

## NORTHERN COUNTIES LAND USE COORDINATING BOARD

### Minutes

Thursday, February 12, 2009

Kootasca Senior Center, Northome, MN

Call to Order: The meeting was called to order at 9:35 a.m. by Chairman Fink with the following in attendance. (All actions of the Board were supported unanimously unless otherwise indicated.)

#### Member Counties Present:

Commissioner Brian Napstad, Aitkin  
Commissioner Charles Lepper, Koochiching  
Commissioner Todd Beckel, Lake of the Woods  
Commissioner Don Jensen, Pennington  
Commissioner Oliver "Skip" Swanson, Pennington  
Commissioner Jack Swanson, Roseau  
Commissioner Dennis Fink, St. Louis

#### Not Represented:

Cook County, Lake County

#### Others Present:

Bob Tammen, Soudan resident  
Pat Tammen, Soudan resident  
Katherine Haws, Department of Natural Resources, Bemidji  
Peter Buessler, Department of Natural Resources, Bemidji  
Craig Engwall, Department of Natural Resources, Grand Rapids  
Mike Carroll, Department of Natural Resources, Bemidji  
Richard Lehtinen, Koochiching County Environmental Services Dept.  
Douglas Skrief, NCLUCB Staff

#### Introductions

#### Agenda Additions

- 1) Correspondence: Lessard Outdoor Heritage Council
- 2) Correspondence: Wetland Credits
- 3) State: Estimated PILT payment schedule  
m. Beckel s. Napstad

#### Administrative Actions

1. Approval of Minutes: January 8, 2009 meeting  
With the addition of the presence of Comm. Don Jensen at the January 8, 2009 meeting.  
m. Jensen s. Napstad

#### 2-3. Financial Report and Payment of Bills:

The Vice Chair, on the absence of the Treasurer, reported a general fund balance of \$78,465.11 and a Land Use Conflict Management balance of \$15,005.28. Expenses of \$1,050.55 were made for professional services and expense reimbursement. Dues received from Cook, Lake of the Woods and Pennington County amounted to \$7,500. Total accounts balance: \$93,470.39.

The Executive Director submitted an invoice for \$1,262.13 for one month of professional services and expenses. Estimated room rental and coffee expenses for the present meeting were estimated at \$55.

m: Napstad s: J. Swanson

#### Correspondence

1) Some response has been received, reported the Chair, to a letter sent several weeks ago by the Board regarding a lack of representation on Lessard Outdoor Heritage Council of members residing north of Perham. This letter included the suggestion that those areas not represented might not participate in the tax or the benefits. Feedback included discussion by land commissioners and others. Four of several projects being pursued by the LOHC are north of Perham.

Comm. Napstad noted that at the last BWSR Board meeting Les Bensch, a member of the LOHC was present. Bensch, a member of the Viking Valley Hunt Club, responded to the point of a lack of northern representation by noting that some Arrowhead county senators worked against this project from inception and have expressed no interest in participating presently, adding that the council wants participation from northern Minnesota, and the council is aware of the issue of land being taken off tax rolls in regards to land acquisition. Mr. Bensch requested an audience with the Board to discuss this and other issues. The Board will extend an invitation to him to attend the March meeting and will pursue an ongoing discussion. Mr. Carroll and the Chair noted that several northern legislators opposed the amendment because they thought funds should come from the general fund and that projects should compete for legislative dollars.

Mr. Engwall reviewed the short-term demands on the LOHC, noting that its efforts are divided into four blocks for funding: prairies; wetlands; forests; and habitat for fish, game and wildlife. The council urged those interested in one of these blocks to meet and create a list of projects. On Feb. 9 the prairie and wetlands groups presented their projects, amounting to about \$100 million. On Feb. 23, the forests group will present, with requests amounting to about \$63 million. The habitat group may list up to \$30 million in requests. The council will have between \$65 and 70 million to disburse the first year.

