

**NORTHERN COUNTIES LAND USE COORDINATING BOARD**  
**Minutes**  
**Thursday, July 2, 2009**  
**Mining Reclamation Classroom, Iron Range Resources, Chisholm, Minnesota**

Call to Order: The meeting was called to order at 9:30 a.m. by Chairman Fink with the following in attendance. (All actions of the Board were supported unanimously unless otherwise indicated.)

All Member Counties Present:

Commissioner Brian Napstad, Aitkin  
Commissioner Bob Fenwick, Cook  
Commissioner Jim Johnson, Cook  
Commissioner Wade Pavleck, Koochiching  
Commissioner Rich Sve, Lake  
Commissioner Todd Beckel, Lake of the Woods  
Commissioner Jack Swanson, Roseau  
Commissioner Dennis Fink, St. Louis  
Commissioner Mike Forsman, St. Louis  
Commissioner Steve Raukar, St. Louis

Others Present:

Les Bensch, Outdoor Heritage Council  
Craig Engwall, Department of Natural Resources  
Pat Henderson, ARDC, Duluth  
Bob Krepps, Land Commissioner, St. Louis County  
Peter Makowski, Congressman Oberstar Staff Assistant  
Carol Pavleck, Koochiching  
Tom Saxhaug, Minnesota State Senate  
Josh Stromland, Land Department, Lake of the Woods County  
Elanne Talcich, Chisholm, resident  
Bob Tammen, Soudan resident  
Pat Tammen, Soudan resident  
Douglas Skrief, NCLUCB Staff

Administrative Actions

1. Approval of the agenda with the following additions:

- 1) Local: MPCA Core Sampling project Aitkin County
- 2) State: Wetland Conservation Act
- 3) Federal: Wolf Returned to Threatened Species List  
m. Beckel s. Napstad

2. Approval of Minutes: May 7, 2009 meeting

m. Napstad s. Sve

3-4. Financial Report and Bills:

Treasurer Napstad reported a general account balance of \$85,388.34, and a Land Use Conflict Management balance of \$15,005.28. Total accounts balance, after payment of approved expenses: \$100,393.62.

m. Raukar s. Beckel

The Executive Director submitted an invoice for \$830.86 for one month of professional services and expense reimbursement.

m. Raukar s. Beckel

Correspondence

1. A letter to the Board from Aitkin County, explained Comm. Napstad, was sent to all organizations of which it is a member asking for an explanation of services and estimated budget demands in the coming year. The Board recommended a response to Aitkin and similarly to the other NCLUCB counties.

2. An invitation to Mark Jacobs, Land Commissioner of Aitkin County was extended, asking if he would present at the August meeting on potential carbon credits related to changes in forest management.

#### Discussion Issues

##### LOCAL

1. MPCA Core Sampling for Aitkin County: Comm. Napstad reported that the Minnesota Pollution Control Agency sampled eight reservoirs for long-term historical data regarding phosphorous loading. A three-inch by six-foot core sampled sediment to the early 1700s for examination of diatom-created silica content. Big Sandy Lake, now a reservoir and listed as impaired, was tested back to 1730. Tests showed the lake phosphorous levels are now at 51, though for about seventy years following 1830, they stood consistently at 40. The MPCA target is now set at 30. In 1895, the Corps of Engineers created a reservoir and increased lake levels by eight feet. Phosphorous levels increased until 1936, when they reached about 80 parts per million. The level has been in decline since. Pre-settlement content is above the target of 30. Having more soil in the water can cause phosphorous increases. Ditches were completed in about 1905-10. Peak of agricultural activity was in the 1940s. Water coming into the lake now is higher in phosphorous than the lake itself. A rice farm outlet measures 53. Point source may be analyzed in future.

All this information will be on the Minnesota Historical Society webpage. Outcomes of high phosphorous are weeds and high algae content. Causes may include too many septic and lawn fertilizer runoff. Comm. Forsman reported a clearing of water in a lake near Ely after the dumping of inadequately treated sewage was eliminated. Comm. Beckel noted three tiers of standards relating to distinct ecological regions. The Chair underscored the point that perhaps impracticable targets are being set before historic data is collected, leading to funding of unattainable goals. Comm. Napstad expressed an interest in following the matter. Having a representative of MPCA share results of the eight-reservoir study may be of interest.

