

Sandy Smith

From: Sandy Smith
Sent: Friday, February 27, 2015 10:33 AM
Subject: FW: Council communication

Members: Forwarding to you per Mark Johnson.

Dear Council Members:

The sting of email communications below are between myself and a member of the public who has asked that the string be forward to Council members for your information. The string chronological with the first email starting at the top. The individual's email, city and first name have been redacted per his request.

Respectfully,

Mark Wm. Johnson
Executive Director
Lessard Sams Outdoor Heritage Council
651-296-6397
Mark.johnson@lsohc.leg.mn

Sent: Tuesday, February 24, 2015 12:54 PM
To: Mark Johnson; Heather Koop; Sandy Smith; Amanda Brazee
Cc: PERM (Proper Economic Resource Management)
Subject: Question to LSOHC

To LSOHC,

If state taxpayer money would be used to purchase "public" land within the White Earth Reservation boundaries, will there be a guarantee that both Chippewa and non-Chippewa must hunt under the same laws and regulations on those lands? This would include season length, bag limits, equipment allowed, etc.?

To get the Legacy Amendment (and its Outdoor Heritage funds) passed there was an understanding that all citizens could benefit equally. Therefore, even though different jurisdictions are involved, it would be wrong to purchase land with this money for a situation where one group of our hunting community could have different rights and regulations not allowed the other. Either tribe regulations rule for all or DNR regulations rule for all. There is more to this than just protecting habitat. If this can't be agreed on within the reservation boundaries, than the funds should be used elsewhere where all can benefit equally.

C. Huber

Sent: Wednesday, February 25, 2015 2:39 PM
Subject: RE: Question to LSOHC

Dear Mr. Huber:

Thank you for your email expressing your questions and your concerns regarding the White Earth Nation request for appropriation. I will do my best to provide you with answers.

Question - "will there be a guarantee that both Chippewa and non-Chippewa must hunt under the same laws and regulations on those lands? This would include season length, bag limits, equipment allowed, etc.?"

Answer - For any land acquisitions utilizing Outdoor Heritage Fund (OHF) monies, the MN State Constitution requires that ***“Land acquired by fee with money deposited in the outdoor heritage fund under this section must be open to the public taking of fish and game during the open season unless otherwise provided by law. (Article XI, Section 15 MN Constitution).”*** As a result, if the White Earth Nation purchases lands with these funds as proposed, hunting, fishing and gathering upon OHF acquired lands will be open to Band members and non-members alike. The regulations and restrictions placed upon those who hunt, fish or gather is dictated by MN State law and game regulations. To my understanding, the White Earth Nation works collaboratively with DNR to implement and enforce the same basic season structure and bag limits. There may be slight variations, but as I understand those variations are based upon recognition of tribal sovereignty and historic treaty rights. To obtain more detail regarding seasons and bag limits, DNR will be your key contact.

As background to this issue, under the Laws of Minnesota 2014 (chapter 256) outdoor heritage funds were appropriated for a similar project presented by the Fond du Lac Band of Lake Superior Chippewa for the acquisition of lands within the St. Louis River watershed. In conjunction with the DNR, which administers the pass-through appropriations, a contract was developed that specifically addressed issues identical to White Earth’s proposal. The Council and legislature were satisfied that the constitutional and statutory requirements, as well as the intents and purposes of the outdoor heritage fund, were met and the conditions of its approval can be enforced. It is the Council’s intent and expectation that the White Earth Nation’s project recommendation will have the same contract specifications and outcome.

Additionally, as due diligence required of all funded recommendations, applicants must attest to a number of legal stipulations. The White Earth Nation has agreed in principle to these stipulations. As is their legal right upon lands held in trust for the Band, the Band has stated their intent to limit the taking of wolves by all individuals upon any land purchased within their OHF proposal. Additionally, the Band’s application states ***“The Conservation Project Area will be open to public hunting and fishing to tribal and non-tribal members. Since the Conservation Project area is within the boundaries of White Earth Reservation and would be tribally-owned, there is no wolf hunting on the properties in accordance with White Earth Nation hunting regulations.”***

With the purchase of lands with OHF monies, State Law mandates that a Notice of Funding Restriction (NOFR) be placed upon the deed. As was the case with Fond du Lac, the White Earth Band intends to file a trust application for the property with the U.S. Department of the Interior. As agreed, a NOFR will be attached stating, ***“This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Lessard-Sams Outdoor Heritage Council or its successor. The ownership of the interest in real property transfers to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation.”*** This NOFR language is placed on all lands acquired with outdoor heritage funding and is a key mechanism the state has to ensure that the lands from this project, just as with any other projects funded with funds from the Legacy amendment, will be conserved in perpetuity per the intended purpose and stipulations.

Again, thank you for taking the time to forward your concerns. I hope this reply is helpful to your understanding of the Council’s recommendation of this project and answers your questions.

Sincerely,

Mark Johnson
Executive Director
Lessard-Sams Outdoor Heritage Council

Sent: Wednesday, February 25, 2015 11:48 PM
To: Mark Johnson
Subject: Re: Question to LSOHC

To Mark Johnson, Executive Director LSOHC,

Thank you for taking the time to respond to concerns about Outdoor Heritage Funds being used to purchase land for the White Earth Band.

First, I know that the Council has a tough job and wants to do the right thing. As populations in the state, country, and the world continue to grow, we believe in preserving habitat and wild places. After all, we voted for that amendment.

