

Trust Fund 2009 Work Program

Date of Report: May 13, 2009

Date of Next Progress Report: December 31, 2009

Date of Work Program Approval:

Project Completion Date: June 30, 2011

I. PROJECT TITLE: Minnesota Drainage Law Analysis and Evaluation

Project Manager: Louis Smith
Affiliation: Smith Partners, PLLP
Mailing Address: 400 Second Avenue South, Suite 1200
City / State / Zip: Minneapolis, MN 55401
Telephone Number: 612-344-1400
E-mail Address: smith@smithpartners.com
FAX Number: 612-344-1550
Web Site Address: www.smithpartners.com

Location: Minneapolis, for state-wide application.

Total Trust Fund Project Budget:	Trust Fund Appropriation	\$	87,000
	Minus Amount Spent:	\$	0
	Equal Balance:	\$	87,000

Legal Citation: M.L. 2009, Chap. 143, Sec. 2, Subd. 5f

Appropriation Language:

\$87,000 is from the trust fund to the commissioner of natural resources for an agreement with Smith Partners PLLP to identify and analyze legal and policy issues where the drainage code conflicts with other laws impacting protection of public waters and wetlands.

II. PROJECT SUMMARY AND RESULTS:

The Minnesota Drainage Code must be understood in the context of many water – related statutes. These different laws, adopted at different times, need to be analyzed and reconciled in contexts as different as urban expansion, lakeshore development and ongoing agricultural and silvicultural use at a time of heightened state and national water quality concerns. Water resource management is much different from and more complicated than when the Minnesota drainage code was enacted over a century ago, yet this law remains largely unchanged.

To effectively pursue the range of creative approaches to integrated water resource management, we may need to update and clarify drainage code procedures, decisionmaking standards and funding authorities and incorporate local land use authority in a way that meets modern needs while protecting property rights in drainage and enhancing beneficial economic use of land. For example, at both federal and state levels, there is strong movement toward integrated, area-based resource and development planning and regulation to restore critical wetlands, improve water quality and preserve aquatic habitats while also protecting and increasing economic value for landowners.

Any analysis of Minnesota drainage laws requires a deep appreciation of related laws protecting wetlands, public waters, and water quality. This proposal builds on unique experience with

Minnesota's leading examples of Resource Management Plans that integrate drainage solutions under Chapter 103E with comprehensive wetland management under the Wetland Conservation Act and sound development planning that maximizes both resource protection/restoration with landowner rights and development value. By engaging critical stakeholders in this project, Minnesota will gain not only a current and comprehensive analysis of drainage law, but also stronger support for creative, integrated solutions to natural resource protection and land use development.

III. PROGRESS SUMMARY AS OF

IV. OUTLINE OF PROJECT RESULTS:

Result 1: Legal Analysis

Description: Provide an overview of the drainage code and related state and federal laws concerning wetland conservation, protection of public waters, and water quality. Identify and analyze critical legal and policy issues where the drainage code and potential conflicts with other laws create barriers to successful resource protection.

Summary Budget Information for Result 1: Trust Fund Budget: \$18,020
 Amount Spent: \$ 0
 Balance: \$18,020

Deliverable	Completion Date	Budget
1. Survey of drainage code and related laws	October 2009	\$5,440
2. Problem Statement and Critical Issues Identification	October 2009	\$2,040
3. Critical Issues Analysis (Preliminary)	March 2010	\$3,400
4. Critical Issues Analysis (Final)	November 2010	\$7,140

Result Completion Date: December 31, 2010

Result Status as of December 31, 2009:

Result Status as of June 30, 2010:

Result Status as of December 31, 2010:

Result Status as of June 30, 2011:

Final Report Summary: June 30, 2011

Result 2: Demonstration Scenarios

Description: Drainage- resource protection conflicts arise in particular land use settings. We will identify three prototypical scenarios and analyze the economic impacts of various restoration/development/conservation alternatives to inform the critical issues analysis.

Summary Budget Information for Result 2: Trust Fund Budget: \$36,780
Amount Spent: \$0
Balance: \$36,780

Deliverable	Completion Date	Budget
1. Identify 3 scenarios with Advisory Committee, e.g. metro suburban, agricultural, and lakeshore development.	November 2009	\$ 1,700
2. Build case studies of 3 scenarios.	March 2010	\$19,640
3. Analyze development, resource conservation/restoration, costs and benefits.	June 2010	\$ 8,500
4. Analyze legal barriers, strategic alternatives in 3 scenarios.	August 2010	\$ 6,940

Result Completion Date: December 31, 2010

Result Status as of December 31, 2009:

Result Status as of June 30, 2010:

Result Status as of December 31, 2010:

Result Status as of June 30, 2011

Final Report Summary: June 30, 2011

Result 3: Legislative Recommendations

Description: Building on the critical issues analysis from the three demonstration scenarios, develop legislative recommendations.

