

Susan Thornton, Director

## REVISED – 12/6/2010

### Agenda

Wednesday, December 8, 2010

8:30 a.m. – 1:00 p.m.

Room 5, State Office Building

St. Paul, MN 55155

Members Present: Al Berner, Jeff Broberg, Sen. Tom Cook, Sen. Dennis Frederickson, Nancy Gibson, Rep. Larry Howes, Sen. Pat Pariseau, Rep. Ron Shimanski, Sen. Jim Vickerman, Rep. Jean Wagenius, Elizabeth Wilkens

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

Members Excused: Sen. Ellen Anderson, Rep. Lyndon Carlson, Satveer Chaudhary, John Herman, Norman Moody, Rep. Tom Rukavina

**Co-Chair: Nancy Gibson**

**1. Approve agenda for LCCMR meeting for December 8, 2010**

Commissioner Gibson called the meeting to order at 8:45 a.m.

MOTION: Commissioner Berner moved to approve the agenda for the meeting on November 18, 2010 – motion prevailed.

**2. Members approve minutes for November 18, 2010**

MOTION: Commissioner Shimanski moved to approve the minutes for November 18, 2010 – motion prevailed.

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

Members reported no conflicts of interest for today's meeting.

**4. Handout: Environment and Natural Resources Trust Fund LCCMR recommended appropriation language for FY2012-2013 recommendations, adopted November 18, 2010**

**5. NEW - Technical amendments for adopted language**

Susan Thornton explained the two technical amendments to be inserted into the adopted Environment and Natural Resources Trust Fund recommended appropriation language.

MOTION: Al Berner moved to approve adding the two technical amendments. Under Subd. 12. Project requirements replace (a) with the following language: As a condition of accepting an appropriation under this section, any agency or entity receiving, or a recipient of an agreement from an appropriation must comply with paragraphs (b) to (l) Minnesota Statutes, chapter 116P, and submit a work program and semiannual progress reports in the form determined by the legislative-citizen commission on Minnesota resources for any project funded in whole or in part with funds from the appropriation. Under Subd. 17. Carryforward renumber appropriately section (a) after adding a new number one: (1) Laws 2008, chapter 367, section 2, subdivision 4, paragraph (f), Native Shoreland Buffer Incentives Program; - motion prevailed.

## LEGISLATIVE-CITIZEN COMMISSION ON MINNESOTA RESOURCES

**6. NEW - Update on Peer Review process for FY2012-2013 research project recommendations**

Susan Thornton reviewed the list of proposal that are going through peer review this year.

**7. Review and adopt 2011 Biennial Report (M.S. 116P.09 Subd. 7)**

Susan Thornton reviewed by section the 2011 Biennial Report due on January 15, 2010 to the Legislature.

Commissioner Berner requested staff to compile how many dollars have been spent on environmental projects throughout Minnesota from all funds. Mr. Berner said he was interested in what the trend looks like.

Commissioner Frederickson requested staff to add the history of the Environment and Natural Resources Trust Fund under section \_\_\_\_\_ (trend of the market value).

Commissioner Broberg requested staff to talk to the people planning the agenda for the DNR roundtable and discuss the 2011 Biennial report because one of their topics related to dedicated funding.

**MOTION:** Commissioner Wagenius moved to approve the 2011 Biennial Report with the continuation of adding the appropriate sections to finalize the 2011 Biennial Report that is due on January 15, 2010 to the Legislature – motion prevailed.

**8. Discuss letter to the University of Minnesota President from the LCCMR regarding U of MN policies on academic freedom for current and future recommended appropriations**

Members discussed the draft letter to the University of Minnesota President from the LCCMR. Commissioner Howes recommended members not to send this letter to the University of Minnesota. Commissioner Howes reminded members that this commission does not have the authority to hand out money and only make recommendations to the legislature. Commissioner Wilkens asked if there could be some language inserted into the work programs that says that there will be academic freedom and will follow the policies from whatever institution they are from.

