

LEGISLATIVE-CITIZEN COMMISSION ON MINNESOTA RESOURCES

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Susan Thornton, Director

MINUTES

Wednesday, November 19, 2014

9:00 a.m. – 4:00 p.m.

State Office Building, Room 5

St. Paul, MN 55155

Members Present: Jeff Broberg, Sen. Gary Dahms, Sen. Kari Dziedzic, William Faber, Bonnie Harper-Lore, Sen. John Hoffman, Gary Lamma, Sen. John Hoffman, Rep. Leon Lillie, Norman Moody, Rep. John Persell, Sen. David Tomassoni, Rep. Jean Wagenius, Sen. Torrey Westrom, Della Young

Staff Present: S. Thornton, M. McDonough, M. Banker, D. Griffith

Members Excused: Rep. Dan Fabian, Nancy Gibson, and Rep. Paul Torkelson

Co-Chair: Sen. David Tomassoni

1. Approve the minutes for July 10, 2014

Co-Chair Sen. Tomassoni started the meeting at 9:15 a.m.

MOTION: Commissioner Dahms moved to approve the minutes for July 10, 2014 – motion prevailed.

2. Members report potential conflicts of interest regarding today's business

MS 116P.09 Subd 6 Conflict of interest. A commission member, technical advisory committee member, a peer review panelist, or an employee of the commission may not participate in or vote on a decision of the commission, technical advisory committee, or peer review panel relating to an organization in which the member, panelist, or employee has either a direct or indirect personal financial interest. While serving on the commission, technical advisory committee, or peer review panel, or being an employee of the commission, a person shall avoid any potential conflict of interest.

Sen. Kari Dziedzic reminded members of a letter from Tom Bottern, Senate Counsel, regarding a family member working at the DNR affirming it did not constitute a conflict of interest with MN DNR's proposals submitted. (See Attachment #1)

3. Final Environment and Natural Resources Trust Fund (ENRTF) Reports Update

Susan Thornton discussed the final reports that were completed on June 30, 2014.

4. 2015 ENRTF Recommendations Peer Review Update

Michael McDonough gave an overview of the peer review process.

Commissioner Persell asked if the word 'research' is defined. Michael McDonough explained that the LCCMR follows the statute in defining 'research'.

Co-Chair Tomassoni read the meaning of 'research' from the Webster's Dictionary. Research – 1. careful or diligent search; 2. studious inquiry or examination; *especially* : investigation or experimentation aimed at the discovery and interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or revised theories or laws 3. the collecting of information about a particular subject.

5. Review for adoption LCCMR Appropriations Bill for the 2015 MN Legislative Session Funding Recommendations from the Environment and Natural Resources Trust Fund (ENRTF)

- **ENRTF Draft Appropriations Bill for M.L. 2015 (FY2016) including items requiring members attention related to recommended appropriations**
- **M.L. 2015 ENRTF Recommendations Spreadsheet (FY2016)**

Susan Thornton started reviewing the ENRTF draft Appropriations Bill for the 2015 MN Legislative Session.

MOTION (00:45:55): Commissioner Wagenius moved the ENRTF Draft Appropriations Bill for M.L. 2015 for the 2015 MN Legislative Session Funding Recommendation for FY16 Environment and Natural Resources Trust Fund and to amend the ENRTF Draft Appropriations Bill for M.L. 2015 on page 11 for Subd. 10a titled "Legislative-Citizen Commission on Minnesota Resources (LCCMR)" by deleting \$990,000 in the language and replacing with \$1,072,000 – motion prevailed.

MOTION (00:47:35): Commissioner Moody moved to amend the ENRTF Draft Appropriations Bill for M.L. 2015 on page 2 for Subd. 03c titled "Minnesota Biological Survey (ENRTF ID: 002-A)" by deleting \$2,000,000 in the language and replacing with \$2,450,000.

Commissioner Dahms asked about the additional \$450,000 being added to Subd. 03c in the draft ENRTF language and which part of the letter from the DNR dated October 20, 2014 (see Attachment #2) would this money be going towards: Item 1 for the staff or Item 2 for direct and necessary expenses. Commissioner Moody concurred that the additional money should go towards Item 1 of the DNR letter.