As for forestry projects, the largest recent, one-time request for easement status on 188,000 acres, mostly in Itasca County, has been proposed by UPM-Blandin with headquarters in Helsinki, Finland, with the alternative of selling the land outright. The Forests for the Future advisory committee, on which Comms. Fink and Lepper serve, makes decisions in part because of what is ready on the ground and what is urgent. The UPM-Blandin project is joined by the partially-funded current request for easement status for 76,000 acres of Forest Capital land in Koochiching County. In addition, a Lake County resident who recently bought 40,000 acres from Potlatch is interested in putting the acreage into easement status. Because of size, urgency and economic potential, the Upper Mississippi project would be the number one priority among forest projects. These easements retain public access, unlike leased Potlatch properties, Mr. Carroll added. The Blandin land would lock in 263 miles of perpetual ATV opportunity and 82 miles of snowmobile trails and the North Country Hiking Trail. Forest activities continue and tax revenues are not lost. Fee title acquisition with access is the number one priority, according to Mr. Bensch, said Comm. Napstad, with the second priority being permanent conservation easement with access and the third lower priority would be permanent conservation easements; a primary concern is the putting of large tracts into easement and then relying on PILT payments.

The Chair noted that his primary concerns as a commissioner are for survival in tough economic times; health care benefits are a competing priority. In better economic times, the goal might be to keep land on the tax rolls through easements and get wetland credits. Mr. Carroll added that within the DNR's departmental downsizing, large land managing units are looking at fee acquisition. The issue of managing more land with fewer staff arises as does the possible need for payment upfront for management and PILT. The Chair recalled his support of no net loss of private property: that state acquisition of land in a county should be tied to sale of land in St. Louis County; this issue, as regards to loss of tax base in townships, is being addressed with Native Americans who have put 2,600 acres of purchased land into trust. Easement as an issue will continue.

2) Wetland Preservation Credits: The Chair passed out a document "Wetland Preservation Credits When Using Conservation Easements" explaining that he has authors on both sides to support extending credit on easements on private land if there is to be credit for conservation easements on public land. Comm. Beckel added that if there is public money used towards establishing an easement then it is not eligible for credit. The Chair said this will be addressed, as will questions of threat to wetlands next to threatened uplands. Comm. Napstad noted that the first phase of the Northeast Minnesota Wetland Mitigation Strategy quantifies the number of acres available for mitigation.

## PRESENTATION

Management Planning for Peatland Scientific and Natural Areas. Mr. Carroll introduced Katherine Haws, DNR Northwest Region Nongame Specialist in the Ecological Resources Division of Bemidji, and Peter Buesseler, Eco Resources Manager in the Northwest Region. Katie Haws, a Blackduck resident for 22 years, reviewed that the state's peatland areas were identified in 1984 and that eighteen peatland SNAs were designated in 1991 as part of the Wetlands Conservation Act legislation. A report entitled "Recommendations for the Protection of Ecologically Significant Peatlands in Minnesota" identified the peatland SNAs, many in the Agassiz Lowlands. Minnesota has 7 million acres of peatland, or 14 percent of the state. Protected peatlands encompass 172,239 acres or about 2 percent of the peatland area. The Division of Ecological Resources completed a required management plan (2006) that provides a

comprehensive wildlife conservation strategy for the state; two key habitats identified as needing a high degree of attention were lowland conifers and non-forested wetlands. These habitats include 43 animal species in greatest conservation need; ten species present in Agassiz are federally listed. Some state and federally listed plants are also present.

Mr. Buessler developed a proposal for the project, which includes ten designated peatlands. The largest is the Red Lake Peatland intersected by Highway 72; three peatlands are located in Koochiching County. The objectives of the project include coordinating development of a scientifically-based assessment of conservation and management needs for ecologically significant peatlands; to prepare management plans for two peatland SNA's and surrounding Watershed Protection Areas (WPS's) in the Agassiz lowland; integrate site-specific peatland and management goals; develop guidelines for other activities, including the governor's climate change advisory group and con-con ditch rule implementation team. Four staff were hired. They have held conservation-planning input meetings, and an in-house advisory committee was formed. Local teams included both Eco Resource and county staff.