Commissioner Frederickson asked who met with the University of Minnesota. Susan Thornton stated that the meeting on December 2, 2010 was at the request of the University of Minnesota. Commissioner Frederickson said he agrees with Commissioners Howes and Rukavina that a letter like this should come from a Finance Chair not the Legislative-Citizen Commission of Minnesota Resources.

Commissioner Carlson said he suggested that at times the University of Minnesota hires people from outside and recommended their orientation included training in land grants and policy. Commissioner Carlson suggested not to send out the letter.

Commissioner Berner reminded members that the work program in questions was not research it was information.

Commissioner Wagenius asked if Jeff thought the meeting on December 2, 2010 was sufficient and not send the letter. Commissioner Wagenius stated that dvd is being viewed by many more groups than originally expected.

Commissioner Wagenius asked members for an alternative way to gain consensus with the commission members in regards to sending a letter.

Commissioner Broberg agreed to not send the letter to the University of Minnesota.

## LEGISLATIVE-CITIZEN COMMISSION ON MINNESOTA RESOURCES

### 9. Land acquisition discussion of county board approval requirements and process (97A.145 subdivision 2 and 84.033 subdivision 3) - MN DNR

Bob Meier (DNR) and Dave Schaad (DNR) started discussions and distributed two handouts. The first handout is a sample letter that the DNR sends out and the second handout is Minnesota Department of Natural Resources Operational Order #6. Susan Thornton reminded members last year the statute was changed in M.S. 116 regarding land acquisitions needed to be approved by the Department of Natural Resources Commissioner.

Commissioner Berner asked about county board approval. Dave Schaad stated that lands that are received as a gift or conveyed to the DNR do not need county board approval.

Commissioner Broberg asked if the DNR views LCCMR lands as a gift. Bob Meier said that is a good question. Mr. Meier said that the terms they are looking for is purchase or lease. Last summer they start a land transaction system that will allow them to find things better.

Commissioner Howes asked about gifts.

Dave Schaad said when that the state actually purchase lands there is the land owner bill of rights, procedures, etc. Mr. Schaad said that they have considered that the dollars going through the DNR to a NGO. Mr. Schaad believes now days there is a grey area in the issue of non profits. Mr. Schaad said clarity is needed in regards to land purchase.

Commissioner Howes discussed the LaSalle property in his district. Hubbard county unanimously approved the selling of land but the county must receive equal or exceed existing revenue now.

Commissioner Howes requested staff to add a caveat to the LCCMR bill in regards to LaSalle Lake subdivision.

Bob Meier suggested that staff talks to Susan Schmidt regarding LaSalle Lake.

Commissioner Rukavina stated that the local commissioner was opposed to Lake Vermillion.

State of Minnesota is listed as the third largest land owner in the nation. Commissioner Rukavina asked how the DNR is managing all the State land that they own. Commissioner Rukavina asked if DNR is replacing funds they use to get from the general fund to monitor the land. Bob Meier said the answer is no. Bob Meier said that the DNR never used to keep track of their lands and it pains him to say that.

~ 2:00:00

Commissioner Shimanski said the DNR was audited a few years ago. Commissioner Shimanski is concerned about NGOs driving up the price of land. He said PILT payments do not help with maintenance. Bob Meier said that the auditors report said that the DNR submitted a letter regarding the auditors report.

Commissioner Herman said he thinks in regards to MeCC and HCP they should be following 97a because the appropriation is going through the DNR to the non profit. He believes gifts should not be allowed. He said that he has no problem of amending the LCCMR bill to add language regarding LaSalle Lake.

### 10. NEW – Update on 2009 LAWCON expenditure – DNR

Bob Meier (DNR) and Forest Boe (DNR) discussed the LAWCON work program.

### 11. Overview of Conservation Easements

**Kris Larson, MN Land Trust; Al Singer, Dakota County; Susan Damon, MN DN**

Kris Larson (MN Land Trust) started the presentation on conservation easements.

Commissioner Wagenius suggested updating the language in conservation easement in relationship to invasive species and future issues.

