



Environment and Natural Resources Trust Fund (ENRTF) 2014 Main Proposal

PROJECT TITLE: Long-Term Conservation Easement Stewardship Account

I. PROJECT STATEMENT

Conservation easement monitoring is essential to secure the investment the State of Minnesota has made to protect privately-owned conservation lands. Monitoring by an easement holder (like DNR) ensures that the landowner and others comply with the easement's terms and, ultimately, ensures that the conservation values of the easement site continue to be protected. When violations of a conservation easement occur, the conservation easement holder has an obligation to defend the conservation values safeguarded by the easement's terms. Enforcement action includes negotiating with the landowner to resolve violations through voluntary compliance, but in the event agreement for voluntary resolution cannot be reached, the holder must be prepared to enforce the easement through civil legal action in the district court in the county where the easement is located.

In its January 2013 report, the Office of the Legislative Auditor (OLA) identified and established a set of standards for state-funded conservation easements and recommended "all holders of state-funded conservation easements to have long-term stewardship plans and funding identified for monitoring." The DNR is working to identify and establish long-term funding for stewardship activities on all of its conservation easements as recommended by the OLA and national Land Trust Alliance standards.

In recent years, the Legislature has appropriated money specifically for easement monitoring and enforcement in conjunction with appropriations for new easement acquisitions; however (as noted in the OLA Report), earlier appropriations for DNR easement acquisitions did not include funds for long-term stewardship. Many of the DNR's 1005 conservation easements were acquired at a time when conservation easements were a new land protection tool in Minnesota. Since that time, more exacting standards have been developed in the drafting of the terms of the conservation easements, the preparation of baseline reports at the time the easements are acquired, and the monitoring and enforcement of the easements. Given the large number of older easements in DNR's portfolio, the DNR has had a major challenge to bring its stewardship of these easements up to current minimum standards.

This project will provide principal funding for a conservation easement stewardship account or fund. Investment income from this money will provide long-term funding for stewardship of existing conservation easements acquired with Environment and Natural Resources Trust Fund (ENRTF) and Minnesota Future Resources Fund (MFRF) appropriations. In addition, the project will provide a funding source (both principal and interest) for enforcement, if needed, of these conservation easements.

II. DESCRIPTION OF PROJECT ACTIVITIES

Activity 1: Appropriation credited to account; enforcement status report **Budget: \$1,186,667**

The DNR currently holds 80 conservation easements acquired in whole or in part with ENRTF or MFRF appropriations. The numbers of these conservation easements by type are: Four Metro Greenways, 22 Native Prairie Bank, 28 Forest Legacy, 10 Trout Stream, 11 Aquatic Management Area, and five Wild and Scenic River.

Based on experiences gained from previous ENRTF-funded conservation easement projects, other DNR conservation easement stewardship activities, national norms, and Land Trust Alliance standards, the DNR estimates an annual cost of stewardship of \$800 per conservation easement, excluding enforcement costs. Using this estimate, the annual cost of stewardship for the 80 ENRTF- and MFRF-

funded easements would be about \$64,000. Assuming annual interest of 6%, a principal amount of \$1,066,667 would be needed to generate \$64,000 annually.

The DNR assumes that enforcement action will be needed on one or more of the 80 conservation easements at some time in the future. To cover such enforcement costs, the DNR estimates that a one-time deposit into a long-term stewardship account of \$1,500 per easement (\$120,000 for the 80 easements) would be needed.

The DNR currently has established conservation easement monitoring/enforcement accounts for appropriations that have been provided for this purpose. However, such accounts are managed conservatively by the State Board of Investment. The DNR will seek legislation in 2014 to establish a conservation easement stewardship fund that would be invested by the State Board of Investment to secure the maximum return consistent with the maintenance of the perpetuity of the fund. If such legislation is approved, the appropriation for this project would be credited to that fund. Income received from investments of the appropriation will be used to fund conservation easement stewardship for the 80 ENRTF- or MFRF-funded conservation easements in perpetuity.

The DNR would not begin to use the investment income for stewardship until one-year after establishment of the account or fund. The DNR does not anticipate needing enforcement funding for any of the 80 easements at this time, but requests that the \$120,000 principal amount for enforcement be immediately available for this purpose. If not used during the time period of this project, the enforcement principal would remain in the account or fund and earn investment income for future enforcement needs.

Outcome	Completion Date
1. Appropriation credited to long-term stewardship account or fund	12/31/2014
2. Report on enforcement status of 80 ENRTF- or MFRF-funded easements	12/31/2014

III. PROJECT STRATEGY

A. Project Team/Partners

The DNR will provide in-kind management of this project. The project will be managed by Division of Lands and Minerals staff who will work with DNR fiscal staff and divisions that administer the 80 conservation easements.