I had read your "Commentary" in the February 13th issue of "Outdoor News" before sending my e-mail to the Council, and therefore I was (am) familiar with much of what you have sent to me below.

You mentioned the earlier Fon Du Lac Band purchase with Heritage Funds: Yes, I know about it. Many of us were uncomfortable with it back then. We were concerned it could be the start of a slippery slope....Guess what? The Chippewa Indian Bands have the Federal government looking out for them; they have untaxed casino money; and they have a very politically correct Minnesota state government when it comes to Indian issues. We know this. And that is why I sent my e-mail about having some level of fairness, inserted in by the Council to any funding request by the Band on NEW LAND purchases BEFORE THAT FUNDING REQUEST IS FORWARDED TO THE LEGISLATURE.

You say it is your understanding that the Band "works collaboratively with the DNR to implement and enforce the same basic season structure and bag limits. There may be slight variations, but as I understand those variations are based upon recognition of tribal sovereignty and historic treaty rights." ITS THAT LAST SENTENCE WHICH REALLY CONCERNS US! At this point the request has not been sent to the legislature. So please put in the EQUAL FAIRNESS LANGUAGE now before sending it! ... And before the next Chippewa tribe wants funding.

You say to contact the DNR for more detail about season and bag limits. Come on! We both know the band has different, more liberal regulations for band members on their reservation land than non-Indians do in the rest of the state. We just want any NEW LAND purchased with Heritage Funds in that reservation to have equal game/harvest laws and regulations for both Chippewa and non-Chippewa. Otherwise this could be a real headache in the future with land purchased for the tribes. Think moose, trumpeter swans, and nets.

The NOFR states: " This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property". Please Note: The White Earth Band has already put in their "equality" stipulation which they expect ALL hunters to follow: No wolf hunting on the new land. So, a precedent has been set. Therefore, make all game/harvest regulations the same for Chippewa and non-Chippewa a part of the TERMS, CONDITIONS, AND PURPOSE of the grant. If that can't be agreed upon, don't make this acquisition.

Thank you, again,
C Huber

Sent: Thursday, February 26, 2015 8:44 AM
Subject: RE: Question to LSOHC

Dear Mr. Huber:

Thank you for your thoughtful review of my response email and for your further comments.

Just so you are aware, the Lessard-Sams Outdoor Heritage Council's recommendations for this past round of funding proposals have already been forwarded to the legislature and are currently held within House File 181 (authors McNamara and Hansen)and Senate File 242 (Authors Saxhaug, Ingebrigtsen, Tomassoni and Stumpf). Here is a link that you can follow to access those bills on the Legislature's website;

<https://www.revisor.mn.gov/bills/bill.php?f=HF181&y=2015&ssn=0&b=house>

Since the Council's recommendations are already housed in HF181 and SF242, you may wish to contact your local State Representative and/or Senator with your concerns and encouragements. Here is a link that will readily assist you in obtaining the contact information of your Representative and Senator simply by inserting your zipcode;
<http://www.gis.leg.mn/OpenLayers/districts/>

HF181 has been heard by the House Environment and Natural Resources Policy and Finance committee and will next be taken up by the House Legacy Finance committee. The White Earth Nation project proposal was stripped from HF181 by an amendment in that committee. Another amendment to return that project to the bill is anticipated in the Legacy Finance Committee hearing. SF242 has not been heard yet, but a hearing is anticipated in mid-March. Here is a link to LSOHC's webpage where you can subscribe to receive weekly email updates regarding the progress of the HF181/SF242 as well as receive notices of the Council's meetings; <http://www.lsohc.leg.mn/listserv.html>

Sincerely,

Mark

Sent: Thursday, February 26, 2015 10:10 AM
To: Mark Johnson
Subject: Re: Question to LSOHC

To: Mark Johnson,
Thank you for your information on the links to state government and the status of the various bills.
My goal is to provide added thoughts and concerns with these types of proposals which the Council may not have considered.

I must ask: Just where do you or the Council stand on this issue of resource regulation fairness when it comes to Heritage purchases with tax payer dollars for the tribes? You should be putting in your own terms and conditions in these matters with these acquisitions, just as the White Earth Band did with the "No Wolf Hunt" stipulation. This issue will most likely come up again in the future.

Again, Thank you,
C. Huber

Sent: Thursday, February 26, 2015 2:46 PM
Subject: RE: Question to LSOHC

Mr Huber:

The Council is 12 individuals and they certainly have each had their own opinions regarding the tribal proposals.

As Executive Director of the Council, my job is to make sure they have the necessary tools (info, data, etc) for consideration, deliberation and ultimately voting on each proposal. My position is nonpartisan in scope and nature. It is an interesting process and one that I think we all would like more people to pay attention to and get involved in. That's just another reason why I appreciate your concerns, questions and comments.

Mark

Sent: Thursday, February 26, 2015 7:17 PM

To: Mark Johnson

Subject: Re: Question to LSOHC

Hi Mark,

Thank you for your hard work directing the Council. Send this communication string to other council members. It may prove useful in the future. My friends and I most likely will never hunt or fish in the White Earth area. But issues like this could come up again in the future. And its troubling that Heritage fund purchases could, intentionally or unintentionally, be used in a manner which would favor one group over another if proper terms and conditions aren't stipulated. In Minnesota there is a lot of private property within both reservation boundaries and in ceded territory boundaries.

I let time get ahead of me and didn't realize that the council's round of recommendations had already been sent to the legislature. I did go ahead and send a few e-mails to members of both the house and senate.

Thanks, again,

C Huber