## LEGISLATIVE-CITIZEN COMMISSION ON MINNESOTA RESOURCES

Al Singer said they require a management plan in place before purchasing easements. There is a lot of grey area in how to clarify potential future concerns with the current landowner. He said there needs to be some policy issues to give some directions. Things need to be written very careful otherwise no one will want to have a conservation easement.

**12. Member recognition - Sen. Satveer Chaudhary, Sen. Dennis Frederickson, Mary Mueller, Sen. Pat Pariseau, and Sen. Jim Vickerman**

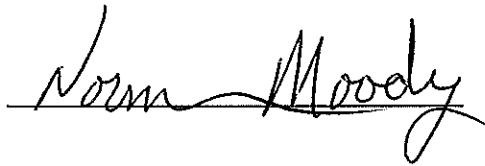
Members recognized Sen. Dennis Frederickson, Mary Mueller, Sen. Pat Pariseau, and Sen. Jim Vickerman for their contributions to the Legislative-Citizen Commission on Minnesota Resources.

**13. Other business**

**14. Adjourn**

Meeting adjourned at 12:20 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Norm Moody". The signature is written in black ink and is positioned above a horizontal line.



Minnesota Department of Natural Resources

**OPERATIONAL ORDER # 6**

**SUBJECT:** Land Acquisition Procedure

**CONTACT:** Division of Lands and Minerals

**DATE:** December 12, 2005

**SUPERSEDES:** Operational Order #6 Land Acquisition Procedure dated July 5, 1977, and Operational Order #107 Land and Easement Acquisition Policy dated July 2000 (rescinded)

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**PURPOSE**

The purpose of this operational order is to outline responsibilities relating to the land acquisition programs of the Department of Natural Resources (DNR), and establish procedures to ensure strategic planning, oversight, and accountability. The planning needs to be a multi-disciplinary activity that strives for integrated resource management. The oversight needs to be at the levels of initiating unit and senior managers. Accountability procedures will guide how funding is spent.

Personnel are advised to refer to the Negotiator's Handbook for procedural information. Completed segments of the handbook have been provided to all DNR personnel involved in land acquisition. Additional material and updates will be available on the DNR intranet.

Frequently changing land acquisition laws, agreements and policies, and the type of interest and ownership status of the property being acquired often necessitate deviations from standard procedures. Therefore, the Division of Lands and Minerals is responsible for coordinating each acquisition transaction to fulfill all requirements existing at the time. Contact the Division of Lands and Minerals, Transactions Section or Appraisal Management Unit, whenever you are conducting a land acquisition.

**DEFINITION**

For the purpose of this order land acquisition means the acquisition by the DNR of an interest in land by purchase, gift, condemnation or transfer of custodial control between state agencies.

The DNR has authority to accept gifts of lands or interest in lands or personal property (Minn. Stat., sec. 84.085, subd.1). Policy and guidelines for working with donors is addressed in DNR Operational Order No. 101.

## POLICY

All matters involving land acquisition must be processed through the Division of Lands and Minerals. The Division of Lands and Minerals will maintain a progress record on each transaction.

It is vital that DNR staff do not informally obligate the DNR to acquire land or interest in land. Non-profit organizations and other partners that work with the DNR need to be informed that the formal process must be followed before a commitment is made by the DNR.

## PROCEDURES

### I. DNR Biennial Land Acquisition Plan

Prior to the beginning of each biennium, a plan needs to be developed for each acquisition funding source. A plan must include the following:

- 1) Guiding Principles: the purpose and authority for the expenditures and the direction provided in the applicable laws that govern the expenditures.
- 2) A summary of the land already covered by the program.
- 3) Resource Connections: identification of how the funding may be used to address and link the various resource concerns to the DNR's Conservation Agenda and any other individual acquisition plans a unit or division may have.
- 4) Targets: the expected results and benchmarks to gauge progress toward long-term goals. For some programs, the targets for a fiscal year will be very specific (e.g., acquisition of two parcels in an identified state park), and for other programs the targets will be more general (e.g., 1,000 acres in the north central glaciated plains region and 500 acres in the Minnesota and Northeast Iowa Moraine).
- 5) Spending plans: a spending plan for the amount of money available for the biennium. (For spending plans that rely on federal funds, the plans may need to be amended or revised based on the federal fiscal year as new funding becomes available.)
- 6) Accomplishments in the previous biennium.