B. Timeline Requirements

It is assumed that this project will be completed no later than six months after it is funded.

C. Long-Term Strategy and Future Funding Needs

Funding for this project will provide an ongoing source of revenue for stewardship of 80 DNR-held conservation easements (8% of the 1005 conservation easements currently held by the DNR). The DNR will request stewardship funding for new conservation easement acquisitions in conjunction with requests for acquisition funding. The DNR will continue to work to identify and establish funding sources for stewardship of other existing conservation easements that currently lack dedicated stewardship funding.

2014 Detailed Project Budget

Project Title: Long-Term Conservation Easement Stewardship Account

IV. TOTAL ENRTF REQUEST BUDGET 6 months

<u>BUDGET ITEM</u>	<u>AMOUNT</u>
Additional Budget Items: Pincipal funding for long-term conservation easement stewardship account or fund.	\$1,186,667
TOTAL ENVIRONMENT AND NATURAL RESOURCES TRUST FUND \$ REQUEST =	\$1,186,667

V. OTHER FUNDS

<u>SOURCE OF FUNDS</u>	<u>AMOUNT</u>	<u>Status</u>
In-kind Services During Project Period: Project management.	N/A	
Remaining \$ from Current ENRTF Appropriation (if applicable): Conservation Easement Stewardship and Enforcement Program, Phase II (ML 2011, 1st Special Session, ch. 2, art. 3, § 2, subd. 4(m))	\$ 154,633	<i>Unspent</i>
Remaining \$ from Current ENRTF Appropriation (if applicable): Conservation Easement Stewardship Program, Phase III (ML 2013, ch. 52, § 2, subd. 3(e))	\$ 200,000	<i>To be appropriated July 1, 2013</i>
Funding History: ML 2007, ch. 57, art. 1, § 4, subd. 2 appropriated \$15,000 toward a minimum standards report. ML 2008, ch. 367, § 2, subd. 5(h) appropriated \$520,000 from the ENRTF for Conservation Easement Stewardship and Enforcement Program Plan. ML 2011, 1st Special Session, ch. 2, art. 3, § 2, subd. 4(m) appropriated \$500,000 for the Conservation Easement Stewardship and Enforcement Program, Phase II. ML 2013, ch. 52, § 2, subd. 3(e) will appropriate \$200,000 on July 1, 2013 for the Conservation Easement Stewardship Program, Phase III.	\$ 1,235,000	



So Br. Root River—51 John Capron (Trout Stream, Fillmore County)



Little Long Lake/Camp Kingwood (Metro Greenways, Hennepin County)



Lower Akron 5-1 (Native Prairie Bank, Big Stone County)

Long-Term Conservation Easement Account

- ENRTF/MFRF Funded Easements
- One-time Payment
- Perpetual Monitoring
- Enforcement Funding
- 80 Conservation Easements



Project Manager Qualifications and Organization Description

Project Manager Qualifications

Susan Damon received her B.A. degree from Western Michigan University and M.A. degree from Middlebury College. She received her J.D. degree, *magna cum laude*, from the University of Minnesota Law School in 1990. She was a judicial clerk for The Honorable Thomas J. Kalitowski at the Minnesota Court of Appeals from 1990-91. Between 1991 and 2008, she was a Special Assistant and Assistant Attorney General for the State of Minnesota, representing several state agencies and licensing boards. Since September 2008, she has been employed by the Minnesota Department of Natural Resources, Division of Lands and Minerals and is currently acting manager of the Transactions Section and the DNR lead on payments in lieu of taxes. She was the project consultant and lead worker for the Conservation Easement Stewardship and Enforcement Program Plan, Phase I (2008-2011) and is currently the project manager for the Conservation Easement Stewardship and Enforcement Program, Phase II, the Conservation Easement Stewardship Program, Phase III and the Lessard-Sams Outdoor Heritage Council High-Priority Pre-Transaction Service Acceleration project.

Organization Description

The Minnesota Department of Natural Resources (DNR) is a state agency. The DNR's mission is to work with citizens to conserve and manage the state's natural resources, to provide outdoor recreation opportunities, and to provide for commercial uses of natural resources in a way that creates a sustainable quality of life. The DNR consists of several divisions based on the state's natural resources, such as Fish and Wildlife, Forestry, Lands and Minerals, Parks and Trails, and Ecological and Water Resources, as well as four regions.