RENEWED MOTION (01:11:46): Commissioner Moody renewed his motion to amend the ENRTF Draft Appropriations Bill for M.L. 2015 on page 2 for Subd. 03c titled "Minnesota Biological Survey (ENRTF ID: 002-A)" by deleting \$2,000,000 in the language and replacing with \$2,450,000 and the additional dollars are to be used for Item 1 from the DNR Letter dated October 20, 2014 - motion prevailed.

MOTION (01:12:35): Commissioner Broberg moved to amend the ENRTF Draft Appropriations Bill for M.L. 2015 on page 8 for Subd. 8h title "Improving Community Forests Through Citizen Engagement (ENRTF ID: 127-F)" by replacing the language as follows:

\$800,000 the first year is from the trust fund to the Minnesota Pollution Control Agency to design and pilot a program to mobilize citizen volunteers to protect, improve, and maintain local forests in communities around the state. Participation is open to any municipality in the state and participating municipalities will be selected through a competitive proposal process that will include representation from both metropolitan and non-metropolitan areas of the state. Trees planted using this appropriation must be species that are native to Minnesota. Any participating municipality must provide ~~an equal~~ a match of not less than 25%, up to half of which may be in the form of in-kind support. This appropriation is available until June 30, 2018, by which time the project must be completed and final products delivered.

MOTION (01:15:19): Commissioner Broberg moved to adopt the ENRTF Draft Appropriations Bill for M.L. 2015 for the 2015 MN Legislative Session Funding Recommendation for FY16 Environment and Natural Resources Trust Fund as amended. The staff are requested to make any grammatical and stylistic changes as needed and send to the Office of the Revisor of Statutes – motion prevailed (unanimous – 12 members present).

6. Overview - Conservation Easement Process and Criteria

LEGISLATIVE-CITIZEN COMMISSION ON MINNESOTA RESOURCES

- **Office of the Legislator Auditor summary of recommendations “Evaluation Reports - Conservation Easements”, February 2013 – Judy Randall, OLA**
- **Conservation easement costs and benefits - Steve Taff and Mike Kilgore, U of MN**
- **Appraisal Process for Conservation Easements – Cindy Nathan, DNR**
- **“Minimum Standards for Conservation Easements Acquired with Public Money”, DNR, February 1, 2008 – Susan Damon, DNR**

Judy Randall, OLA, provided an overview of the “Evaluation Reports - Conservation Easements”.

Steve Taff and Mike Kilgore, U of MN, provided an overview on “Conservation easement costs and benefits”.

Cindy Nathan, DNR, provided an overview on the “Appraisal Process for Conservation Easements”.

Susan Damon, DNR, provided an overview on the “Minimum Standards for Conservation Easements Acquired with Public Money”.

Members recessed at 12:30 p.m. and reconvened at 1:15 p.m.

MOTION (03:22:49): Commissioner Wagenius moved to reconsider the ENRTF Draft Appropriations Bill for M.L. 2015 for the 2015 MN Legislative Session Funding Recommendation for FY16 Environment and Natural Resources Trust Fund as amended – motion prevailed.

MOTION(03:14:04): Commissioner Wagenius moved to amend the ENRTF Draft Appropriations Bill for M.L. 2015 by having 5% of the dollars previously recommended for purchasing easements (\$250,000) to be provided for a new appropriation. LCCMR staff are requested to work with the U of MN to create a new work plan for evaluation and development of a benefit system with objective standards for conservation easements.

AMENDMENT (03:14:46): Commissioner Dziedzic moved to amend Commissioner Wagenius motion to have LCCMR staff send a letter to the Lessard-Sams Outdoor Heritage Council (LSOHC) requesting an equal match of the dollars for this appropriation with the goal being an evaluation of ecological benefits received and expected from easements. - Commissioner Wagenius concurred.

