

NORTHERN COUNTIES LAND USE COORDINATING BOARD
Minutes
Thursday, September 4, 2008
Iron Range Resource Center, Chisholm, MN

Call to Order: The meeting was called to order at 9:45 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 Robert Fenwick, Cook
Commissioner Jim Johnson, Cook
Commissioner Charles Lepper, Koochiching
Commissioner Scott Larson, Lake
Commissioner Todd Beckel, Lake of the Woods
Commissioner Ken Moorman, Lake of the Woods
Commissioner Jack Swanson, Roseau County
Commissioner Dennis Fink, St. Louis

Counties Not Represented:

Pennington County

Others Present:

Bob Krepps, St. Louis County Land Commissioner
Craig Engwall, Department of Natural Resources
John Engesser, Department of Natural Resources Lands and Minerals
LaTisha Gietzen, Polymet Mining
Elanne Palcich (resident, St. Louis County)
Bob Tammen (resident, St. Louis County)
Pat Tammen (resident, St. Louis County)
Kristin Larsen (resident, St. Louis County)
Douglas Skrief, NCLUCB Staff

Introductions

The Chair noted that Mr. Tammen had expressed concern at a recent meeting of the St. Louis County Board that NCLUCB had allowed a Republican 8th District congressional candidate to address the Board, referring to the unannounced but unopposed visit and comments of Mike Cummins August 7, 2008.

Administrative Actions

1. Approval of Minutes: August 7, 2008 meeting

With reiteration from the Chair that the Heart of the Continent Partnership (item 2, page 4) will be meeting in Duluth October 23-24 and in International Falls January 9, 2009, and that a representative of the HOCP will visit the Board in October.

Also, the Director noted that in reference to the LCCMR Statewide Conservation and Preservation Plan, Mike Carroll of the DNR had contacted Deb Swackhamer of the University of Minnesota who led the work group on the project and that he would research inviting an out-state presenter on the project this autumn.

m. Larson s. Beckel

2. Financial Report and Bills:

The Treasurer reported a general account balance of \$73,711.27 and a Land Use Conflict Management balance of \$15,005.28. Total accounts balance, after payment of expenses: \$88,716.55.

The Executive Director submitted an invoice for \$1,132.16 for one month of professional services and expenses.

m. Napstad s. Lepper

3. Proposal for a Reserve Balance

Treasurer Napstad followed up, from the August meeting, a suggestion to maintain a minimum amount of funds on hand. Options include spending down to a level that would still cover the budget or investing funds in excess of a minimum liquid fund balance of about \$22,000. The Chair noted that dues might be maintained at present levels if funds in excess of budget needs earned interest if invested appropriately. St. Louis County, the Board's fiscal agent, will not on the Board's behalf invest what, to them, is such an insignificant amount. Comm. Lepper urged time to consider options, noting he would rather see reserve amounts at the county level. Noting no projects presently planned for, Comm. Johnson concurred. Comm. Beckel suggested a minimum and maximum balance, adding that counties, seeing a large reserve, may reconsider their membership on the Board at the full rate of \$5,000 a year. The item will be on the October agenda.

Correspondence

1) A comment letter dated August 19 was sent to the U.S. Fish and Wildlife Service concerning the Proposed Rule for Revised Critical Habitat for the Continuous United States Population Segment of the Canada Lynx.

2) The NCLUCB's 2009 Proposed Budget was sent to County Clerks. Invoicing occurs in January.

3) A copy of a letter distributed to the Board from Lake County addressed to the USDA/APHIS/Wildlife Services concerning potential additional steps that might be required to trap and remove wolves and beaver in light of new endangered species designation of the Canada lynx has not met with a response at this time, reported Comm. Larson.

4) A letter distributed to the Board from Catherine Neuschler of the MPCA, reported that a Washington, D.C., Circuit Court has vacated the federal Clean Air Interstate Rule (CAIR). The state has informed power plants to now consider Best Available Retrofit Technology as equivalent to CAIR. The Chair noted that action and implementation is on hold and provided background: Minnesota Power sued over miscalculations on emissions at two facilities that prompted inclusion of Minnesota in the rule. The MPCA is likely to move toward implementation of the rule, which is being rewritten by the EPA. Discussion touched on the question of independent action by states in relation to uncontrolled emitters beyond state boundaries as well as the effect of Minnesota on downwind states. Ms. Neuschler communicated to the Chair that the MPCA requirements to be implemented in the next year are not punitive but address overall conditions.

