

Follow-Up Questions and Answers from LCCMR Presentations, RFP 2022

Project Number and Title (in order of project number)	Question	Answer
2022-056: Unsewered Area Pilot Program: NE MN Project Facilitator	What communities/counties are struggling with unsewered areas and/or failing septic systems?	Please see attached PDFs provided by MPCA for map and a list of unsewered communities by county
2022-058: Pollinator Habitat Pilot Project at Closed Landfills	Why does MPCA not have the statutory authority to implement pollinator plantings at closed landfills?	<p>1. Ben Stanley, Senate Counsel: The short answer is that if the commission recommends appropriating ENRTF money for this project and the legislature ends up appropriating money for it then this appropriation would constitute sufficient authority by itself to move forward with <i>this specific project</i> and there would be no need for any additional statutory authority.</p> <p>By contrast, the MPCA does not have statutory authority to allocate funding toward pollinator habitat reconstruction projects more systematically across all closed landfills. Funding the broader initiative across multiple closed landfills would require statutory changes and is beyond the scope of the sort of matters that are normally recommended by LCCMR.</p> <p>2. Greta Gauthier, Assistant Commissioner, MPCA: The MPCA’s Closed Landfill Program can develop pollinator habitat on a closed landfill only when such seeding is part of an environmental response action such as installing a new cover. Otherwise, the agency does not have authority to seed/plant pollinator-friendly species at existing sites. Below is the relevant statute, which does not provide authority to plant/seed pollinator-friendly plants at closed landfills. There are 110 closed landfills across the state.</p> <p style="text-align: center;">115B.40 PROGRAM.</p> <p style="text-align: center;">§ Subdivision 1. Response to releases.</p> <p>The commissioner may take any environmental response action, including emergency action, related to a release or threatened <i>(continued next page)</i></p>

Project Number and Title (in order of project number)	Question	Answer
		<p>release of a hazardous substance, pollutant or contaminant, or decomposition gas from a qualified facility that the commissioner deems reasonable and necessary to protect the public health or welfare or the environment under the standards required in sections 115B.01 to 115B.20. The commissioner may undertake studies necessary to determine reasonable and necessary environmental response actions at individual facilities. The commissioner may develop general work plans for environmental studies, presumptive remedies, and generic remedial designs for facilities with similar characteristics. Prior to selecting environmental response actions for a facility, the commissioner shall hold at least one public informational meeting near the facility and provide for receiving and responding to comments related to the selection. The commissioner shall design, implement, and provide oversight consistent with the actions selected under this subdivision.</p>
2022-111: Minnesota State Parks and State Trails Acquisitions	What is the dollar threshold on parcels that would require two appraisals?	<p>If the appraised value is greater than \$10 million, two appraisals are required and the DNR must be involved in writing the appraisal scope of work to be provided to the appraisers.</p> <p>The dollar amount indicated can be found here, page 2, Valuation/Appraisal, paragraph c. This document can also be found attached to this email [see attachments]. Section of reference is highlighted in the document.</p>
2022-111: Minnesota State Parks and State Trails Acquisitions	Has there ever been any land sold that had LCCMR/ENRTF funds associated with it?	<p>There is no known sale of land with LCCMR/ENRTF funding, but the DNR has released portions of a couple of conservation easements that had ENRTF funding. One was a very small portion of a Forest Legacy easement and the other was a portion of a Metro Greenways easement in Hennepin County. In both of those cases, the procedure required by 116P.15, subd. 2 was followed and obtained LCCMR approval for the easement releases and paid back the ENRTF. The amount paid back reflected the proportional value of the released easement that was acquired with ENRTF.</p> <p>There are a couple of processes that help ensure that lands with LCCMR/ENRTF are reviewed carefully.</p> <p><i>(continued next page)</i></p>

