

AGENDA

REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF ST. LOUIS COUNTY, MINNESOTA



Tuesday, June 24, 2014, 9:30 A.M.

Semer's Park Pavilion, Ely, Minnesota

Directions: As you enter Ely from Hwy. 169 turn left at the first set of stop lights (Central Avenue). Pass Wilderness Outfitters and turn left at the second street on your left hand side - Shagawa Road. Stay on Shagawa Road as it circles around Semer's Park. The Pavilion is on the road overlooking the beach area.

MIKE FORSMAN, Chair
Fourth District

FRANK JEWELL
First District

PATRICK BOYLE
Second District

CHRIS DAHLBERG
Third District

PETE STAUBER, Vice-Chair
Fifth District

KEITH NELSON
Sixth District

STEVE RAUKAR
Seventh District

County Auditor
Donald Dicklich

County Administrator
Kevin Gray

County Attorney
Mark Rubin

Clerk of the Board
Phil Chapman

The St. Louis County Board of Commissioners welcomes you to this meeting. This agenda contains a brief description of each item to be considered. The Board encourages your participation. If you wish to speak on an item contained in the agenda, you will be allowed to address the Board when a motion is on the floor. If you wish to speak on a matter that does not appear on the agenda, you may do so during the public comment period at the beginning of the meeting. Except as otherwise provided by the Standing Rules of the County Board, no action shall be taken on any item not appearing in the agenda.

When addressing the Board, please sign in at the podium and state your name and address for the record. Please address the Board as a whole through the Chair. Comments to individual Commissioners or staff are not permitted. The St. Louis County Board promotes adherence to civility in conducting the business of the County. Civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issue before the Board. Tools of civility include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility [County Board Resolution No. 560, adopted on September 9, 2003]. Speakers will be limited to five (5) minutes.

****In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify Property Management 72 hours prior to the meeting at (218)725-5085.****

All supporting documentation is available for public review in the County Auditor's Office, 100 North 5th Avenue West - Room No. 214, St. Louis County Courthouse, Duluth, MN, during regular business hours 8:00 A.M. - 4:30 P.M., Monday through Friday. Agenda is also available on our website at <http://www.stlouiscountymn.gov/GOVERNMENT/BoardofCommissioners.aspx>

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9:30 A.M. Moment of Silence
Pledge of Allegiance
Roll Call

AT THIS TIME CITIZENS WILL BE ALLOWED TO ADDRESS THE BOARD ON ITEMS NOT ON THE AGENDA. [Speakers will be limited to 5 minutes each.]

FOR ITEMS LISTED ON THE BOARD AGENDA OR COMMITTEE OF THE WHOLE AGENDA, CITIZENS WILL BE ALLOWED TO ADDRESS THE BOARD AT THE TIME A MOTION IS ON THE FLOOR.

9:40 A.M. PUBLIC HEARING, pursuant to Resolution No. 14-342, adopted June 3, 2014, to consider the issuance of an off-sale intoxicating liquor license to New Scenic Café, Inc. d/b/a New Scenic Café, Inc., Duluth Township. **{14-245}**

CONSENT AGENDA

Approval of business submitted on the consent agenda.

REGULAR AGENDA

Environment & Natural Resources Committee – Commissioner Dahlberg, Chair

1. Resolution opposing a Programmatic Environmental Impact Statement in the Superior National Forest. **{14-228} [Referred from the June 3, 2014 Committee of the Whole meeting.]**

TIME SPECIFIC:

11:00 A.M.

2. Acceptance of the Department of Natural Resource's designation as Local Government Unit for a proposed Lake Superior Wetland Bank project, and adopt a County policy for Wetland Replacement and Wetland Banking. **{14-242} [Without recommendation.]**

ADJOURNED:

**Off-Sale Intoxicating Liquor License – New Scenic Cafe
(Duluth Township)**

BY COMMISSIONER _____

WHEREAS, New Scenic Cafe, Inc. d/b/a New Scenic Cafe, Inc., Duluth Township, St. Louis County, Minnesota, has applied for an off-sale intoxicating liquor license; and

WHEREAS, Minn. Stat. § 340A.405, Subd. 2(d), requires that a public hearing be held prior to the issuance of an off-sale intoxicating liquor license; and

WHEREAS, A public hearing was held on June 24, 2014, at 9:40 a.m., in the Semer's Park Pavilion, Ely, Minnesota, for the purpose of considering the off-sale intoxicating liquor license; and

WHEREAS, With regard to the application for said license, New Scenic Cafe, Inc., has complied in all respects with the requirements of Minnesota Law and St. Louis County Ordinance No. 28; and

WHEREAS, The Liquor Licensing Committee of the St. Louis County Board has considered the nature of the business to be conducted and the propriety of the location and has recommended approval of the application;