##### STATE

1. Lessard Sams Outdoor Heritage Council: Mr. Les Bensch, a member of the Council, informed the Board of his family background in Red River farming, his 25-year career in the computer industry and his present association with a membership hunting club, Viking Valley, as well as his membership on the board of the University of Minnesota, Morris, which is to be energy self-sufficient by 2010. Mr. Bensch became involved in the passage of a constitutional amendment to fund preservation, protection and restoration of lands six years ago at the invitation of Bob Lessard. He was appointed to the Council by the Senate. The House in HF 1131 and Senate were supportive of the amendment, while debate continued to the last bell in conference. The statutory law established last year to interpret the amendment is 978.056.

The support of sports enthusiasts, who felt resources in Minnesota were not getting sufficient attention and funding, was essential to passing the bill. Tourism/hunting/fishing, the largest industry in the state, generates \$10 billion each year. Twenty percent of the increased taxes of 3/8 of one percent will come from outstate. Fifty-six percent of voters, in a recessionary trend, voted in favor. Any non-vote was a "No" vote. Voters in St. Louis, Lake, Cook and Carlton Counties voted in favor. Roseau was in the 53-59 percent. Pennington was in the negative voting. Mr. Bensch heard from other Northwest Minnesota counties that their opposition was due to not knowing enough about the amendment. A couple Metro area counties that voted in the "No" column had alternative proposals to consider.

Intent of the distribution of the monies raised from the tax increase includes 33 percent to go to Fish, Game and Wildlife, 33 percent to Clean Waters, 14.25 to Trails and Parks, and 19.75 to Arts; the arts were needed for passage. In the next 25 years \$7.5 billion will be put back into the environment. Other funding for these areas is currently challenged due to restricted budgets. Mr. Bensch reviewed some history of the amendment, including early concern that there were to be no Metro area projects and little availability of land to protect. The guiding statutory law guided the process, which was expanded to create operating procedures. Beginning in December 2008 over \$250 million in projects were considered. These requests of shovel-ready projects were narrowed to \$69 million for this biennium. Eleven stakeholders ranged from Ducks Unlimited to the United States Fish and Wildlife Service and the Department of Natural Resources. A lot of projects crossed over into the Clean Water area – and an interrelationship with the Clean Water funding body is being worked on. Parks and Trails are more on their own.

Outcomes for counties this year include about 210,000 acres of easement, the majority of that being the Forest Legacy project with 187,000 acres. Acquisition of acres totaled 8,749; enhancement and restoration of about 20,000 acres; and 342 shoreline miles were protected on 12 lakes.

HF 1231 was the source of some problems. Definitions were difficult. The constitutional amendment is specific about “restore, protect and enhance.” The House was looking at ecological balance and diversification while the Council is looking at more direct indicators of protection and conservation of measurable quantities of fish, game and wildlife – as seen by anglers and hunters. “Ecological balance” can have a range of implications, such as carbon output and sequestration.

Mr. Bensch reviewed the individual members of the council and described how the council serves as an aide to the legislators, with whom ultimate funding authority exists. Comm. Pavleck strongly expressed common disappointment with the lack of Northeastern Minnesota representation on the Council, especially with the abundance of resources in the area. Mr. Bensch, validating the concern, urged contact with Sen. Tom Bakk and Reps. Dill, Murphy, and Rukavina about pushing representation on the Council from the Northeast. He recalled having submitted his resume to Sen. Chaudhary. Rural representation needs to be stronger. Rep. Sertich did not support rural areas in voting against 1131. Some legislators did not support dedicated funding. Sen. Saxhaug asked that discussion turn to the location of natural resources and the difference between conservation easements and fee purchase where land is taken off the tax rolls and how to deal with PILT.

Mr. Bensch addressed counties that have passed resolutions on no net gain on public land, that is, no additional lands will be bought by the state or federal government. Questions arise over tax inequities in PILT. In Ottertail County, the question is being discussed as to what the PILT obligation would be and what is the normal assessed value of the land for taxation; is there an imbalance? At the DNR roundtable, it was discussed as to whether that agency is in the assessment and taxation role. The Legislature does not have an answer. It is a problem that might have to be solved on the county level. The Council wondered if on an acquisition a certain sum of money be set aside in a trust fund to pay the taxes in perpetuity. The Attorney General was asked if Lessard funds can be applied toward tax payments; initial response was “No.”