Each plan must be reviewed and approved by the Senior Managers before the funds can be committed.

## **II. Initial Acquisition Contacts and Recommendations**

Department of Natural Resources personnel have the responsibility to refrain from discussing price with the landowner before an appraisal has been made (Minn. Stat., sec. 84.0274, subd.6 (b)).

### **A. DNR Contacts Owner**

Discipline personnel are encouraged to contact owners of property within authorized boundaries of DNR projects to inquire if they are willing to sell.

### **B. DNR is Contacted by Owner**

If a landowner contacts any DNR staff, all the information provided (including the landowner's wishes/perspective) will be given to the Regional Lands and Minerals Supervisor who will circulate the inquiry to Regional Management Team members for information and review purposes. The DNR shall endeavor to honor the landowner's desires.

## **III. Authorization to Acquire**

Statutory authority is required for all land acquisition. Selection of the lands to be acquired varies with the statutory authority.

For land acquisition involving state parks, state monuments, state recreational areas, state waysides and state forests, the legislature describes the lands or the boundaries within which lands are authorized to be purchased (Minn. Stat. Chap. 86A).

For land acquisition involving named state trails, the legislature describes the land (e.g. abandoned railroad right-of-way) or describes the place of beginning and general route the trail is to follow and place of termination.

For land acquisition involving scientific and natural areas, public accesses and Fish and Wildlife programs, the Commissioner and administering Division staff in accordance with the Outdoor Recreation Act of 1975 and any other applicable law make selection and approval of specific projects and the land to comprise the project. This method of land acquisition also applies to river campsites, river accesses, portages and scenic easements and other land acquisition for the DNR where the lands are not specifically described in the statute.

## **IV. Land Acquisition Fact Sheet**

A DNR land acquisition of a specific parcel or parcels commences with the preparation of a fact sheet that lists the lands to be acquired, the legal authority for their acquisition, the qualities of the land that make it a desirable acquisition, and other information on the parcel (see Minn. Stat., sec. 84.0272). The fact sheet needs to identify the funding source or sources that will be used to purchase the parcels, and the fact sheet package must identify if federal aid will or will not be used.

The following staff must sign a completed fact sheet:

- 1) The DNR staff who prepared the fact sheet.
- 2) The staff of the division initiating the acquisition who is assigned to supervise or coordinate acquisition activity (in some division this is a regional manager and in some division a central office program coordinator).
- 3) The division director of the division initiating the acquisition.
- 4) The regional director for the region in which the lands are located.
- 5) The director of the Lands and Minerals Division.

See Appendix A for a list of designees in the absence of the directors identified in 3) through 5).<sup>1</sup>

All signing parties must conduct timely review of the fact sheets. The signing parties must ensure that the acquisition described in the fact sheet fits into the biennial plan, the capital budget plan, and the DNR's Conservation Agenda. If any of the above-described parties believe that the proposed acquisition does not fit into these plans, they should:

- a) not sign the fact sheet, and
- b) notify the director of the division initiating the acquisition of their concerns within one week of receipt of the fact sheet.

The acquisition cannot proceed until a signing party's concerns are addressed.

It is also the responsibility of the division initiating the acquisition to ensure that the acquisition described in the fact sheet fits within the budget.

The signed fact sheet is submitted to the Lands and Minerals Division for the next steps in the DNR land acquisition process.

## V. Valuation

- A. An appraisal will be made as required to determine the market value of the "land acquisition" (Minn. Stat., sec. 84.0274, subd. 5(d)).