THEREFORE, BE IT RESOLVED, That Off-Sale Intoxicating Liquor License (License Number CMB15161) shall be issued to New Scenic Cafe, Inc. d/b/a New Scenic Cafe, Inc., Duluth Township, in Area 1, and in accordance with the St. Louis County Fee Schedule, the annual fee is \$500;

RESOLVED FURTHER, That said liquor license shall be effective July 1, 2014 through June 30, 2015;

RESOLVED FURTHER, That said license is approved contingent upon payment of real estate taxes when due;

RESOLVED FURTHER, That if named license holder sells the licensed place of business, the County Board may, at its discretion after an investigation, transfer the license to a new owner, but without pro-rated refund of license fee to the license holder.

Resolution Opposing a Programmatic Environmental Impact Statement in the Superior National Forest

By COMMISSIONER _____

WHEREAS, The St. Louis County Board of Commissioners understands that the United States Department of Agriculture (USDA) is being asked to conduct a duplicative Programmatic Environmental Impact Statement (PEIS) for the Superior National Forest (SNF) that would cause unnecessary delays and could affect not only future mining opportunities, but current mining and associated operations; and

WHEREAS, Proposed nonferrous mining projects and other mines within the SNF are already subject to rigorous and responsible environmental oversight by the Minnesota Department of Natural Resources and relevant federal agencies; and

WHEREAS, The St. Louis County Board has declared its support for the existing open, transparent, and comprehensive environmental review and permitting process in place for the various nonferrous mining initiatives planned for development on the Iron Range, and supports the success of these projects contingent upon approval of all state and federal permits necessary; and

WHEREAS, None of these strategic metals mining projects will achieve permits to mine without approval from the Minnesota Department of Natural Resources and relevant federal agencies; and

WHEREAS, The Iron Range legislative delegation is opposed to the proposed PEIS because of its unnecessary cost, redundancy and negative effect on mining and related jobs in the region; and

WHEREAS, The Iron Range legislative delegation has asked the USDA not to accept or move forward with the dilatory PEIS; and

WHEREAS, U.S. Congressman Rick Nolan has met with high level United States Forest Service representatives and has expressed his strong opposition to a PEIS; and

WHEREAS, Minnesota's and the Iron Range economy cannot afford further unnecessary or duplicative delays in mining permitting;

THEREFORE, BE IT RESOLVED, That the St. Louis County Board hereby opposes the proposed Programmatic Environmental Impact Statement being asked of the United States Department of Agriculture for the Superior National Forest.

RESOLVED FURTHER, That the St. Louis County Board implores its elected leaders, including but not limited to Governor Dayton, Senators Klobuchar and Franken, and Congressman Nolan, to demand that the USDA reject the Programmatic Environmental Impact Statement currently under consideration for the Superior National Forest.

From: Anne Swenson <thepub@elyecho.com>
Date: 5/27/2014 3:08 PM
Subject: Ely Echo

Anne Swenson
Publisher: Ely Echo
President: Milestones, Inc.
15 East Chapman Street
Ely MN 55731
218.365.3141, FAX 218.365.3142
thepub@elyecho.com

Somebody asked for a PEIS, nobody will admit it, yet we know the truth

This past week city councils in Ely, Babbitt and Aurora passed resolutions in opposition to a proposed PEIS in the Superior National Forest. We're sure this was done with the best of intentions, but the further we dig into this the stranger it gets.

To start with, a PEIS is a programmatic environmental impact statement. From what we can gather, instead of looking at one proposed mining project, the USFS would look at all projects and see what the impact would be. The PEIS has been called a "stealth attack" on the future of mining in northeastern Minnesota. Those looking to support mining see this as a delay in getting projects underway and a duplication of other EIS already completed or in the works.

Understandably, this has a lot of folks very upset including Rep. Rick Nolan, the Iron Range delegation, industry groups and mining businesses.

What's strange is no group or individual has had the intestinal fortitude to stand up and say that they requested that a PEIS be conducted. There have been plenty of fingers pointed at groups like Friends of the Boundary Waters, Northeastern Minnesotans for Wilderness, Sustainable Ely along with one person who has connections to those groups and who has consistently spoken against copper-nickel mining in northeast Minnesota. That person is Becky Rom of Ely.

So we called Rom and asked her if she or any of the groups she is affiliated with formally requested a PEIS from the Forest Service. As a former attorney, Rom is skilled at not answering questions. So we pressed and pressed some more.

Here's the best of answers we could get:

"I've encouraged the agencies to do what's required under the law and using the best science."

"Nobody is pushing for an extra layer or extra delays or costs or more money. I'm just saying this is really important and doing right is following the law and basing decisions on the best science."