RENEWED MOTION (03:23:35): Commissioner Wagenius renewed her motion to amend the ENRTF Draft Appropriations Bill for M.L. 2015 by having 5% of the dollars previously recommended for purchasing easements (\$250,000) to be provided for a new appropriation. The following appropriations are to be reduced by 5%:

1. Subd. 09d “Native Prairie Stewardship and Prairie Bank Easement Acquisition”, MN DNR, Jason Garms for \$3,500,000 is reduced by \$175,000;
2. Subd. 09e “Metro Conservation Corridors Phase VIII – Coordination and Mapping and Conservation Easements, Minnesota Land Trust, John Brosnan for \$540,000 (\$500,000 was for conservation easements) is reduced by \$25,000; and
3. Subd. 09j “Multi-benefit Watershed Scale Conservation on North Central Lakes, Leech Lake Area Watershed Foundation, Lindsey Ketchel for \$1,000,000 is reduced by \$50,000.

LCCMR staff are requested to work with the U of MN to develop a new work plan before the legislature makes the appropriation for evaluation and development of a benefit system with objective standards for conservation easements. LCCMR staff is requested to send a letter to the Lessard-Sams Outdoor Heritage Council (LSOHC) requesting an equal match of the dollars to go towards this recommendation with the goal being an evaluation of ecological benefits received and expected from easements. – motion prevailed.

MOTION (3:24:34): Commissioner Wagenius moved the adoption of the draft LCCMR ENRTF Appropriations Bill for the 2015 MN Legislative Session Funding Recommendation for FY16

Environment and Natural Resources Trust Fund as amended. The staff are requested to make any grammatical and stylistic changes as needed and send to the Office of the Revisor of Statutes – motion prevailed (unanimous – 12 members present).

7. Overviews

- **M.L. 2011, First Special Session, Chp. 2, Art. 3, Sec. 2, Subd. 03i “Change and Resilience in Boreal Forests in Northern Minnesota”, Lee Frelich, U of MN**
- **M.L. 2011, First Special Session, Chp. 2, Art. 3, Sec. 2, Subd. 03c “Completion of Statewide Digital Soil Survey” and M.L. 2011, First Special Session, Chp. 2, Art. 3, Sec. 2, Subd. 03l “Measuring Conservation Practice Outcomes”, Megan Lennon, BWSR**

Lee Frelich, U of MN, provided an overview of his completed work plan - M.L. 2011, First Special Session, Chp. 2, Art. 3, Sec. 2, Subd. 03i “Change and Resilience in Boreal Forests in Northern Minnesota”.

Megan Lennon, BWSR, provided an overview of her completed work plans - M.L. 2011, First Special Session, Chp. 2, Art. 3, Sec. 2, Subd. 03c “Completion of Statewide Digital Soil Survey” and M.L. 2011, First Special Session, Chp. 2, Art. 3, Sec. 2, Subd. 03l “Measuring Conservation Practice Outcomes”.

8. Begin Discussion FY17 LCCMR 2016 ENRTF Request for Proposal (RFP)

Susan Thornton started the discussions on the FY17 LCCMR 2016 ENRTF Request for Proposal (RFP).

Susan Thornton reviewed the draft LCCMR 2015 Calendar options. The staff recommended the draft calendar with proposal presentation dates in October and the other draft calendar has proposal presentation dates being held in June. Members will continue discussions at the LCCMR meeting on December 9, 2014.

Commissioner Broberg asked staff to handout some draft language regarding the water priorities for the 2016 RFP. Member discussion followed and will continue at the December 9 meeting. See Attachment #3.

9. Other business (as needed)

- Next LCCMR meeting dates: Tuesday, December 9, 2014 and Tuesday, December 16, 2014
- Discuss and Review 2014 – 2015 Calendar

10. Adjourn

The meeting adjourned at 2:20 p.m.

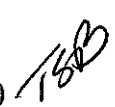
**Senate Counsel, Research,
and Fiscal Analysis**

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THOMAS S. BOTTERN
DIRECTOR

Senate

State of Minnesota

TO: Senator Kari Dziedzic

FROM: Tom Bottern, Director (651/296-3810) 

DATE: June 29, 2012

RE: LCCMR Procedures -- Analysis of Conflict of Interest
Regarding a Family Member

You have asked me whether the Procedures of the Legislative-Citizen Commission on Minnesota Resources (LCCMR Procedures) (as adopted September 23, 2008, and attached to this memo as you provided them to me) raise any concerns regarding a potential conflict of interest arising from your brother-in-law's employment with the Minnesota Department of Natural Resources (DNR). After reviewing the procedures and the information you have provided to me, I do not believe a conflict of interest exists.

