

## Susan Thornton

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**From:** Susan Thornton  
**Sent:** Wednesday, November 26, 2014 12:04 PM  
**To:** Lewis, Kathy A (DNR)  
**Cc:** Damon, Susan (DNR); Diana Griffith; Michael McDonough; Mike Banker; Susan Thornton  
**Subject:** Letter re Potlatch

Kathy,  
I received your letter dated Nov. 25 regarding the partial release of the Potlatch easement and repayment to the appropriate funds. It is my intention to put this on the Dec. 9 LCCMR agenda for review. We will need to work with you to meet the statutory requirement pasted below, including notification of the appropriate committee chairs and ranking minority members of those committees.

Please provide me with information on the specific appropriation used from the ENRTF. My second inquiry is why was \$17,076 used from the Trust Fund for an easement totaling \$1,140,000 from other funds? Thank you,  
Susan

### **116P.15 LAND ACQUISITION RESTRICTIONS.**

#### **Subdivision 1.Scope.**

A recipient of an appropriation from the trust fund or the Minnesota future resources fund who acquires an interest in real property with the appropriation must comply with this section. For the purposes of this section, "interest in real property" includes, but is not limited to, an easement or fee title to property.

#### **Subd. 2.Restrictions; modification procedure.**

(a) An interest in real property acquired with an appropriation from the trust fund or the Minnesota future resources 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 work 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 who acquires an interest in real property subject to this section 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 commission or its successor. The commission shall notify the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the trust fund or Minnesota future resources fund at least 15 business days before approval under this paragraph. The commission 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 Legislative-Citizen Commission on Minnesota Resources 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 work plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation."

**History:**

1Sp2001 c 2 s 141; 2002 c 225 s 4; 2006 c 243 s 21; 2013 c 52 s 6

Susan Thornton  
Director, LCCMR  
651-296-6264  
Rm. 65 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd  
St. Paul, Mn 55155

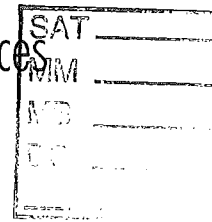
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## Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-40



November 25, 2014

Legislative Citizen Commission on Minnesota Resources  
 State Office Bldg., Room 65  
 100 Rev. Dr. Martin Luther King Jr. Blvd.  
 St. Paul, MN 55155

ATTN: Susan Thornton, LCCMR Director

Ref: Partial Release of Brainerd Lakes Conservation Easement  
 ACQ 00137200, DNR Doc #SFT0000324

Dear Ms. Thornton:

On June 23, 2006, the Minnesota Department of Natural Resources (DNR) acquired a Forest Legacy conservation easement on approximately 1,634.7 acres in Cass County, Minnesota from Potlatch Corporation. The conservation easement value, as determined by appraisal, was \$1,200,000.

The conservation easement was acquired for \$1,140,000. Funding for the project was:

\$900,000	Federal Forest Legacy Program funds
\$222,924	State Capital bonding
\$ 17,076	Environment and Natural Resources Trust Fund

Potlatch Corporation donated the remaining conservation easement value of \$60,000.

While conducting a systematic land survey of their property boundaries of their ownership in Cass County in 2011, Potlatch discovered a trespass onto Potlatch property from an adjoining owner. The trespass involved the construction of a building on Potlatch property that was subject to the DNR's conservation easement. According to information provided by Potlatch, the structure predates the DNR conservation easement. Potlatch informed DNR of the trespass during the annual monitoring visit on August 16, 2011 and DNR in turn informed the Northeastern Area Forest Legacy Program Manager, Deirdre Raimo, of the situation in an email dated May 31, 2012. In December 2013, Potlatch conveyed that portion of their ownership with the building to the adjoining landowner. The state's conservation easement remains in effect with the new owner.

As the terms of the DNR conservation easement do not permit structures, DNR has been working with Potlatch to resolve this issue. Potlatch (in cooperation and



with the knowledge of the new fee owner) is seeking to secure the release of the portion of the easement containing the building site (approximately 0.46 acres).

The DNR supports Potlatch's request to release that portion of the conservation easement containing the building.

Accordingly, Potlatch having already submitted the application and application fee, the DNR will be submitting our request to USDA Forest Service, Minnesota Management and Budget (MMB), and the Legislative-Citizen Commission on Minnesota Resources (LCCMR) to approve the partial conservation easement release on the approximately 0.46 acres. DNR is proposing to amend the conservation easement to release these lands and return the appropriate funding amounts to USDA, MMB and LCCMR. A formal request is forthcoming.

Should you have any questions or need additional information, please feel free to contact Land Acquisition & Legal Services Manager Susan Damon at 651-259-5961 or me at 651-259-5404.

Thank you.

Sincerely,



Kathy A. Lewis  
Lands & Minerals, Assistant Director

Cc: Susan Damon  
Jodi Dehn  
Trina Zieman  
Forrest Boe  
Dave Schuller  
Richard Peterson