"I did not pen any letter but I've had these discussions."

"As far as I know there's no formal process for a request like a petition."

We specifically asked if Rom had approached U.S. Department of Agriculture Under Secretary Robert Bonnie (who oversees the USFS).

"I never talked about this to Mr. Bonnie."

We put a phone call into the USFS office in Duluth but weren't able to get any answers prior to deadline on the Thursday prior to Memorial Day weekend.

We checked the news releases of the various groups who have been accused of asking for the PEIS and found nothing. Nobody wants to claim they asked for this.

Then, late Thursday a Freedom of Information Act request by Twin Metals-Minnesota was granted. Upon request, they shared those documents with us. If anyone would like a copy, just send us an email.

In the documents provided by the Bureau of Land Management was a letter asking for the PEIS. The agency requesting the PEIS? Northeastern Minnesotans for Wilderness. And who is the vice-chair of NEMW? Becky Rom.

We also have copies of emails sent by Rom outlining a meeting with the BLM where the agenda included: "The BLM, together with the Forest Service, should undertake a programmatic environmental impact statement."

Rom told us the first she heard of the PEIS was when Tom Rukavina, an aide for Congressman Rick Nolan, was in Ely on March 5.

We'd like to refresh her memory.

A letter sent Jan. 23 from the attorney for NEMW specifically requests that the BLM and the USFS undertake a PEIS. The letter even references a meeting held on Dec. 10, 2013 with Bonnie and NEMW members.

The letter to Bonnie is nine pages long and is a multi-pronged attack on copper-nickel mining in northeast Minnesota. It specifically targets Twin Metals Minnesota.

Groups like the Friends and NEMW have long-sought to expand the federally established boundaries of the BWCA. Their newest tactic is using watersheds to define the BWCA. If water flows toward the BWCA it should be treated as if it were in the wilderness is their logic.

In the letter to Bonnie, Rom's group states: "The EIS should include as an alternate the withdrawal of federal minerals from leasing and development within the Boundary Waters watershed."

We attempted to contact Rom after receiving this information. She did not respond.

The response from elected officials against NEMW's request has come from both city councils and state elected officials.

The Range Delegation, including Sen. Tom Bakk and Rep. David Dill, have sent a letter to Senators Al Franken and Amy Klobuchar to follow Nolan's lead and reject a call for a PEIS in the Superior National Forest.

"Copper-nickel mining will provide thousands of construction and long-term mining jobs, thousands of spin-off jobs, and billions of dollars in new investment and economic growth. This is a tremendous opportunity for both the region and the state," the letter states.

"Mining with the SNF has been thoroughly studied over the past 50 years, and has repeatedly been found to be compatible and consistent with federal policy encouraging multiple-use of national forest and state policy encouraging mineral development," the letter states.

One of the best responses to this whole PEIS political football came from Rep. Nolan who has the advantage of serving in the House prior to the 1978 BWCA Act and being back in D.C. today.

He told the Mesabi Daily News the issue "has already been resolved as policy. It was resolved a long time ago during the Boundary Waters debate in 1978."

He said a deal was made when 1.1 million acres for the BWCAW were taken out of multiple use, "the remaining federal lands were supposed to be used for mining and forestry. It's a matter of law and public policy."

That outlook won't work with Rom or others who are convinced that it is impossible for copper-nickel mining to be done here without damaging the environment. There is no regard for the multitude of laws and regulations on the books or the advances in technology. For Rom it can't be done. Ever. Period.

We find it most amusing that the anti-mining crowd is always clamoring for transparency and openness from companies like PolyMet and Twin Metals.

Yet when the tables are turned, groups like NEMW hide their actions. They don't consult with the elected officials or the public. They don't make their actions known.

And worst of all, when they are asked to respond to questions we get lawyer-speak and double talk.

Did Rom write a letter to the Under Secretary for the Department of Agriculture? Maybe not. But the attorney for the organization she is the vice-chair for did. Now how hard would it be to just say that?

"I never talked about this to Mr. Bonnie."

Maybe not, Ms. Rom, but now we know that Northeast Minnesotans for Wilderness is behind this and has been since last December. There's no talking around that.

Ely council: Reject PEIS

City follows lead of legislators, says proposed Superior National Forest study of mining unnecessary, and delay tactic to curtail projects

by Tom Coombe

Ely city officials joined state and federal lawmakers and leaders from several other Range cities in taking a hard stand against a proposal that some say could limit or curtail mining activity in the region.

With little debate, council members voted 6-0 Tuesday to pass a resolution against the proposed Programmatic Environmental Impact Statement for the Superior National Forest.

At issue is a plan, advanced by groups including Friends of the Boundary Waters, for the U.S. Forest Service to evaluate the impacts of mining in northern Minnesota.