Comm. Fenwick argued that No Net Gain and PILT are separate discussions. Land is Land; No Net Gain is about land and has nothing to do with valuation, taxes or PILT. To determine what No Net Gain is on the basis of inequities in PILT is not the business of the Council. Solve No Net Gain separately. The Chair concurred, noting that there are 11 counties that are more than 50 percent owned and have no representation at the table. Comm. Forsman noted that PILT is payment of taxes, derived from taxes, back to a government agency; it is a tax, and separate. The Council seems to combine the two categories, which may reflect a Metro attitude different from one in which most of the land is owned publicly. Cook County is over 90 percent publicly owned, and St. Louis County has recently increased public ownership from 58 to 63 percent - and climbing. A graph would show a time when accelerated acquisition will lead to an inability of individuals to own private property. Dollars spent in southern counties will get more benefit, being used by more people, rather than their burning gas to come north. He noted a dis-connect between the Council and those being impacted. Mr. Bensch acknowledged the point.

Comm. Swanson summarized that the fear of acquisition of more land is a strong cause for concern in northern counties; support may be found for the enhancement and restoration of existing public lands. Comm. Forsman added that PILT is not constitutionally dedicated, and it is not to be assumed 20 years out. He recommended not including PILT in the acquisition discussion and to look at counties where there is a large amount of public land and look at restoration. There is plenty to be done with tax on existing waters, shorelands, stocking of lakes – things that enhance outdoor recreation without acquisition for locals and visitors.

Mr. Bensch recalled the funding of \$19 million for easements to restore and protect land that allowed for access and leads to maintenance. Comm. Johnson asked about North Shore parks that are not properly maintained; why acquire land when existing parks are not maintained. Comm. Napstad saw two PILT issues, one in not tying PILT to No Net Loss. Another is that those unfamiliar with PILT may not like it. A new class of state land coming directly out of LOHC purchases begs the question of why the Attorney General is not being pushed on payments. Those, like the Izaak Walton League who purchase land continue to pay taxes. To suggest paying taxes is an unconstitutional use of the funds seems unreasonable. How suggest that maintaining is not part of protecting? Mr. Bensch did not know if the issue is political or legal. Sen Saxhaug said it was a tax question best referred to Senator Bakk.

Comm. Fenwick added that PILT ought to be run as it is in the BWCAW where the land value is determined every ten years and taxes are paid accordingly. It should be out of the political discussion; it should not be part of the Council’s concern; it was not part of the amendment. Mr. Bensch noted that most

of the recent appropriation was for easement, but that direction for the future is being sought. The Chair noted that the Council does not have representation from across the state. To compare PILT in Ottertail to that in the Northeast is not appropriate. A 20 percent reduction in PILT, as suggested by the Governor, means \$1/2 million in St. Louis County, which is land rich and tax-base poor. Only 15 percent of the non-public land is taxed at the highest and best use. "Highest and best use" is not an easement, but in private residences. No one on the committee will understand this. We do not disagree about the need for the improvement of fishing or acquisitions in the 42 counties with less than one percent public ownership. Should the northern counties not get credits for the preservation of wetlands? The easement bill said "No," but counties stepped in to defeat that piece. Mr. Engwall pointed out that wetland issue was not part of the LOHC approach and was not advocated by them. As for easements, circumstances make a difference and land management impacts differ on large sales; more education is recommended.

Comm. Pavleck commented that Koochiching County has been tepid if supportive of easements, especially after seeing gates going up on private purchases of Forest Capital lands. He suggested the Council might request a representative of northern counties to attend meetings. Mr. Bensch responded that he considered the area important and wanted to be educated so as to bring its perspective back to the Council. He again urged being proactive with legislators on representation.

Mr. Tammen asked after the University of Morris and whether that campus's small community program can be exported to northeast Minnesota? Mr. Bensch said that they are looking at biomass facilities and woodchips; the university has asked about its role in the broader community in the future.

Pat Henderson, executive director of the Arrowhead Regional Development Commission, commented that points of consideration among commission directors have included the question of a lack of representation of northeastern Minnesota on the Council and of how to get people to recreate in the area over the long term; how can RDCs help make the point of more representation and the connection of water issues and the Lessard Council. Talking with the arts people might be of interest as well, as it relates to tourism. Mr. Bensch responded that the question has frustrated the Council as it works independently and outside the scope of the Clean Water group. An expanded council that creates synergism, for example, might be one suggestion to improve the poor situation at present. He recommended contacting legislators to recommend a connection between the Lessard group and the water group.

Sen. Saxhaug pointed out that the chair of the Council is Dr. Mike Kilgore whose family has had a cabin in Itasca County and that he has written a book on forest fragmentation. The Legislature is part of the process and needs to know of concerns.