Item C, section 7 of the LCCMR Procedures deals with conflicts of interest. Under the heading titled "Conflict of Interest to be Managed through Procedures" the LCCMR Procedures state "nevertheless, certain affiliations may constitute a conflict of interest that must be managed by the LCCMR. They include...having a family relationship with a proposer or a staff or board member of a proposing organization." The LCCMR Procedures then state that a conflict of interest must be identified before or during the initial proposal review process, and that a member who has declared a conflict of interest "may not advocate for or against the proposal or vote on the proposal."

The first step in evaluating this issue is to determine whether your brother-in-law can be considered a "family member" within the meaning of the LCCMR Procedures, which do not contain a definition of the term "family member". In the absence of a specific definition, the term should be given a reasonable construction and interpretation based on the common understanding of the term. With that in mind, I have reviewed selected Minnesota Statutes in search of a definition of the term "family member." There are several sections in statute that



define the term "immediate family member." One example is Minnesota Statutes, section 58A.02, subdivision 4, found in the chapter of law regulating Individual Mortgage Licensing. This subdivision defines "immediate family member" as follows:

58A.02 DEFINITIONS.

Subd. 4. Immediate family member.

"Immediate family member" means a spouse, child, sibling, a parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

Another example is Minnesota Statutes, section 181.947, which provides unpaid leave for immediate family members of military personnel injured or killed in active service. Minnesota Statutes, section 181.947, subdivision 1, paragraph (e), defines "immediate family member" to mean "a person's parent, child, grandparents, siblings, or spouse."

I did not find a statute that defines in-laws (whether siblings or parents related by marriage) as family members. As you can see, the two statutes I have cited in this memo do not contain a reference to in-laws, even though they provide a broad and inclusive definition of the term "immediate family member." These definitions in statute provide a strong basis to interpret the term "family member" as it used in the LCCMR Procedures not to include siblings related by marriage.

I do not believe the term "family member" as it is used in LCCMR Procedures includes a relationship to a sibling by marriage. For this reason alone, I believe the LCCMR Procedures do not require you to declare a conflict of interest with respect to any LCCMR project proposal involving your brother-in-law.

/TSB

Attachment

cc: Greg Knopff

Minnesota Department of Natural Resources

500 Lafayette Road · Saint Paul, Minnesota · 55155-4037

Office of the Commissioner

651-259-5555



RECEIVED OCT 23 2014

SAT	<input checked="" type="checkbox"/>
MM	<input checked="" type="checkbox"/>
MB	<input checked="" type="checkbox"/>
DG	<input type="checkbox"/>

October 20, 2014

Susan Thornton, Director, LCCMR
 100 Rev. Dr. Martin Luther King Jr. Blvd.
 State Office Building, Room 65
 St. Paul, MN 55155

Dear Susan Thornton:

In June 2014 the Legislative-Citizen Commission on Minnesota Resources (LCCMR) recommended funding the DNR's Minnesota Biological Survey (MBS) at \$2.0 million from the Environment and Natural Resources Trust Fund (ENRTF) for two years beginning in July 2015.

The support provided by the ENRTF is essential to MBS's scheduled completion of the statewide baseline surveys by 2021. The Department greatly appreciates the financial support; however, there are two concerns I would like you to be aware of regarding this recommendation.

- 1) The \$650,000 reduction from the current level (FY13/14) of support for MBS will result in the loss of six field staff, delay completion of baseline surveys by three years, and significantly limit staff capacity to provide interpreted information.

The loss of six trained biologist positions is a significant reduction to program activities. Highly qualified biologists are difficult to recruit due to the specialized nature of their work. The training and mentoring of younger biologists is a significant investment and value to the State of Minnesota.

Over the years, LCCMR members have consistently emphasized the need for MBS to not only collect data, but to engage in interpretation, training and the delivery of products useful in conservation and management within and outside of the DNR.

