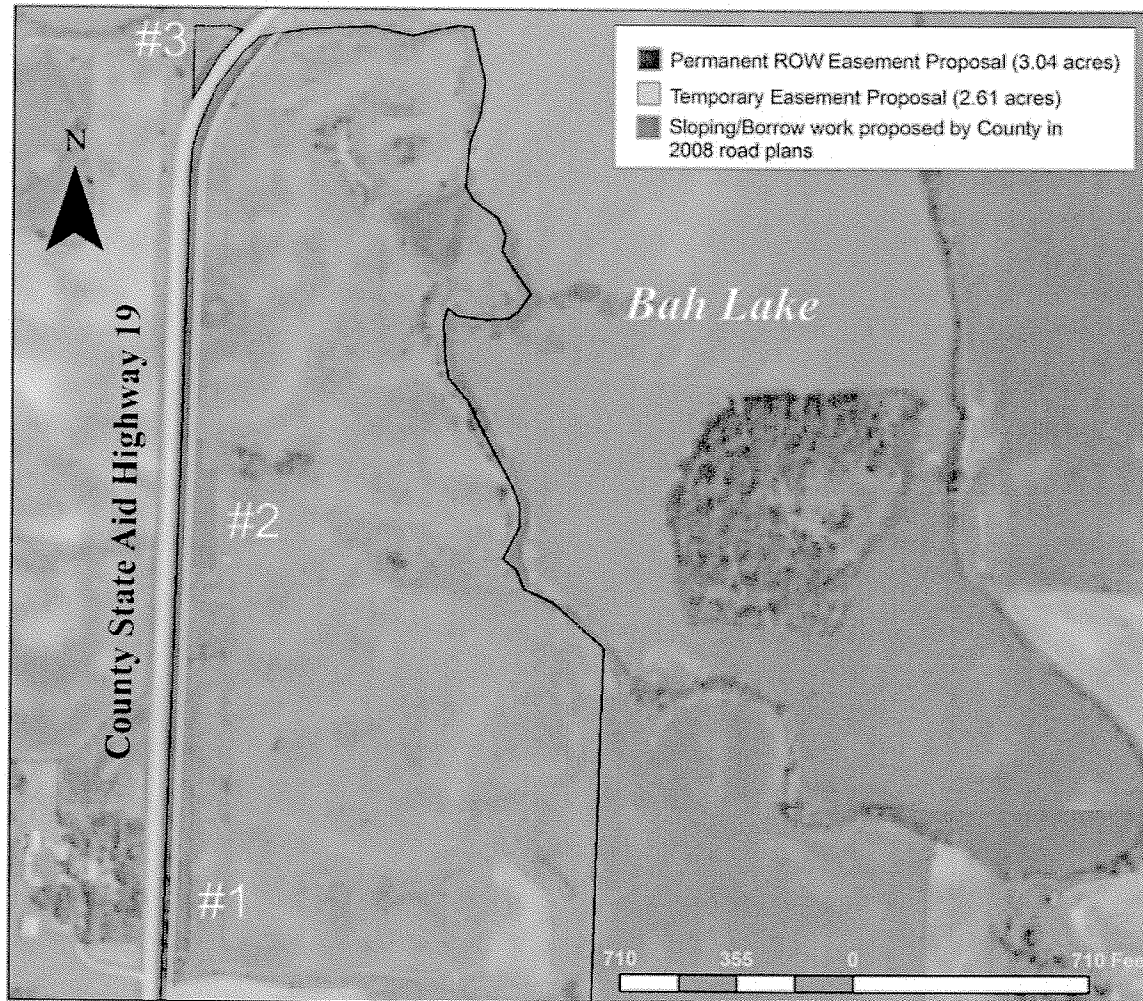
Multiplying \$10,929 by 0.37 yields a compensation payment to Ducks Unlimited of \$4,044.00. Ducks Unlimited is requesting this amount because consenting to the permanent easement extinguishes acres covered by the conservation easement, and the sloping (temporary easement) is a practice that would otherwise not be granted by DU and thus is treated as extinguishment.

Ducks Unlimited recommends that DU (Wetlands America Trust) reimburses the full amount of the compensation received (\$4,044) to the Environmental and Natural Resources Trust Fund.



Lang Conservation Easement Proposed Grant County Road Easements

Section 7, T129N, R40W
Douglas County



Site #1: Original design plans called for encroaching 80 feet into the easement to remove fill and slope at 7:1, thereby destroying existing grassland/brush vegetation. This encroachment has been eliminated in the 2009 plans.

Site #2: Original design plans called for encroaching 160 feet into the easement to remove fill and slope at 7:1, thereby destroying existing grassland vegetation. This encroachment has been eliminated in the 2009 plans.

Site #3: Original design plans called for widening and realigning a field drive that would have unnecessarily filled a wetland on the Lang Easement. Grant County revised the plans and will construct a new field drive south of Site #3 and off the easement property.