Comm. Swanson recommended an introduction of a northern ex officio member of the committee awaiting direct representation on the Council. Mr. Bensch related that the arts funding is determined by a council. There is a governor-appointed Clean Waters council. Mr. Engwall related that the Lessard Council is statutorily created and makes recommendations. The Clean Water Council is an executive group. The arts board has no statutory authority. Parks and Trails makes recommendations. Comm. Fenwick commented that he thought the councils should remain separate and that there is no need for conversation, which might prove counterproductive, even for leverage of funds. Mr. Bensch noted that distinction from the lottery-funded LCCMR is needed until processes are established and that he would take the suggestion of representation from northern Minnesota back to the Council. Comm. Raukar asked after the relation between the generation and distribution of dollars, adding that the return to tax payers of their contribution might suggest acquisition of lands in the Metro area where wetlands and recreation areas are more needed. Comm. Napstad suggested that the Council may be protective of the dollars coming to it, as the northern counties feel protective about land loss and the loss of associated dollars – an erosion of resources which are needed to carry on the business of a county.

Mr. Bensch noted that the next meeting of the LOHC will be in Grand Rapids July 15. There will be a public comment period and he encouraged speaking directly to the Council. He said he would bring viewpoints back to the Council and hoped to meet again before the next round of funding.

## FEDERAL

1. Peter Makowski, Assistant to Congressman James Oberstar, Chisholm Office: Mr. Makowski serves northern St. Louis, Koochiching, Itasca and some of Aitkin Counties and focuses on Public Safety

and the Coast Guard. Lines of communication to the congressman's office are always open. Mr. Makowski recounted a significant piece of legislation of the previous week, Cap and Trade or the American Clean Energy and Security Act 2009. The vote passed 219-212. Mr. Oberstar supported with concerns. The Minnesota delegation split on party lines. Assurances were made there would be no undo economic hardship in Mr. Oberstar's district. The legislation would create "green jobs" – some ten to fifteen thousand in Minnesota. A wind turbine, for example, uses 400 tons of steel that could be produced in northeastern Minnesota. Jobs are needed; Cleveland Cliffs and the shutdown of Hibbing Taconite will continue to the first quarter of next year, it was announced that morning. Concerns on jumps in energy and utility bills were raised, as were affects on the logging industry. Until assurances were made, Congressman Oberstar did not support. Cost of the legislation is estimated at \$175 a year on an average household. A summary report is available on-line from the Select Committee on Energy Independence and Global Warming. The bill now moves on. The iron ore industry would be eligible for additional allowances to prevent job loss. The definition of biomass has changed. Fire reduction and selective cutting is now under "biomass". This may be on Forest Service land and not all federal land, commented Comm. Johnson. A question also relates to private land, Mr. Makowski added. The bill now moves on to the Senate, where hearings would begin the following week.. The mark-up deadline is in September. It will be a close vote in the Senate also.

The Clean Water Restoration Act. Mr. Oberstar introduced this legislation as the result of two court decisions. This was a hot topic of discussion at NACo. Mr. Oberstar has not reintroduced it. When this was introduced in the last session of Congress, at hearing, the Congressman expressed consideration to modify it to address concerns raised. He is working on a draft to address concerns. There is no bill in the 111<sup>th</sup> Congress. Senator Feingold did introduce a bill much like the previous version. The two bills were linked. Congressman Oberstar's is not connected with the Senate bill. Concern that the bill would be aimed at expanding the Clean Water Act is not the intent. Talk of a pothole being regulated by federal agents is not intended. The CWRA legislation is to clear up two Supreme Court decisions on water governance over rivers, streams, lakes and wetlands – the Solid Waste Agency of North Cook County vs. the Corps of Engineers and Rapanos vs. United States – to clear up questions as to who has authority. The Association of Minnesota Counties also opposed this legislation, noted the Chair. The Congressman is willing to listen. Minnesota is more stringent than the federal government.

Comm. Napstad commented that the Board, the Minnesota Rural Counties Caucus, AMC and NACo have expressed concern that the language has remained stagnant – to remove "navigable" and replace it with every body of existing water. The Corps is currently working beyond the definition of navigable waters, finding nexus where it is distant. The level of trust is degraded when permit delays are dragged out over years. Wetland specialists in zoning offices and the state's BWSR, DNR and PCA are effective. We do not need to have the term "navigable" removed from the bill. There has been no change in the language of the bill, despite two years of comment. The tone, added the Chair, of the Board's feelings have been expressed. Meetings with the Congressman's staff have not resulted in an acceptable solution.