The Minnesota Peatland Protection Act (1991) includes a mandate for the plan. The plan includes the SNAs and the WPAs, according to legislation. The project should dovetail with other current initiatives, including con-con ditch issues, commercial and recreational uses, studies of global climate change and carbon storage. The two areas being addressed are the Pine Creek Peatland SNA and Watershed Protection Area of 944 acres in Roseau County. The second is the Winter Road Lake Peatland SNA in Lake of the Woods and Roseau Counties, a discontinuous area including tribal land and 2,800 acres of state land.

Legislative demands asked that the project address such concerns as: the permission of recreational activities; improvements or repairs to public drainage; ditches; and the acquisition of inholdings. The plan will also, for example, supply better maps, analysis of the hydrology in relation to ditches, analyze all the data and identify corridors of disturbance.

Mr. Buessler likened the peatlands of Minnesota to the Everglades of Florida in scope and significance due to their unique existence in the country, the rarity of their plants and animals and their carbon storage potential. A one-mile boardwalk into the Red Lake Peatland has had high eco-tourism potential. The plan being developed should more effectively protect the core SNA; define permitted activities and display relevant resource information.

In response to questions, Mr. Buessler recalled that in the 1970s Minnegasco wanted to lease 300,000 acres of peat. The state responded with demanding an inventory for economic and ecological potential of the peatlands; the state, counties and environmental interests were involved. The result was a demand to protect the hydrology of the core peatlands. Comm. Beckel voiced concern over the Watershed Protection Areas as additions to SNAs; he encouraged assessing a value and adding that to PILT. Mr. Carroll recalled that Minnegasco was examining mining and gasification potential, and that some high value resides in targeted peatlands.

Danger to the peatlands is not the driver of the project, rather statutes demanded codification. Areas of potential analysis and effect include travel corridors, con-con lands, forestry, and water protection. Mr. Carroll added that use such as peat extraction affects water flow, which may affect core areas. Old growth status may be applied, leading to harvesting elsewhere. Mr. Buessler explained that, beyond statutory mandates, the project should allow other activities to move forward more quickly. Comm. Swanson asked whether local voices are being heard. Comm. Beckel pointed out that there is concern about harvesting and the expansion of mining and its potential affect on hydrology. Comm. Lepper noted long delays in Koochiching's peatland project, to which Mr. Lehtinen added that the site under consideration was identified as the only exploitable area available in northern Minnesota and that Koochiching was urged from the outside to pursue the matter. Supt. Ward noted that these early analyses and conversations about an area of national significance lie in contrast to the lack of similar proactive stances in areas where billions of public dollars have been spent in restoring habitat. The unique qualities of the area are being included in area staff recruitment literature, noted Mr. Carroll.

## Discussion Issues

### **STATE**

1) Wetland Conservation Rule Update The situation has been static since the publication of the rules, reported Comm. Napstad. Rules are still open for comment. Comments from NCLUCB members are still to be forwarded to the Director for inclusion in Board comment. Positive comments, such as in support of exemptions being kept, are as important as negative ones.

The report “Northeast Minnesota Wetland Mitigation Inventory and Assessment” prepared for the Board of Water and Soil Resources by Barr engineering was presented to the BWSR board in January. Comm Napstad reiterated that the limited number of wetland mitigation sites in the 80 percent counties, with about 20 million acres, has often been remarked. With the report, however, 8,400 potential mitigation sites have been identified, a total of 1.1 million acres. The credit available for those sites drops to about 533,000 acres of wetland credits when considering restoration credits based on preservation, restoration, enhancement or creation. each having a particular value. Ground surveys included technical feasibility and landowner acceptance. The Chair added that the 8,400 acre amount available in the 80 percent counties may be modified, according to Tom Tri. Mr. Tri asked the Chair if a Northern Counties Board meeting could be a venue for a meeting of county officials from a broad geographic range. Mr. Tri indicated that patching ditches related to farmlands might not fulfill requirements. Comm. Napstad noted that the final inventory report by Barr, with the small number of available credits cited, will now lead to policy discussion. A second item discussed by the Chair with Mr. Tri concerned the banking strategy planning with Ron Harnack, which Mr. Tri opposed. On the ditch-plugging issue, Mr. Carroll added that his regional DNR hydrologist is requesting a meeting with BWSR wetland-credit staff to clarify definitions that affect such issues as con-con and ditches; he will report back to the Board.

