

500 Lafayette Road, St. Paul, MN 55155

November 21, 2022

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

Dear Ms. Nash:

The Minnesota Department of Natural Resources (DNR) is requesting approval in accordance with Minn. Stat. Sec. 116P.15, subd. 2(b) to amend a State held conservation easement funded in part through the Environment and Natural Resources Trust Fund (ENRTF). The amendment is proposed to resolve a violation of the conservation easement by the landowner and will result in removing 0.33 acres from the conservation easement to be replaced by 0.75 acres of adjoining land into the conservation easement for an overall net gain of 0.42 acres to the conservation easement. The State will continue to hold the conservation easement and the easement will remain in effect on the land.

Background

The DNR purchased the Minnesota Forests for the Future/Forest Legacy conservation easement (Seven Mile Woods-5 Acquisition #131820) on 86.33 acres in 2004 in rural Rice County. The conservation easement was appraised at a value of \$266,600 at the time of the acquisition. The DNR purchased the easement for \$90,000 using ENRTF funding. The remaining value (\$176,600) was donated by the landowners. The property is now owned by a trust comprised of the original landowners' adult children. One of those children and her husband reside on the property. The current landowners installed a solar panel array on property in the conservation easement in 2019-2020. Site preparation for the solar panel array was discovered by DNR staff during the annual stewardship monitoring site visit conducted in December 2019. The landowners were notified of the violation and asked to cease all activity via phone calls, emails and certified letter in December 2019. At the time the violation was discovered, the solar panel installation was documented in its early stages. Despite the communication with the DNR, the landowner completed installation of the solar panels prior to February 2020. Several meetings were held with the landowners and including DNR leadership from the Division of Forestry, Division of Lands and Minerals and the Commissioner's Office. As a result of these meetings, it was decided that the DNR would pursue a compromise resolution to remove the land where the solar panels were installed from the conservation easement and to replace it by adding land owned by the landowners to the conservation easement with final approval of the LCCMR. The map that is included shows the area where the solar panels are located that is proposed to be removed from the conservation easement as well as the area proposed to be added. The area proposed to be added is forested land within an existing exclusion from the conservation easement and is labeled "exchange area" on the map. The area proposed to be added has remnant Big Woods species and has a much higher conservation value than the previously disturbed open land where the solar panels were installed.

Minn. Stat. Sec. 116P.15 governs modification of uses of real property or interests in real property acquired with ENRTF appropriations. Minn. Stat. Sec. 116P.15, subd. 2 requires the LCCMR to review and approve proposed conveyances of interests in ENRTF-acquired property, which would include removal of an area from an ENRTF-funded conservation easement. This provision does authorize replacement of the interest in real property with another property interest, provided that the following criteria are met:

(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.

Determination of fair market value of lands or interests in land acquired by the DNR is governed by Minn. Stat. sec. 84.0272. The general rule, which applies to valuing Forest Legacy or Forest for the Future easements, is that the commissioner must cause the lands or interests in land to be appraised. Accordingly, an appraisal, which followed the requirements of law and DNR's appraisal policies, was conducted and certified by the Commissioner's designee. The appraisal determined the value of the Seven Mile Woods-5 conservation easement in its current configuration (\$354,200) and the value after the proposed removal of the area with the solar panels and addition of land from the current exclusion area (\$355,100). After the proposed resolution, the value of the conservation easement would increase by \$900. All costs to prepare and execute the compromise resolution, including DNR staff time and outside professional services (appraisal, review appraisal, etc.), are being reimbursed to the DNR by the landowner through monthly invoices.

Please see property information packet sent separately for additional background and detailed information regarding this request.

