

MEMORANDUM

To: Lessard-Sams Outdoor Heritage Council

From: Kris Larson, Executive Director

Date: May 22, 2025

Re: Conservation easement over property with DNR trout stream easement



Minnesota Land Trust (MLT) is working on a conservation easement in Houston County under the Southeast Minnesota Protection and Restoration Phase 9 grant, which is funded through ML 2021 1st Special Session, Chp. 1, Art. 1, Sec. 2, Subd. 3(a) and grant contract #202184. This easement will cover approximately 68 acres of forest, wetlands, and floodplain of Crystal Creek, a high-quality state-designated trout stream. The proposed conservation easement borders R.J. Dorer Memorial Forest land managed by the MN DNR along much of its north and south boundaries.

The forested portions of the property have been identified as a Site of Moderate Biodiversity Significance by the MN DNR. The larger site of biodiversity significance extends beyond the boundaries of the property and includes over 560 acres of contiguous native plant communities adjacent to Crystal Creek. The MN DNR has identified five native plant communities on the property as well as several rare species on or immediately adjacent to the property, including timber rattlesnake, a State-listed Threatened species and SGCN. During ecological surveys of the property in 2021, an additional State-designated Threatened plant species was identified on the property.

A MN DNR-held trout stream easement associated with Crystal Creek AMA runs 66' on either side of Crystal Creek within the proposed MLT easement area; this trout stream easement allows for public use and access of the corridor for fishing purposes, as well as DNR access for habitat improvement. The easement was purchased by MN DNR in 2024 with grant funds through the Outdoor Heritage Fund (DNR Trout Stream Conservation Easements. ML 2021 1st Special Session, Chp.1, Art. 1, Sec. 2, Subd. 5(h)). Overall, the MN DNR trout stream easement encumbers approximately 12.5 acres of MLT's proposed 68-acre conservation easement. Please see the attached exhibit map.

It is the desire of MLT to place our conservation easement over the top of this existing trout stream easement held by MN DNR. Though the terms of the two respective easements are similar, MLT's easement does extinguish the grantor's right to graze livestock within the trout stream easement corridor. MN DNR is comfortable with the removal of that right and feels the riparian corridor will remain in a desirable state in the absence of grazing. In addition, the sinuous nature of the MN DNR trout stream easement presents challenges to MLT regarding the posting of easement boundaries and

overall easement enforcement. Finally, MLT's easement allows for formal protection of the entire stream valley, bridging the gap between State Forest land and the trout stream easement, and providing greater overall protection to the resource.

A Notice of Funding Restrictions (NOFR) associated with the MN DNR trout stream easement states that:

"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."

Moreover, State Statute 97A.056, Subd. 9, **Lands in public domain**, provides the following:

(a) Money appropriated from the outdoor heritage fund shall not be used to purchase any land in fee title or a permanent conservation easement if the state of Minnesota or a political subdivision of the state owns the land in fee or if the land is wholly or partially subject to a conservation easement.

(b) Paragraph (a) does not apply if:

(1) the purchase creates additional direct benefit to protect, restore, or enhance the state's wetlands, prairies, forests, or habitat for fish, game, and wildlife, and the purchase is approved by an affirmative vote of at least nine members of the council; or

(2) the purchase is for land that is partially subject to a conservation easement and no money appropriated from the outdoor heritage fund is used to pay the purchase price for the portion of land that is subject to the easement. Nothing in this clause prohibits the use of money appropriated from the outdoor heritage fund to pay for costs and other expenses associated with the acquisition of the land as part of the larger acquisition.

(c) For purposes of this subdivision, "conservation easement" means a conservation easement as defined in section 84C.01.

For these reasons, MLT, as proposed holder of an easement funded through Outdoor Heritage Fund, and MN DNR, as holder of the trout stream easement funded through the Outdoor Heritage Fund, are requesting approval of this project. The appraisal of MLT's proposed conservation easement will take into consideration the MN DNR's trout stream easement when determining the value of the easement.

The Minnesota Land Trust respectfully requests approval of the proposed conservation easement on Crystal Creek by the Lessard-Sams Outdoor Heritage Council.