2) Shoreland Rule Update Comm. Napstad reported that he and Comm. Pavleck were both at the last Shoreland Statewide Advisory Committee meeting. Language is being developed after a series of policy-related meetings. The policy discussion included such items as avoiding creation of more non-conformity, while the language presented at the meeting created more non-conformity categories. Discussion resulted in being told that the committee is only advisory and does not write the language. As documents were displayed it was evident that comments on drafts no longer applied to the current version under discussion, a result of the fluid nature of the process. A “near static” document will be distributed for review of specifics at the next committee meeting to be held in mid-February in St. Cloud. A very pragmatic approach is being taken. Those with property who are not planning to make changes should be satisfied. On the other hand, if you have plans to develop a property in ten years, a different set of rules from one’s developed neighbor’s property will apply regarding such things as lot size, footprint, and vegetative cover. Among several topics discussed, the Chair inquired if those who lose a structure will be able to rebuild and how that relates to building codes regarding, say, bedroom size. Protections are present to rebuild what existed, though a new owner would not be able to build, replied Comm. Napstad; he cited a Shoreland Performance Worksheet created with the goal of re-vegetating shorelines. Resorts are protected by statute. There will be a comment period. The Chair noted that St. Louis County is going to the term “lot of record” and eliminating “non-conformity” as a category. Counties should follow up on areas of interest. Mr. Carroll added that a meeting with the agricultural community in Morris was held at the beginning of the month; there will be other meetings further north, dealing with buffering, set-asides, and other agricultural issues.

3) Payment in Lieu of Taxes. Comm. Beckel distributed handouts displaying PILT payments for individual counties historically, currently, and as expected. Reevaluation will be needed in two years time. A twenty percent decrease is factored in. PILT payments are a significant part of several counties’ levy amounts. A related question regards the acquiring of land without PILT. The Governor has opened discussion regarding PILT, Comm. Beckel commented. Mr. Engwall noted that the PILT recommendation came from the Department of Revenue; he noted that the Sustainable Forest Incentive Act program, key to industrial forestland holders who have received about \$7 an acre, in the governor’s budget is capped at \$100,000 per year. For Forest Capital this would mean a reduction from millions of dollars. A twenty percent reduction, relative to overall reductions, may be a moderate projection, noted Comm. Napstad. The Chair noted that the Duluth Tribune is reporting that the governor is suggesting a \$7 billion shortfall. The Governor will still have some un-allotment capabilities for the six months remaining of the last budget cycle. This is a crisis for all. At a Duluth town meeting the previous week in St. Paul, leadership spoke about a disconnect between the Governor’s concepts of future support of education and public safety and the reality of shortfalls. Republican leadership spoke about filling budget shortfalls in St. Louis County with LOHC money and clean water funds. Neither side seems willing to deal with issues at present, hoping that the economy will bottom out before the end of the session. (Town hall meetings will occur between February 20 and 26, reported Comm. Beckel.) Representative Huntley related at the Duluth Days forum that the budget for health care is \$30 billion while the related costs in Minnesota today are \$50 billion; income taxes and other revenue sources would have to be doubled to pay for a health care program. Audience members said to get it done. Huntley said it took lengthy discussions last year to keep benefits intact; this year it will take that much work to keep people in the system. It will be unaffordable without federal help.

AMC has made an impact on the Governor's planning, looking for recommendations on consolidation and forward-looking initiatives. Survival might depend on structural changes in counties. Comm. Napstad predicted a compromise from the Governor rather than his success based on expense reductions alone. Comm. Beckel argued for a formula for PILT akin to those for CPA and LGA; the survival of his county is at stake. The Chair recommended that a consistent voice be established for disagreements on priorities that may occur with such entities as LOHC. Comm. Beckel argued that LOHC, not supported locally, is itself wrong and that land should not be purchased in the area without representatives coming to the area to explain purchases. An open forum at the Board will allow for discussion. Comm. J. Swanson recommended urging legislators of both parties to confer and compromise.