Appraisals must be conducted to federal standards if it is intended that the funding for the lands being acquired will be submitted for federal reimbursement. (See Lands and Minerals Supplement titled "Guidelines to Basic Requirements for Appraisal and Review of Appraisals for Acquisitions Involving Federal Aid.")

If the commissioner determines that lands or interests in the lands have a value less than \$5,000, the commissioner may acquire the lands for the value determined without an appraisal as a minimal value acquisition (Minn. Stat., sec. 84.0272, subd. 3(a)).

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<sup>1</sup> If the acquisition involves the purchase of buildings that will create asset preservation obligations, the Lands and Minerals Division will provide a copy of the fact sheet to the Management Resources Bureau.



- B. Valuation of trout stream easements are based either on the formula for trout stream easement payment rates (Minn. Stat., sec. 84.0272, subd. 2) or by an appraisal.
- C. Valuation of prairie bank easements shall be made based on the formula prescribed for payment rates under this program (Minn. Stat., sec. 84.96, subd. 5). Easement language shall be determined by the administrating discipline.
- D. Contract appraisers when used will be hired through the Division of Lands and Minerals.
- E. The landowner must be given the opportunity to accompany the appraiser on the inspection of the property (Minn. Stat., sec. 84.0274, subd. 5(d)).
- F. At any time prior to certification of the state's appraisal of the property, the landowner has the right to retain a qualified independent appraiser to conduct an appraisal and to have that appraisal considered along with the state's in certifying the selling price (Minn. Stat., sec. 84.0274, subd. 5(e)).

#### **VI. Appraisal Data**

Appraisal data is classified as confidential data on individuals or protected nonpublic data until certain actions take place. Before releasing appraisal data, refer to Minnesota Statutes section 13.44, subd. 3.

#### **VII. Appraisal Review**

A staff or contract reviewer, as determined by the Division of Lands and Minerals, will conduct a technical or administrative review of an appraisal submitted for land acquisition. The reviewer will provide the Division of Lands and Minerals with a review report.

Appraisal reviews must be conducted to federal standards if it is intended that the funding for the lands being acquired will be submitted for federal reimbursement. (See Lands and Minerals Supplement titled "Guidelines to Basic Requirements for Appraisal and Review of Appraisals for Acquisitions Involving Federal Aid.")

#### **VIII. Negotiations**

The Division of Lands and Minerals assigns negotiation responsibilities to Lands and Minerals staff or, in a few instances, staff from the division initiating acquisition. The Division of Lands and Minerals will advise a negotiator that a market value has been certified. The negotiator will contact the division initiating acquisition to receive approval to make the offer to the landowner. Any special terms or conditions to the acquisition must receive approval from the division initiating acquisition and the Attorney General's Office prior to optioning the property.

If the land or interest in land to be purchased exceeds \$1,000,000 in value, the commissioner must approve the acquisition before an option may be negotiated.

## **IX. Options**

If the landowner agrees to sell the parcel to the DNR for the agreed-upon purchase price, the landowner signs an option. The Division of Lands and Minerals will notify appropriate DNR personnel when an option is obtained and approved by the Attorney General's Office.

## **X. Notification**

The DNR will notify the appropriate county official of all proposed land acquisitions and easements, including donations. The DNR discipline initiating the transaction is responsible for the notification. For each transaction, the timing as to when the notification will occur will vary, but it will normally occur after an option has been signed but before there is an election to purchase.

County board approval is required for the purchase of wildlife management area lands, wildlife management area easements, scientific and natural areas, and lands purchased with Reinvest in Minnesota (RIM) match funds (Minn. Stat., secs. 84.033, subd. 3, 84.944, subd. 3, and 97A.145, subd. 2).

## **XI. Land Acquisition Survey**

The Land Survey Unit of Lands and Minerals Division will conduct the land survey for an acquisition when it has been determined that a land survey is needed. If a survey is needed, it is usually performed during the option period.

The Land Survey Unit will provide the division initiating acquisition with copies of the survey plat and legal description when the survey is completed.