Sincerely,

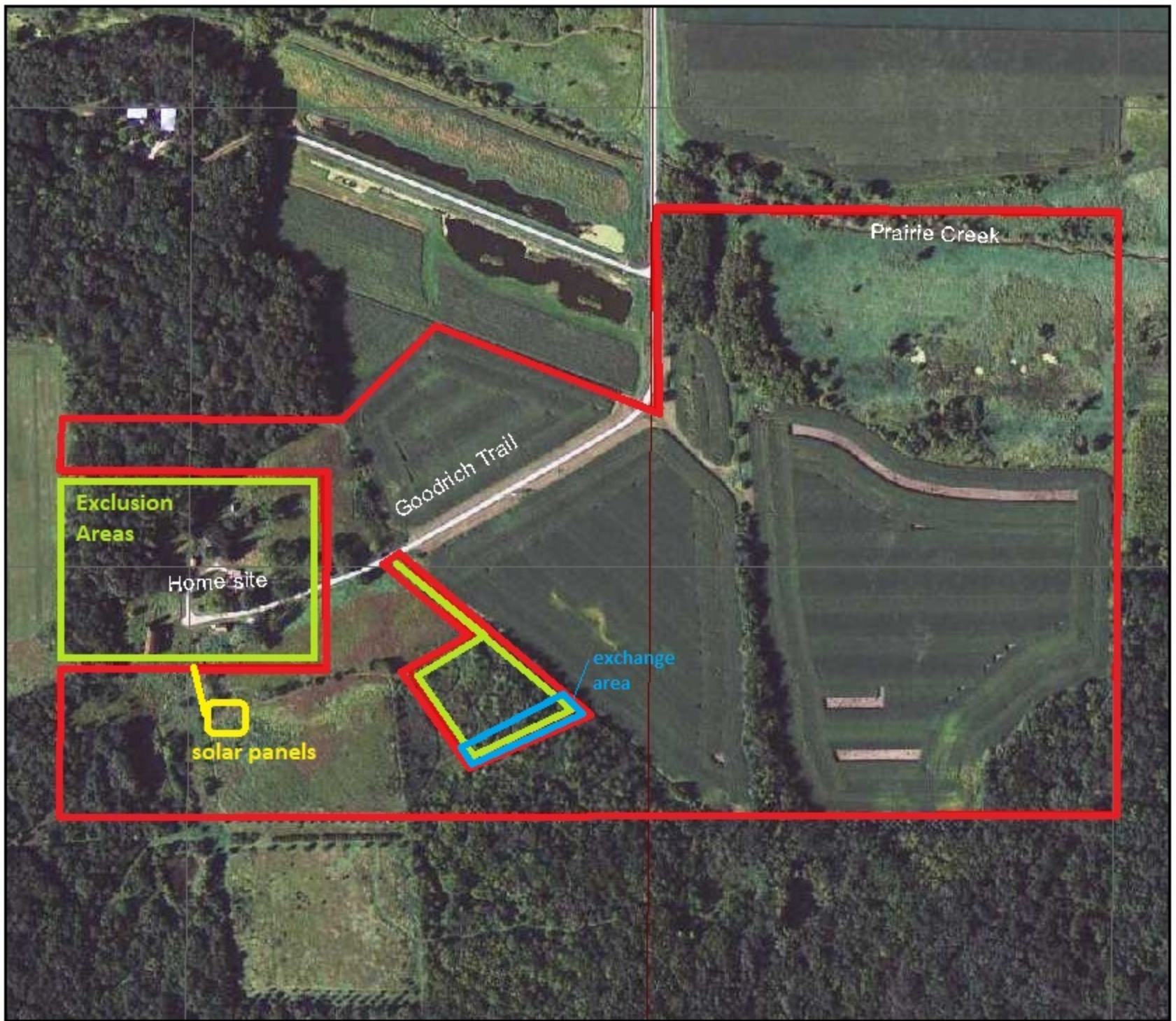
Christine Ostern, Forest Legacy Program Coordinator, Division of Forestry

CC: Susan Damon, Assistant Director, DNR Division of Lands and Minerals
Doug Tillma, DNR Division of Forestry
Gary Michael, DNR Division of Forestry
Jason Tidemann, DNR Office of Management and Budget Services

**Rice County
Seven Mile
Woods #5
Canon
Legacy Project
S.31 & 32
T111N R19W**

Legend

-  7- Mile Woods #5
-  Interstate Trunk Highway
-  U.S. Trunk Highway
-  MN Trunk Highway
-  County Highways
-  PLS Township
-  PLS Section
-  Public Land Survey 40



Map prepared by Richard Peters on April 2013.

Note: Information shown on this map is locationally approximate and is intended for illustration purposes only. It is not appropriate for applications that require positional accuracy, as boundaries are not necessarily the result of a certified survey.

2010 FSA Color Aerial Photography
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1 Eagleview