But the request has been met with howls of opposition, both from mining interest and Iron Range legislators, who say it's unnecessary, would duplicate ongoing environmental studies and would cause harmful delays to proposed copper-nickel mining initiatives and perhaps hinder ongoing taconite mining and even timber operations.

Joining Range cities including Aurora in opposing the PEIS, the Ely council's resolution this week stated:

- That all proposed mining projects, including those with the SNF, are already subject to "rigorous and responsible environmental oversight;"

- Further, unnecessary delay in the mining permitting process has a “tremendously negative impact on our Iron Range communities and future job creation;”
 - “We believe it is time for the delay tactics and unnecessary extension of the permitting process to stop;”
- Council members resolved to “implore its elected leaders to call on the U.S. Department of Agriculture to reject the PEIS for the SNF.”

In a letter to U.S. Senators Amy Klobuchar and Al Franken, the Iron Range legislative delegation including State Sen. Tom Bakk (D-Cook) and State Rep. David Dill (D-Crane Lake) voiced similar sentiments and mayor Ross Petersen suggested this week that the council follow their lead.

U.S. Rep. Rick Nolan has taken a similar stand, calling the request for a PEIS a delay tactic by those opposed to proposed new copper-nickel mining projects in the region.

BOARD LETTER NO. 14 - 242

ENVIRONMENT AND NATURAL RESOURCES COMMITTEE NO. 1

JUNE 24, 2014 BOARD AGENDA NO. 2 11:00 A.M. TIME SPECIFIC

DATE: June 10, 2014

RE: Acceptance of DNR
Designation as the LGU for a
Proposed Lake Superior
Wetland Bank and Adopt
County Policy for Wetland
Replacement and Wetland
Banking

FROM: Kevin Z. Gray
County Administrator

Barbara Hayden, Director
Planning and Community Development

RELATED DEPARTMENT GOAL:

Administer county ordinances and state regulations pertaining to land use in the most effective and efficient manner.

ACTION REQUESTED:

The St. Louis County Board is requested to consider accepting the designation as the Local Government Unit (LGU) for proposed Lake Superior Wetland Bank and to then take necessary actions to proceed with the designation.

BACKGROUND INFORMATION:

Ecosystem Investment Partnership Credit Company, LLC (EIP) has proposed a unique and large scale wetland bank in St. Louis County. The proposed project is called the Lake Superior Wetland Bank. It is estimated to be 21,292 acres in size located adjacent to the Sax-Zim Bog. Currently 3,624 acres are in private ownership, 6,034 acres are tax forfeited lands held in trust by St. Louis County and 11,637 acres are owned by the State of Minnesota as School Trust Fund Lands under the jurisdiction of the Minnesota Department of Natural Resources (DNR). A map of the proposed project is attached.

Under the Minnesota Wetland Conservation Act (WCA), Minnesota Rules Chapter 8420, wetland banking applications must be approved by the Local Government Unit (LGU) responsible for administering WCA in the project area. WCA rules stipulate that for projects on state land, the LGU is the state agency with administrative responsibility

for that land. However, due to the fact that both the DNR and the county are in the process of pursuing a land exchange with the Conservation Fund for the public lands within the proposed Lake Superior Wetland Bank project acres, the DNR has requested that St. Louis County be designated the LGU for the project. Attached is the request from the DNR.

In a separate related action, the Conservation Fund is working with EIP to provide lands for the Lake Superior Wetland Bank. St. Louis County, through Resolutions No. 13-563 and No.14-272, initiated steps in the proposed land exchange process for state tax forfeited lands. It is intended that once the exchanges and all transfers of property are completed, including private property and state school trust lands in addition to state tax forfeited lands, the proposed bank will be in private ownership. However, the wetlands banking application must yet be submitted and reviewed.

If the County Board elects to accept the designation as the LGU, it would be beneficial to the county to enter into an agreement with the state detailing roles and responsibilities for the proposed project. This would include application review, determining eligible wetland credits and monitoring.

The County Board currently does not have a process in place for administering wetland replacement and wetland bank applications. The attached proposed County Board Policy establishes the steps in the process for wetland replacement and wetland bank applications. The proposed policy requires that for projects greater than 20 acres in size, all costs for the preparation and review of such wetland bank applications be the responsibility of the applicant. It also requires a public hearing before the Planning Commission and a final decision by the County Board.

RECOMMENDATION:

If the County Board elects to accept the designation as the LGU for the Lake Superior Wetland Bank, then it is recommended that the St. Louis County Board authorize the appropriate officials to negotiate and execute all required agreements to accept the designation and adopt a Wetland Replacement and Wetland Bank Policy.