5) A newsletter was distributed by the Chair from Matthiesen, Wickert & Lehrer, S.C. on developments in national forest management law, including an article describing how Wyoming District Court Judge Clarence Brimmer struck down for a second time the Clinton Roadless Rule, finding it violated the Wilderness Act of 1964 and NEPA. The Chair posed the question as to the possible effect on states other than Wyoming.

PRESENTATIONS

The Next Generation in Mining: Polymet Mining. LaTisha Gietzen, Vice President of Public, Government and Environmental Affairs at Polymet Mining reported on developments at her company, including a new surface mine on the former LTV site in the Duluth Complex being developed to harvest high value metals such as cobalt, nickel, palladium, copper and gold. The company has a good sense of location or deposits, with 60 miles of research drill cores. They are reusing a site and many of its existing infrastructure, including processing and administrative facilities. They have mineral rights to the land and can disturb or cave the surface. The process includes trucking to trains that bring ore to coarse and fine crushers, processing 32,000 tons a day. Flotation is used to segregate metals, adding bubbles to which sulfide sticks. Tailings will enter the old LTV basin. Use of a hydrometallurgic facility results in the production of 98 percent pure gypsum, for which a market is being researched. At the Northmet deposits there will be pits 800 feet deep. Four cells will accommodate residue till a market is found for the gypsum. A wetland will be created on the east pit and the west pit will be filled with water.

Half of Polymet's investors are now from the Midwest. The market for metals is increasing worldwide. The project will cost \$602 million and create 1.7 million construction man hours; 400 stable jobs will be created with an annual payroll of \$40 million with 500 spin-off jobs. State and local tax benefits are estimated at \$17 million.

The environmental philosophy of the company is to protect air and water; of the budget, \$100 million is going to environmental controls that are based on worst case scenarios. The EAW Environmental Worksheet is complete; a draft EIS is due in September. A minor air emissions source, there will be no surface water discharge and reduced wetland impact. Wastes will be segregated. Exclusion dikes allow

rainfall to be treated and pumped back to the plant. About 854 acres of wetlands will be impacted and mitigated. Buildings will be torn down at closure, for which a payment plan is approved at the time of permitting.

Questions followed, including how long the waste water treatment plan will operate after closure?. The plan includes perpetual payment. Problems at the Flambeau mine occurred after closure; yes, but it was a 30-50 percent sulfide mine, the city asked for old buildings, and the remaining issue is of storm water runoff from a reused parking lot. How does the Corps view this? The MPCA is the agent for the EPA and permits. What about citizen group concerns about sulfide? The process has included bringing in groups such as the Friends of the Boundary Waters. Operations have changed over time. The process is now matched to the ore. Parallel examples of successful operations show it works. What of public fear of mining in the Boundary Waters? Polymet, 20 miles from the BWCA, is going through commonly applied, stringent permitting. Comm. Napstad recounted tours of Flambeau and Polymet and spoke to the openness of Polymet and the helpfulness of an open public process.

John Engesser, Assistant Director, Division of Lands and Minerals, Minnesota Department of Natural Resources. Mr. Engesser reviewed the involvement of the DNR in minerals due to Minnesota statutes covering policies for mineral development and the goals of the Permanent School Trust Fund. There are 2 million acres of school trust surface land and 3 million acres of school trust mineral land in Minnesota, extensively so in northeast Minnesota as a result of 16-36 trust land and swamp designations.

Mineral exploration, due to the increasing value of metals, is continuing in Minnesota as well as Canada. The DNR Drill Core Library in Hibbing holds 2.3 million feet of drill core. Current developments in the Duluth Complex include operations of Polymet, Franconia Mineral, Duluth Metals, Teck Cominco, Encampment Minerals, Prime Meridian and Kennecott. The DNR is tracking potential problem metals, such as Chalcopyrite and Pyrrhotite which react when exposed to water and oxygen and can impact EIS's. The DNR is studying the effects of rainfall on waste rock and tailings for predictive and control purposes, calibrating and treating runoff as well as testing sub-aqueous treatment, keeping oxygen from waste products and thus determining cut-off points.