Summary Budget Information for Result 3: Trust Fund Budget: \$11,650
Amount Spent: \$0
Balance: \$11,650

Deliverable	Completion Date	Budget
1. Initial draft of legislative recommendations for Advisory Committee review	September 2010	\$5,400
2. Revised draft recommendations based on Advisory Committee review.	October 2010	\$2,140
3. Presentation of draft recommendations to 3 regional forums.	November 2010	\$2,040
4. Final recommendations.	June 2011	\$2,070

Result Completion Date: June 30, 2011

Result Status as of December 31, 2009:

Result Status as of June 30, 2010:

Result Status as of December 31, 2010:

Result Status as of June 30, 2011:

Final Report Summary: June 30, 2011

Result 4: Advisory Committee Facilitation

Description: Recruit and convene Advisory Committee.

Summary Budget Information for Result 4: Trust Fund Budget: \$ 20,550
Amount Spent: \$ 0
Balance: \$ 20,550

Deliverable	Completion Date	Budget
1. Identify key stakeholders and recruit advisory committee.	October 2009	\$ 2,440
2. Convene and facilitate six (6) meetings of Advisory Committee.	June 2011	\$15,240
3. Present Draft Recommendations and report for Advisory Committee review and comment.	June 2011	\$ 2,870

Result Completion Date: June 30, 2011

Result Status as of December 31, 2009:

Result Status as of June 30, 2010:

Result Status as of December 31, 2010):

Final Report Summary: June 30, 2011

V. TOTAL TRUST FUND PROJECT BUDGET:

Personnel: \$ 63,000

Contracts: \$21,000

Equipment/Tools/Supplies:

Acquisition, including easements: \$

Travel: \$

Other: \$3,000

TOTAL TRUST FUND PROJECT BUDGET: \$87,000

Explanation of Capital Expenditures Greater Than \$3,500: None.

VI. PROJECT STRATEGY:

A. Project Partners:

Smith Partners attorneys (Louis Smith, Charles Holtman and Michael Welch) will provide the legal analysis, project management, and advisory committee facilitation, with support from the firm's planner and partnership manager, Faith Cable. Once the three demonstration scenarios are selected, land development specialists will be retained to analyze the costs and benefits if alternations.

B. Project Impact and Long-term Strategy:

This project has statewide impact, especially where there are existing drainage systems.

C. Other Funds Proposed to be Spent during the Project Period:

D. Spending History:

VII. DISSEMINATION:

VIII. REPORTING REQUIREMENTS: Periodic work program progress reports will be submitted not later than December 31, 2009; June 30, 2010; December 31, 2010; June 30, 2011. A final work program report and associated products will be submitted between June 30 and August 1, 2011 as requested by the LCCMR.

IX. RESEARCH PROJECTS:

Attachment A: Budget Detail for 2009 Projects - Summary and a Budget page for each partner (if applicable)														
Project Title: Minnesota Drainage Law Analysis and Evaluation														
Project Manager Name: Louis N. Smith														
Trust Fund Appropriation: \$														
1) See list of non-eligible expenses, do not include any of these items in your budget sheet														
2) Remove any budget item lines not applicable														
2009 Trust Fund Budget	Result 1 Budget:	Amount Spent (date)	Balance (date)	Result 2 Budget:	Amount Spent (date)	Balance (date)	Result 3 Budget:	Amount Spent (date)	Balance (date)	Result 4 Budget:	Amount Spent (date)	Balance (date)	TOTAL BUDGET	TOTAL BALANCE
	Legal Analysis			Demonstration Scenarios			Legislative Recommendations			Advisory Committee Facilitation				
BUDGET ITEM														
PERSONNEL: wages and benefits (List individual names, amount budgeted and %FTE; add rows as needed)														
	<u>Attorneys</u>	\$18,020		8,640			11,650			17,150			55,460	
	• Louis Smith													
	• Chuck Holtman													
	• Michael Welch													
	<u>Planner</u>			7,140						2,400			9,540	
	• Faith Cable													
*All less than 10% FTE														
Contracts														
	Professional/technical: Land development specialists (TBD) to analyze costs/benefits of demonstration scenarios			21,000									21,000	
Printing														
										550			550	
Travel expenses in Minnesota														
										450			450	
COLUMN TOTAL														
		\$18,020	\$0	\$18,020	\$36,780	\$0	\$36,780	\$11,650	\$0	\$11,650	\$20,550		\$87,000	\$0