Acceptance of DNR Designation as the LGU for a Proposed Lake Superior Wetland Bank and Adopt County Policy for Wetland Replacement and Wetland Banking

BY COMMISSIONER _____

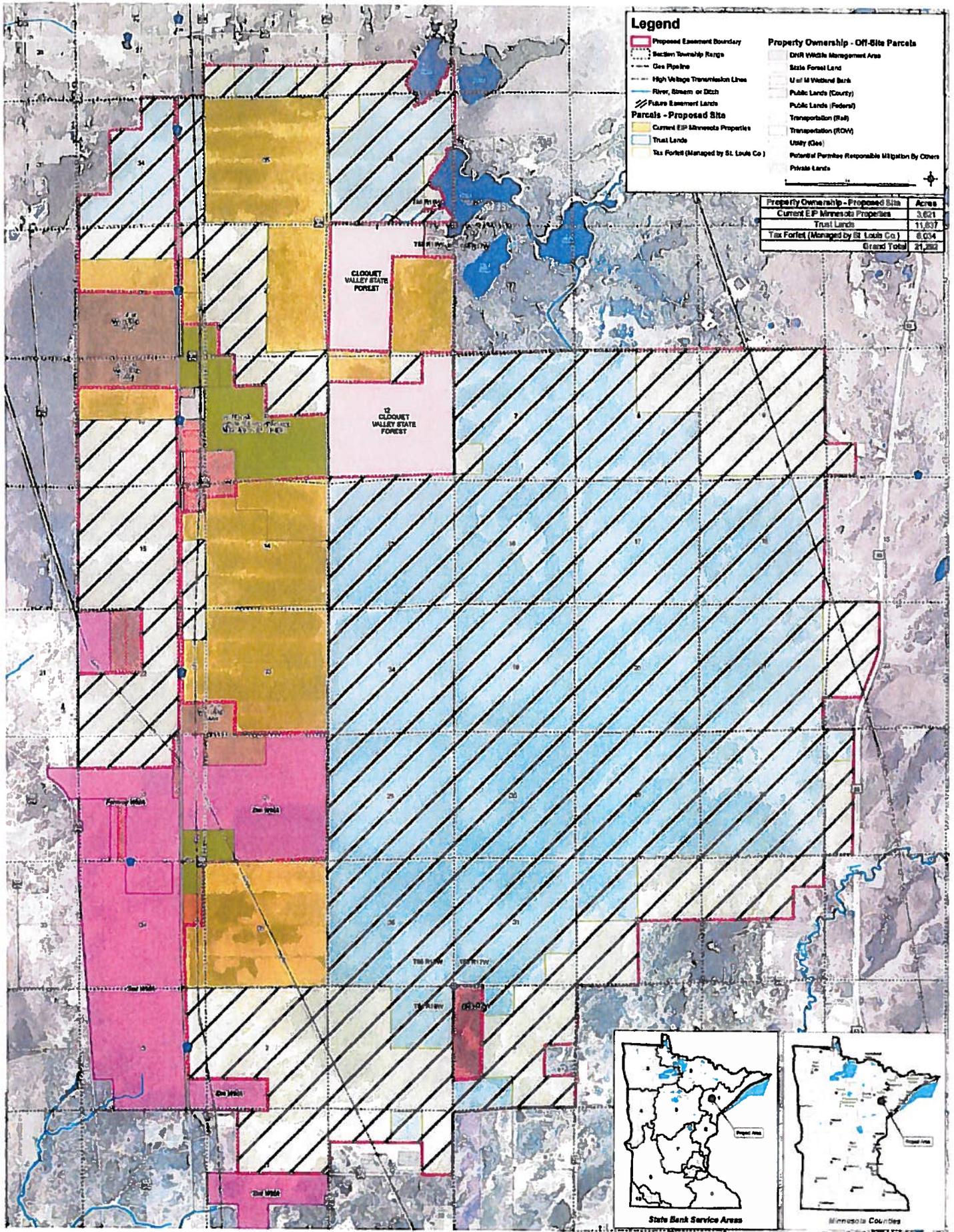
WHEREAS, Ecosystem Investment Partnership Credit Company, LLC (EIP) has proposed a unique and large scale wetland bank in St. Louis County and the Minnesota Department of Natural Resources has requested that St. Louis County serve as the Local Government Unit; and

WHEREAS, The county does not have a policy in place to review and administer Wetland Replacement and Wetland Banking;

THEREFORE, BE IT RESOLVED, That the St. Louis County Board accepts, subject to negotiation of an agreement with the Department of Natural Resources, the designation as Local Government Unit for the proposed Lake Superior Wetland Bank project;

RESOLVED FURTHER, That the appropriate county officials are authorized to negotiate and execute all required agreements and documents in accepting this designation;