Project Number and Title (in order of project number)	Question	Answer
		<ul style="list-style-type: none"> • All land purchased with LCCMR/ENRTF funding has a Notice of Funding Restriction associated with the acquisition. • All of our proposed sales conduct a funding review to determine if there are any funding restrictions. • Annually a report on all acquired land with LCCMR/ENRTF is provided to LCCMR to state if any land has been divested.
2022-160: LCCMR Stories: Sharing Minnesota's Biggest Environmental Investment	Are there other mechanisms to fund this project, such as a cooperative agreement or a contract?	<p>LCCMR staff and SMM proposers met after the presentation to discuss 2022-160 <i>LCCMR Stories: Sharing Minnesota's Biggest Environmental Investment</i>. We both believe there could be great synergy between this effort and any complementary effort the LCCMR may decide to undertake in the next years to share success stories and/or evaluate outcomes of ENRTF funding.</p> <p>Furthermore, there is mutual interest to have LCCMR provide some input about possible content into this SMM-led effort, if funded. This intent could easily be addressed in the work plan and captured by adding "in coordination with LCCMR" to any standard appropriation language for the project. Given this, a contract or cooperative agreement would not be needed to fund this project and we could instead use our traditional appropriation methods.</p>
2022-185: Protecting Minnesota's Spruce-Fir Forests from Tree-Killing Budworm	Why does MITPPC not address native pest species? What is MITPPC's enabling legislation?	<p>The enabling legislation for the Minnesota Invasive Plants and Pests Center (MITPPC) (ML 2014, Ch. 312, Art. 13, Sec. 44. INVASIVE TERRESTRIAL PLANTS AND PESTS CENTER) directs MITPPC to "research... terrestrial invasive plants, pathogens, and pests, including agricultural weeds and pests."</p> <p>Minnesota Statute Ch. 18, Sec. 18.77, Subd. 17 Invasive plant: Defines "Invasive plant" as a nonnative species whose introduction and establishment causes, or may cause, economic or environmental harm or harm to human health</p> <p>LCCMR's 2022 Request for Proposal, p.4, includes the following definition: "Invasive species includes any plants, animals, worms, insects, microbes, and diseases that are non-native, introduced species in the state and that are currently having, or pose a threat to have, significant adverse impacts on Minnesota's native ecosystems and biodiversity"</p> <p><i>(continued on next page)</i></p>

Project Number and Title (in order of project number)	Question	Answer
		<p>Dr. Robert Venette, Director of MITPPC cited the sources of information above as providing his understanding that it would be beyond the intended scope of the Center and funding for MITPPC to study native pests.</p>
<p>In general, for lands acquired with ENRTF funding.</p>	<p>Would haying or grazing be allowed on conservation lands acquired with ENRTF Funds?</p>	<p>If the specified intent of the funding as stated in the work plan, appropriation language, and or/conservation easement document does not include haying and grazing, then this would be considered a change in intended use covered by statute M.S. 116.15P LAND ACQUISITION; RESTRICTIONS. In particular, Subd. 2b requires that “A recipient of funding who acquires an interest in real property subject to this section may not alter the intended use of the interest in real property or convey any interest in the real property acquired with the appropriation without the prior review and approval of the commission or its successor.”</p>
<p>In general, for lands acquired with ENRTF funding.</p>	<p>If haying is allowed on lands acquired with ENRTF, would the entity be able to collect revenue from its sale?</p>	<p>If haying were allowed on the property and the hay were sold, this would be subject by statute M.S. 116P.10 ROYALTIES, COPYRIGHTS, PATENTS, AND SALE OF PRODUCTS AND ASSETS. In particular, paragraph (c) specifies that “If a project supported by the fund results in net income from the sale of products or assets developed or acquired by an appropriation from the fund, the appropriation must be repaid to the fund in an amount equal to the percentage of the project's total funding provided by the fund.”</p>
<p>In general, LCCMR support of university-based research centers</p>	<p>Can funds be appropriated for an endowment for tenure track faculty?</p>	<p>Our initial assessment is that this does not meet constitutional or statutory intent of the use of the ENRTF. Additional options may exist to leverage UMN dollars with ENRTF funds to attract new professor-level talent. Time/capacity limits us from doing more research on this at this time.</p>