## **XII. Election to Purchase**

The negotiator consults with the division initiating acquisition before Lands and Minerals exercises election to purchase as provided in the option. When a notice of election to purchase is signed by the Director of the Lands and Minerals Division, the DNR is committed to complete the purchase of the land except under limited circumstances (e.g., the landowner is unable to deliver marketable title, the landowner has delinquent taxes and refuses to pay, etc.).

A notice of election to purchase will not be signed until the funds to purchase the property have been encumbered.

## **XIII. Attorney General's Office**

The Division of Lands and Minerals will coordinate with the Attorney General's Office on any legal matters pertaining to land acquisition.

#### **XIV. Fiscal Unit**

The Division of Lands and Minerals will encumber funds and make payment for the land acquisition and related incidental costs.

#### **XV. Possession of Property**

The Division of Lands and Minerals will notify appropriate DNR personnel and other agencies when a land acquisition has been completed.

#### **XVI. Federal Aid**

The Division of Lands and Minerals will provide the appropriate Federal Aid Coordinator with documentation required for federal reimbursement.

Certain federal regulations regarding title, use, and disposition apply to land acquired with federal funds ("interest") through federal grants or cooperative agreements. The division initiating acquisition is responsible for notifying the Division of Lands and Minerals of federal interest in land and providing them written federal requirements (applicable regulations and federal guidance) to be met regarding the land transactions.

#### **XVII. Offers Above Certified Value**

Any offer above the certified value but not more than 10 percent requires the prior approval of the Director of the Division of Lands and Minerals and must be supported by a memo recommending approval signed by the director of the division initiating acquisition .

Any offer above the certified value by more than 10 percent requires the approval of the Commissioner. The director of the division initiating acquisition must submit to the Division of Lands and Minerals a memo recommending approval and supporting reasons. The Director of Lands and Minerals will add recommendations and submit the information to the Commissioner for review and approval.

Approved by:

/s/ Gene Merriam, Commissioner

Date: December 12, 2005

## Appendix A

### Minnesota Department of Natural Resources Land Acquisition Designees

<u>Unit</u>	<u>Designees</u>
Ecological Service	Assistant Director
Enforcement	Major
Fish and Wildlife	Deputy Director
Forestry	Assistant Director
Lands and Minerals	Assistant Director
Management Resources	Assistant Administrator
Parks and Recreation	Assistant to the Director
Region: Central	Deputy Commissioner*
Region: Northeast	Deputy Commissioner*
Region: Northwest	Deputy Commissioner*
Region: South	Deputy Commissioner*
Trails and Waterways	Acquisition & Development Section Manager
Waters	Assistant Director

\*After consulting with regional staff in charge in absence of Regional Director.

2009 Federal Land and Water Conservation Program (LAWCON) Update to LCCMR (December 8, 2010)

Original Appropriation	\$400,000	<p>Legal Citation: ML 2009, Chap. 143, Sec.2, Subd. 4(j).</p> <p>Appropriation Language: \$400,000 is from the state land and water conservation account(LAWCON) in the natural resources fund to the commissioner of natural resources for priorities established by the commissioner for eligible state projects and administrative and planning activities consistent with Minnesota Statutes, section 116P.14, and the federal Land and Water Conservation Fund Act.</p>
Administration Expenses	\$200,000	<p>These funds will support personnel and administrative costs for grants staff who are responsible for the annual grant solicitation, an open project selection process, processing reimbursement requests and payments, pre and post completion project inspections, long term project monitoring that includes hundreds of project inspections per year, submitting required reports and updates to the National Park Service, and processing conversions when requests are made to change the use of assisted project areas.</p>
Acquisition and Development Expenses	\$150,000	<p>Acquisition of land from Lake County for campground sites, which will eventually be transferred to Split Rock Lighthouse State Park.</p>
SCORP Research Expenses	\$50,000	<p>Staff time and expenses needed to begin planning and research for the next State Comprehensive Outdoor recreation Plan (SCORP), which must be submitted to the National Park Service for review and approval by the end of calendar year 2012.</p>