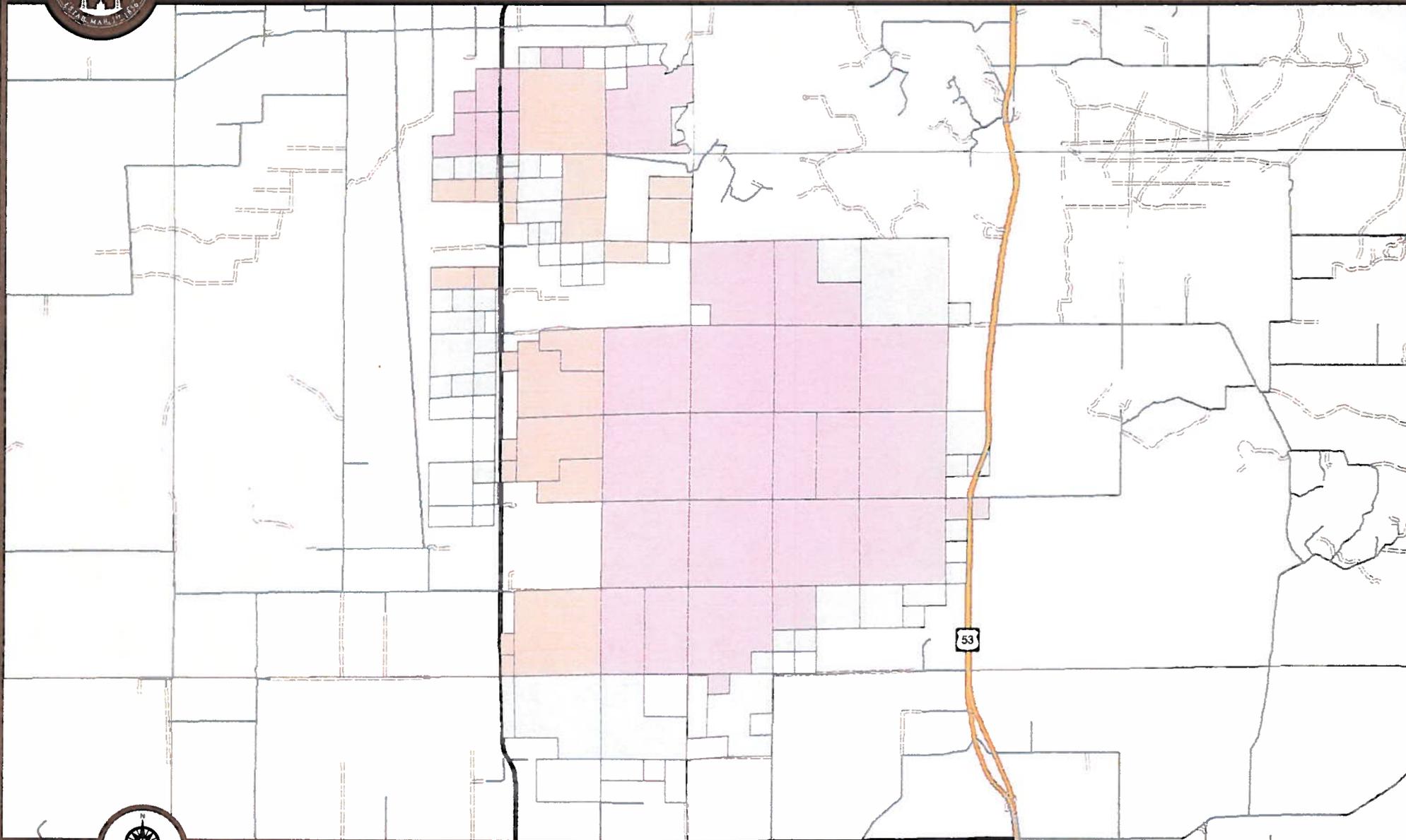
RESOLVED FURTHER, That the County Board adopt the proposed policy for Wetland Replacement and Wetland Banking (Board File No. _____).





Ecosystem Investment Partners

Lake Superior Wetland Bank



Prepared By: St. Louis County
Planning & Community Development

Source: St. Louis County, Minnesota

Map Created: 10/1/2013

	EIP MINNESOTA LLC	3,580.82 acres
	ST OF MN C278 L35	5,849.92 acres
	STATE OF MINNESOTA	11,517.97 acres



Disclaimer: This is a compilation of records as they appear in the St. Louis County Offices affecting the area shown. This drawing is to be used only for reference purposes and the County is not responsible for any inaccuracies herein contained.