Comm. Swanson raised concerns of his water board concerning the large numbers of agencies and players involved in permitting issues, making projects extremely hard to complete. A second concern in Roseau County because of local industry is to see a commitment to transportation infrastructure. Mr. Makowski responded that Mr. Oberstar would like to see a transportation bill by October 1. The Administration would like to hold it off for up to 18 months. Of \$1.3 billion in requests, Mr. Oberstar's district would realize \$112 million for highway projects. Costs go up with delay. The issue is how to pay for these transportation projects: a vehicle mileage tax? a higher gasoline tax? Some estimate a needed increase at the state level of 30-40 cents a gallon and the same amount at the federally level. Mr. Oberstar has also asked for streamlining the Department of Transportation. The Stillwater Bridge is an example of a project that increased in cost multiple times over the period of the permitting process. Permitting has been a concern and will be raised. Streamlining the process, noted the Chair, on transportation or on water projects, would be helpful, with the completion of the project taking priority over concerns about sequence.

The Senate marked up the bill in June. Several text amendments were proposed. The bill left committee and went to the Senate floor. NACo will be lobbying against that bill since the Senate portion remains the same: to overturn the court decisions. But the reduction of "navigable waters" remains. There was some support for fortifying exemptions. Comm. Pavleck recounted the frustrations of a delay in an International Falls hospital project due to the Corps finding nexus where other agencies had not. The Chair concurred that the farther away government agencies are the harder it is to deal with them and that those closest to the people can make the most reasonable decisions within guidelines.

Comm. Forsman commented that while not a proponent of Cap and Trade, he is watching trends in the use of nuclear power, especially in France where electrical costs have dropped. Considering the United States as a whole, nuclear, which produces 25 to 30 percent of electricity, may be an option to

pursue, along with wind, solar and hydro which produce cheap and clean alternatives. Hydro can also assist in needs for transportation courseways.

Comm. Beckel inquired how the \$178 additional costs to families compared between metro and rural areas. Rural Minnesota has no alternatives such as public transport. As for wetland management, six out of nine counties met with the Corps some years ago and developed wetland management plans which have not yet been read. There are other priorities. The Chair added that in paying utility bills he has noted added charges for specific matters; of \$18 of the bill, \$12 were charges different from usage, such as charges for lighting, solid waste disposal and new water towers. If the job of commissioners is to take care of the most vulnerable, the added charges, for which benefits are not obvious, are to be seriously considered, especially if not directed toward job creation. Comm. Pavleck added that France used a "cookie-cutter" approach to planning for new power plants which kept oversight costs down significantly.

Comm. Napstad brought up creation of carbon credits through forest management planning in Aitkin County. Great River Energy was consulted about electrical rates; they suggested a couple thousand dollars a year in additional costs based on other countries' experience. A proposed integrated steel mill in Nashwauk will consume tremendous amounts of electricity. Would the India-based company have considered this project had Cap and Trade been in place, he asked. Sen. Saxhaug added that the nation does not have adequate oil resources and an alternative must be considered; this is a driving force. The Chair noted that the Department of Energy was created by President Carter to make the country independent of oil by 2000. Entrepreneurs may need support to develop alternatives. Comm. Forsman called attention to the carbon-based sources of electric car power.

Comm. Raukar encouraged using Northern Counties as a resource. He added that resetting of priorities may be in order in Washington due to the sunset of concern for domestic human, physical and fiscal infrastructure during the previous administration.

Mr. Makowski was thanked for his attendance and invited to participate at future meetings.

2. (STATE) Wetland Conservation Act The BWSR Board met the previous week and approved the rule for the Wetland Conservation Act much as drafted. Northern Counties worked toward keeping exempt activities exempt. In the statement of need and reasonableness this was reiterated. The Administrative Law Judge reviewing the rule said that the statute is silent as to who is to do the reporting and does not define the extent of the reporting; the language, estimates and reporting implies that mandatory reporting by the landowner was not intended by the legislature. In short, exemptions are exemptions. The target date for publication is July 27. Two years of process have come to an end.

3. Gray Wolf Endangered Species Listing The Director made available handouts on the latest re-listing of the Gray Wolf on the Endangered Species List as a result of court challenges.

Meeting adjourned at 12:10 p.m.

**Next meeting: August 6, 2009, 9:30 a.m. KOOTASCA Senior Center, Northome, MN**

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