At the recommended funding level our proposed work plan would be reduced as follows:

- Delay completion of baseline surveys in northern Minnesota from 2021 to 2024. *The Forest Certification process has relied on MBS data especially as related to identification and management of high conservation value forests.*
- Reduction and delay in specimen processing, data management, and coordination with other institutions.
- Surveys of groups of organisms, such as pollinators, would be limited. *Information on distribution and life history of many pollinators is unknown and is needed for updates to best management practices on state lands as directed by legislation.*
- Native plant community polygons would not be mapped and updated; especially in the western prairie region and in southeastern Minnesota. These data are now 20 years old



Susan Thornton, LCCMR
October 20, 2014
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and increasingly out-of-date. *These data are needed to update various plans including the Prairie Conservation Plan, the State Wildlife Action Plan, state forest plans, watershed plans, and county park plans.*

- Reduction and delay in data delivery, technical assistance, product delivery, and training. *For example, the recent protection of the Badoura Woodlands site (as an SNA) benefited from a timely report that summarized the woodland's ecological significance. Prairie plan local implementation team members received plant identification training to enhance their credibility in grassland conservation efforts. Residents of selected lakes can view native aquatic plants using lakefinder.*

2) The second issue is related to our ability to cover the costs of supporting this program.

The Commission's intent that direct and necessary costs would not need to be included in the MBS work plan remains unclear to us. Based on our most recent understanding of this issue, we have included them in the work program for the following reasons:

- The MBS program relies heavily on biologists completing field surveys and assessments, which carries substantial costs related to staffing and data management. These include the Department's direct costs of supporting staff with communications, information technology, human resources, and accounts payable.
- If other funding sources were used to cover these costs, they would carry a disproportionate amount of the agency's direct and necessary support costs. Many of these other funding sources are dedicated accounts with constituencies who would not support expenditures of dedicated funds for unreasonably high support costs. In addition, we do not have the necessary legislative authority to support these costs from other funding sources.

In summary, the Department requests that the LCCMR reconsider the recommended ENRTF funding for continuation of the MBS, bringing it at least to the current level of \$2,650,000 for the biennium. We also request acknowledgement that direct and necessary costs can be covered in the work plan. We look forward to working with you in the coming months to find a solution that maintains the momentum of this important program.

Sincerely,



Dave Schad
Deputy Commissioner

2016 ENRTF RFP [Draft suggestions for water section](#)

B. Water Resources - Proposals must address one or more of the following [ways to protect water quality and quantity](#):

- ~~1. Protect or restore water quality by reducing soil erosion, reducing peak water flows, or improving water and land use practices. Projects must include monitoring and evaluation.~~
- ~~1.2.~~ Research and evaluation to identify the causes of observed changes in the health of fish and wildlife that may pertain to contaminants of emerging concern.
- ~~2.3.~~ Research, technology development, or engineering design to protect the health of humans and aquatic and terrestrial species by
 - i) advancing development or implementation of standards for nitrates or other contaminants, ~~or~~
 - ii) broadly [increasing understanding of the sources, fate, movement and effects of contaminants of emerging concern and reducing levels of contaminants such as nitrates, phosphates, estrogenic compounds, pharmaceuticals, personal care products, chlorides, PAHs \(Polycyclic aromatic hydrocarbons\), pesticides](#) ~~or~~ other contaminants in ground and surface waters.
 - iii) [increasing understanding of impacts on aquatic communities including invertebrates and mussels](#)
- ~~3.4.~~ Research, monitoring, or evaluation pertaining to
 - i) ground and surface water interaction, protection, conservation, and sustainability, ~~or~~
 - ii) [rivers and lake ecosystems, including Lake Superior.](#)
 - iii) [aquifers, recharge, ground water flow and stream flow](#)
 - iv) [wetland quality and functions](#)
 - v) [effects of climate change and other factors on ground water recharge in south west Minnesota and other areas of the state with limited ground water](#)
- ~~4.~~ Research, development and testing of innovative methods to mitigate impacts on water quality, groundwater recharge and aquatic habitat resulting from artificial hydrological modifications in both urban and agricultural areas
- ~~5.~~ Research of new and innovative methods to be used in the development, operation and maintenance of infrastructure for drinking water, sanitary waste and storm water that will provide sustainable water quality and quantity in to the future.

[Prepared by LCCMR staff 11-18-14](#)