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Minnesota Department of Natural Resources

500 Lafayette Road - Saint Paul, Minnesota - 55155 4037

Office of the Commissioner

651-259-5555



March 27, 2014

Mr. Kevin Gray, County Administrator
St. Louis County
Room 202
100 N 5th Ave W
Duluth, Minnesota 55802

SUBJECT: Lake Superior Wetland Bank Local Government Unit (LGU) Designation Proposal

Dear Mr. Gray:

As we have discussed, the Department of Natural Resources (DNR) is requesting that St. Louis County accept a designation from us to serve as the Local Government Unit (LGU) in administering the Minnesota Wetland Conservation Act for the Lake Superior Wetland Bank project. Enclosed is a proposal outlining the basis for DNR's conclusion that the County is best positioned to serve as LGU, as well as the support we would continue to provide the County. If the County is willing to accept the designation, we will prepare and forward a Designation Order for signature. We appreciate your consideration of this proposal and would be happy to discuss any questions you or your Commissioners may have.

Sincerely,

A handwritten signature in cursive script that reads 'Barb Naramore'.

Barb Naramore
Assistant Commissioner

Enclosure

c: Barbara Hayden, St. Louis County Planning and Development
Dale Krystosek, Board of Water and Soil Resources



**MDNR Proposal to
Designate St. Louis County as the LGU for the Proposed
Lake Superior Wetland Bank
March 27, 2014**

Ecosystem Investment Partners Credit Co., LLC is proposing to establish a wetland mitigation bank (Lake Superior Wetland Bank) in the vicinity of the towns of Sax and Zim in St. Louis County. Under the Minnesota Wetland Conservation Act (WCA), wetland banking applications must be approved by the Local Government Unit (LGU) responsible for implementing WCA in the project area. WCA rules stipulate that for projects on state land, the LGU is the state agency, or the agency's designee, with administrative responsibility for that land (Minnesota Rules Chapter 8420.0200, Subp. 1, item C). Because the majority of the land within the proposed wetland bank area is currently School Trust Fund Land administered by the Minnesota Department of Natural Resources (DNR), the Minnesota Board of Water and Soil Resources (BWSR), the state agency responsible for overall administration of the WCA has determined that the DNR is the LGU for the Lake Superior Bank proposal (see attached "Determination of LGU for Lake Superior (EIP) Project").

The DNR proposes to designate St. Louis County (County) as the LGU for administering the WCA for the Lake Superior Wetland Bank project. Such designation is allowed under M.R. 8420.0200, Subp. 1, item C. The main justification for this designation is to maintain regulatory continuity. In order for the wetland banking project to be completed, all of the School Trust Land currently under DNR administration will have to be transferred to private ownership. Once that occurs, the County would *automatically* become the LGU per M.R. 8420.0200, Subp. 1, item A. The DNR believes it would be preferable to have the same LGU administer WCA throughout the process, rather than switch administration from the DNR to the County at some point. Other considerations favoring the designation are: 1) a significant portion of the land within the proposed project area is tax-forfeited land currently administered by the County, and 2) because of the size of the proposed project, there are significant local land-use implications that would be under the County's purview.

DNR's proposal to designate the County as LGU is subject to the County's acceptance. If the County is willing to accept the designation, the DNR will support the County throughout the application process through its full participation on an expanded Technical Evaluation Panel (TEP). DNR participants would include Doug Norris, the Wetland Program Coordinator from the Department's Division of Ecological and Water Resources, as well as local and regional DNR staff as needed. Full participation on the TEP would include voting, if any TEP votes are required, and signing TEP findings.

Determination of LGU for Lake Superior (EIP) Project
(Prepared by Dale Krystosek, BWSR Wetland Special Project Lead)

I met with Les Lemm, BWSR WCA Coordinator and Doug Norris, DNR Wetland Coordinator on February 7, 2014 to discuss the determination of LGU for the for Lake Superior (EIP) Wetland Banking Project. We considered the following information:

1. **The current ownership of the proposed project includes:**
 - 3,624 acres of private land
 - 6,034 acres of tax forfeited lands (managed by St Louis County)
 - 11,637 acres of state school trust lands (managed by DNR)
2. **Minnesota Rules 8420.0200 C.** states *“For activities on state land, the local government unit is the state agency, the agency's designee, with administrative responsibility for that land. However, state agencies must coordinate with local government units that would otherwise have jurisdiction, according to items A and B, when conducting or making decisions on activities in wetlands.”*
3. **Minnesota Rules 8420.0200 G.** states *“For a replacement site located in more than one jurisdiction, the local government unit is the one in which most of the replacement wetland area occurs.”*
4. **The project applicant, Ecosystem Investment Partners** has confirmed that they have the option to purchase all of the land within the project area including the 6,034 acres of tax forfeited lands and the 11,637 acres of state school trust lands.
5. **Minnesota Rules 8420.0725 CERTIFICATION AND DEPOSIT OF CREDITS.** states *“A. To be deposited into the state wetland bank, replacement credits must be certified for deposit by the local government unit in which they are located. Certification of credits by the local government unit is requested by the banking plan applicant and may occur at any time during the monitoring period. The certification must be based on the findings and recommendation of the technical evaluation panel and must identify the area by type, area of buffer, and credits eligible for deposit. The technical evaluation panel must ensure that sufficient time has passed for the wetland to become established, especially vegetation and hydrology, before recommending certification. The area certified must be based on a land survey or comparable method of field measurement. The person making the measurement must verify in writing as to the method and accuracy of the measurement. Failure to follow the approved construction specifications or vegetation management plan is sufficient grounds for the local government unit to deny certification of credits for deposit.”*