4) Land Use Conflict Management Funds. Mr. Carroll reported that pilot programs, such as land asset projects in Lake of the Woods and Roseau County, and concerning such issues as no-net gain and ditches, might benefit from the conflict resolution model developed by the Board. The DNR as a neighbor desires livable communities and would welcome the Board's invoking conflict resolution. While the result was non-binding, the resolution model provided a facilitation process, added Mr. Engwall. The process might help avoid court involvement. Mr. Lehtinen recalled that the process was not focused on the DNR but on local and federal conflicts, aiming at local input without dictating results. Past issues with Voyageurs National Park is an example. Comm. Napstad noted that while using the process might not be appropriate, several issues of the day point to no-net-loss of taxable property. Discussion continued with an agreement to discuss these matters with Les Bensch.

#### FEDERAL

Endangered Species: Lynx . The Chair reported that the Fish and Wildlife Service is to institute the proposed habitat protections for the Canada lynx. The question as to whether Arrowhead counties should file an injunction regarding forestry issues was met by county foresters with the opinion that they will be able to function under the protection status. Mr. Carroll added that the DNR has determined that it can operate under the protection. Mr. Engwall reported that due to an EIS on federal vegetative management, 1700 acres, relating to the BWCAW and also to effects on the lynx, were removed from their cut list.

Heart of the Continent Partnership Comm. Lepper reported that a January 16, 2009, meeting of the HOCP in International Falls was very informative, having included considerable scientific materials and planning for a promotional canoe trip this summer and avoiding policy initiatives. Supt. Ward added that the organization is still struggling for a defined purpose and is dependent on people available to share information. The marketing of the group has been weak, and the role of the park service has been ill-defined. The next meeting in April at the Quetico Park headquarters in Atikokan will be devoted to the economic impact of associated lands, together with marketing and connecting communities together. Mr. Engwall added that he and Jim Sanders had met with steering committee members and reviewed early missteps in communicating the organization's purpose and not creating an open atmosphere. He had encouraged committee members to go to counties to ask them about what issues they wished to have addressed, a point Supt. Ward suggested would be workable. Mr. Carroll recommended that the organization look at an activity chart and to think outside a nongovernmental framework; the DNR can supply contact names regarding marketing and coordinated publicity. Exec. Dir. Skrief noted that funding to support an HOCP coordinator has not been forthcoming, that the organization's application for 501(c)3 status had been postponed, and that the organization would continue to rely on a volunteer committee and concentrate its meetings around available speakers. Mr. Lehtinen added that for there to be consistent local input there should be local staff representation.

3) The Chair announced having received correspondence regarding a presentation by a Milwaukee law firm regarding the background to the Clean Water Act and the Rapanos Supreme Court decision. Further details are available from the Chair.

#### NCLUCB

1) Web presence for NCLUCB Exec. Dir. Skrief reviewed goals for a web site for the Board and a cost sheet describing costs and services of the web designer and site-host North Star Publishing in International Falls. He recommended working with an outside business over in-house design and hosting. Goals would include reaching members and the general public with basic background information, a calendar, posted agendas, minutes and links. The Chair added that a site could be geared to target other counties with information and to expand to other audiences, such as legislators; also to demonstrate what topics are being

monitored with document representation; also to demonstrate how the Board's activities relate to counties. Information might be organized by subject.

A motion for the Exec. Dir. to contract with a web designer and web host for a flat fee up to \$1,000 to establish a website for the Board.

m. Lepper s. J. Swanson

In additional discussion about the current profile of the Board on the Internet, the Exec. Dir. was directed to edit erroneous information regarding the Board now included on the Wikipedia site.

2) NACo The Chair requested commissioners contact him about areas of interest that might be raised at the upcoming NACo meeting on March 6.

Meeting adjourned at 12:42 p.m.

Next Meeting Date and Location: **March 5, 2009, 9:30 a.m. Iron Range Resources Mining Reclamation Classroom Chisholm.**

Respectfully submitted by Douglas Skrief, Administrator and Exec. Dir.