Iron ore mining continues, including Taconite operations, as prices of pellets, pig iron and steel slab increase – pellets moving from \$35 to \$138 per ton. Operators include WSS Corp., Cleveland Cliffs, and Arcelor Mittal. State administered land in Fiscal Year 2008 realized over \$30 million in Taconite royalties, including \$20.5 million to the School Trust Fund. The interest on the \$650 million school trust funds brings about \$25 to each student across the state.

Ferrous projects in Minnesota include USS Keewatin Taconite. Steel Dynamics, Minntac, Magnetation and Natural Ore. Note was made of the moving Highway 53 to accommodate United Taconite and of Highway 169 to accommodate Hibbing Taconite.

In response to a question on the amount of royalties that go to the School Trust Funds, Mr Engesser noted that about 10 percent goes to the DNR for administration and the rest to the fund; the DNR can take up to \$3 million in mineral royalty funds annually. The remaining 90 percent goes to the whole state. The Chair recommended a late 1990s State Auditor's report that breaks down these amounts. Mr. Engesser provided a range of sulfur contents of deposits, ranging from .6 percent to 30 percent.

Discussion Issues

LOCAL

1) The Lanning Bill establishing a comprehensive taxing district: Comm. Napstad reported on a presentation at the AMC. A review of the bill is to be carried out. Comm. Napstad had recommended to BSWR's director greater involvement of counties in consideration of the bill. All counties, for example, are doing county water management plans. If a new requirement were added to do a basin plan, the bill would need to remove another requirement. Boundaries are a large issue. The issue will be tracked through the autumn. The bill and an overview were made available to the Board.

2) AMC: The Chair reported that there were changes to an AMC report. The date for an STO issues assembly in the Twin Cities has been changed.

3) HR2421: The Chair announced that a property rights memo had suggested that there might be quick movement on the bill, though that was not his understanding. Julie Ufner at NACo had been contacted regarding same.

4) Farm Conservation Plans: Comm. Napstad reported that at a BWSR meeting mention was made of a proposed state bill to create the need for a conservation plan for every farm in the state. The plan spends the 3/8 of 1 percent to be raised in a proposed constitutional amendment for resource protection and the arts. In addition, Comm. Napstad noted that about \$35 million of BSWR prep funds were distributed to southern

Minnesota, funds for which northern counties do not qualify. The Chair asked for comment on the amendment, noting that it takes decision making from the legislature.

4) Heart of the Continent Partnership; Mr. Engwall reported that he had agreed to talk with the HOCP steering committee about county participation and would be direct in his analysis.

5) Statewide Conservation and Preservation Plan for LCCMR: The Chair noted the executive summary of the plan included in the members' packets. The Board will continue to monitor the plan.

6) Northeast Minnesota Wetland Banking Strategy: Comm. Beckel asked if a presentation by Ron Harnack at the October Board meeting might be balanced with BWSR representation. The Director informed the Board that Dale Krystosek had telephoned and offered to attend, or present at, the same meeting. Comm. Beckel suggested talking to the Army Corps of Engineers as well. Comm. Napstad recommended coordinating that through BSWR Exec. Dir. Jaschke. The Chair suggested that Washington, D.C., is to be approached. Comm. Napstad suggested asking BWSR how the Board might best assist in bettering the relationship between BWSR and the Corps. The Chair recalled that Mr. Harnack is coming to present on his concept of a wetland bank and of a potential role for the NCLUCB; to get private investment there will have to be a form of government subsidy that will have to come out of the Corps in some form of credit. BWSR, he noted, has interest in the NCLUCB's position. Comm. Larson suggested that the problem, a continuing one, is at the federal level. Comm. Beckel suggested communicating to the Corps that the counties are finished dealing with them in projects under a certain size. The Chair said that the topic of the relationship of the Corps and BWSR will be addressed at a future time. The Director will inform Mr. Krystosek that he will not need to provide a presentation at the October meeting.

Meeting adjourned at 12:10 p.m.

Next Meeting Date and Location

October meeting: October 2, 2008, 9:30 a.m. Senior Center, Northome, MN.

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