Recommendation:

BWSR has determined that, given the current ownership, The Minnesota DNR should be the LGU for the project (see #3 above). However, given that the project applicant has the option to purchase all of the land within the project area, and is likely to exercise those options to purchase the land after the wetland banking decision, the LGU responsible for implementing Minnesota Rules 8420.0725 CERTIFICATION AND DEPOSIT OF CREDITS. (Described in #5 above) will likely be St. Louis County.

Therefore, BWSR recommends the following:

- A. **The DNR delegates LGU decision making authority for the for Lake Superior (EIP) Wetland Banking Project to St. Louis County.**
- B. **The DNR actively participates in the TEP (technical evaluation panel) process as prescribed in Minnesota Rules 8420.**
- C. **An expanded TEP (“Super TEP”) be established with state and federal agency experts, including staff with advance expertise WCA Rule and process (for example, Doug Norris for DNR).**

WETLAND REPLACEMENT OR WETLAND BANKING POLICY

Resolution No.

Date

RESOLVED, it is the policy of the County that all wetland banking applications for 20 acres or less shall follow procedures established by the state and county, be reviewed by the St. Louis County Technical Evaluation Panel and be approved or denied by the Planning and Community Development Director. The fee for the application will be established by the County Board as part of the annual fee schedule.

RESOLVED FURTHER, it is the policy of the County for wetland banking applications related to projects exceeding 20 acres including those incurred by St. Louis County as the Local Governmental Unit, that all costs attendant to the preparation and review of shall be borne by the proposer. In furtherance of that policy, the following policies and procedures are hereby established:

- a. The Director of Planning and Community Development will be responsible for reviewing applications in accordance with all state and county requirements.
- b. The Director of Planning and Community Development and the County Administrator shall determine if one or more consultants are needed to provide technical expertise to the county at various points in the process including but not limited to reviewing the proposed application, certification of the wetland credits, certification of construction and monitoring the bank. State or local governmental entities may assist the county in this process and may act as consultants.
- c. The County Administrator shall determine the cost of reimbursement of County expenses for reviewing the proposed application, certification of the wetland credits, certification of construction and monitoring the bank.
- d. The County may prepare requests for proposals (RFP) for consultants as needed. It is the preference of St. Louis County to have one consultant who may subcontract for services not offered by the particular consultant. However, the County may prepare an RFP or bid for unique work items for which special skills are required.
- e. The County shall select the consultant(s). Cost alone shall not be the determining factor. Important factors for consideration by the County in selection of the consultant(s) shall include, but not be limited to professional and technical competence, experience with similar developments, knowledge of area, and independence from the proposer.
- f. Upon hiring of the consultant(s), but prior to work starting for each contract, the proposer shall pay to St. Louis County the cost of the consultant's fee for completing the review, certification and monitoring of the wetland application. Prior to the work starting for staff review the proposer shall pay to St. Louis County the county's estimated costs as determined by the County Administrator.
- g. The County Attorney shall review and approval all contracts with the consultant and proposer.
- h. Upon completion of any work of the consultants and staff, the Director of Planning and Community Development will determine if an application is complete and meets the requirements set forth in Minnesota Administrative Rules Chapter 8420, Wetland Conservation Act.

- i. The St. Louis County Planning Commission shall hold at least one public hearing on the items to be considered in the wetland bank application. The Planning Commission will review public testimony and determine if the application is complete or if additional information is required. The Planning Commission will recommend when the application is ready to be considered by the County Board. The fee for the Planning Commission hearing is established under the annual County fee schedule.
- j. The St. Louis County Board shall consider the final application and the Planning Commission recommendations and approve or deny the wetland replacement or wetland bank.
- k. Any appeals of the County Board decision are appealable to the Minnesota Board Water and Soil Resources
- l. Upon approval of the wetland bank by the Minnesota Board of Soil and Water Resources, the applicant will be responsible for the costs of monitoring the wetland bank consistent with Minnesota Administrative Rule Chapter 8420 and this policy.