



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting
Wednesday, March 19, 2025

Agenda Item

Item 8. B. – Lower Minnesota River Calcareous Fen Enhancement – Seminary Fen Land Acquisition

Prepared By

Linda Loomis, Administrator

Summary

Policy 4.3 of the LMRWD Comprehensive Watershed Management Plan (the Plan) “Coordinate with LGUs to Identify Develop Critical Trails and Green Space Corridors for Improvement and Protection” and Strategy 4.3.1, “Develop a Mechanism for Identifying and Acquiring High Value Conservation Easements” led to the inclusion of Study 4.3.5, “Fen Private Land Acquisition Study” in the implementation section of the Plan.

The LMRWD has been working on stewardship plans for the calcareous fens within the LMRWD and presented results of that work to the Board in May, 2024. The LMRWD then began work to complete the “Private Fen Land Acquisition Study”. This study is completed for Seminary Fen and the report is attached.

Money to acquire land was removed from the 2025 budget. So the LMRWD is not actively pursuing land acquisition at this time. The Board should review the report and advise staff regarding recommendations.

Attachments

Technical Memorandum – Lower Minnesota River Calcareous Fen Enhancement – Seminary Fen Land Acquisition

Recommended Action

Motion to adopt recommendations to:

- Maintain open lines of communication with priority parcel owners to explore voluntary conservation measures.
- Develop a funding and resource plan that could be activated if and when opportunities arise to secure land adjacent to the fen.
- Appoint a liaison or use the working group to monitor development proposals near the fen, engage with landowners, and facilitate protection efforts.

- Advocate for zoning and policy protections at the local level that minimize development impacts on fen-adjacent properties.

Technical Memorandum



To: Linda Loomis, Administrator
Lower Minnesota River Watershed District (LMRWD)

From: Lan Tornes, Natural Resources Scientist
Jennifer Mocol-Johnson, Water and Natural Resources Program Manager

Date: March 10, 2025

Re: Lower Minnesota River Calcareous Fen Enhancement – Seminary Fen Land Acquisition

SUMMARY

Seminary Fen is one of the most pristine and protected fens in the Lower Minnesota River Watershed District (LMRWD). The properties immediately surrounding Seminary Fen are owned by a variety of entities, both public and private. Private landowners may have interest in profiting from the value of the property given its desirable location adjacent to this designated Scientific Natural Area (SNA).

Parcels owned by Heidi Moe and High Terrace LLC adjacent to Seminary Fen have the greatest potential to affect the quality and integrity of the fen if development is not controlled. The parcels have features making them desirable for development and their proximity to the fen suggests that development could negatively affect the fen ecosystem. The parcel of agricultural land owned by Heidi Moe on the north side of the fen is upgradient of the groundwater flowage to the fen and is home to a thriving population of fen indicator plants. Three parcels along the south edge of the fen owned by High Terrace LLC are in a desirable location along Flying Cloud Drive and encompass Assumption Creek, a designated trout stream. Acquisition or some other retirement of these properties could afford protection to the fen and its associated resources.

Several options can be considered to reduce the opportunity for development on parcels adjacent to Seminary Fen. Considerations include outright purchase of selected parcels, placing the properties in a land trust, rezoning the property, placing an easement on the property, or eminent domain. Some of these options are more desirable and practical than others. Discussing these options with the owner of identified parcels should result in an agreement that satisfies the owner while protecting the fen resources. Land acquisition will require time to negotiate and to finance whatever agreement is pursued.

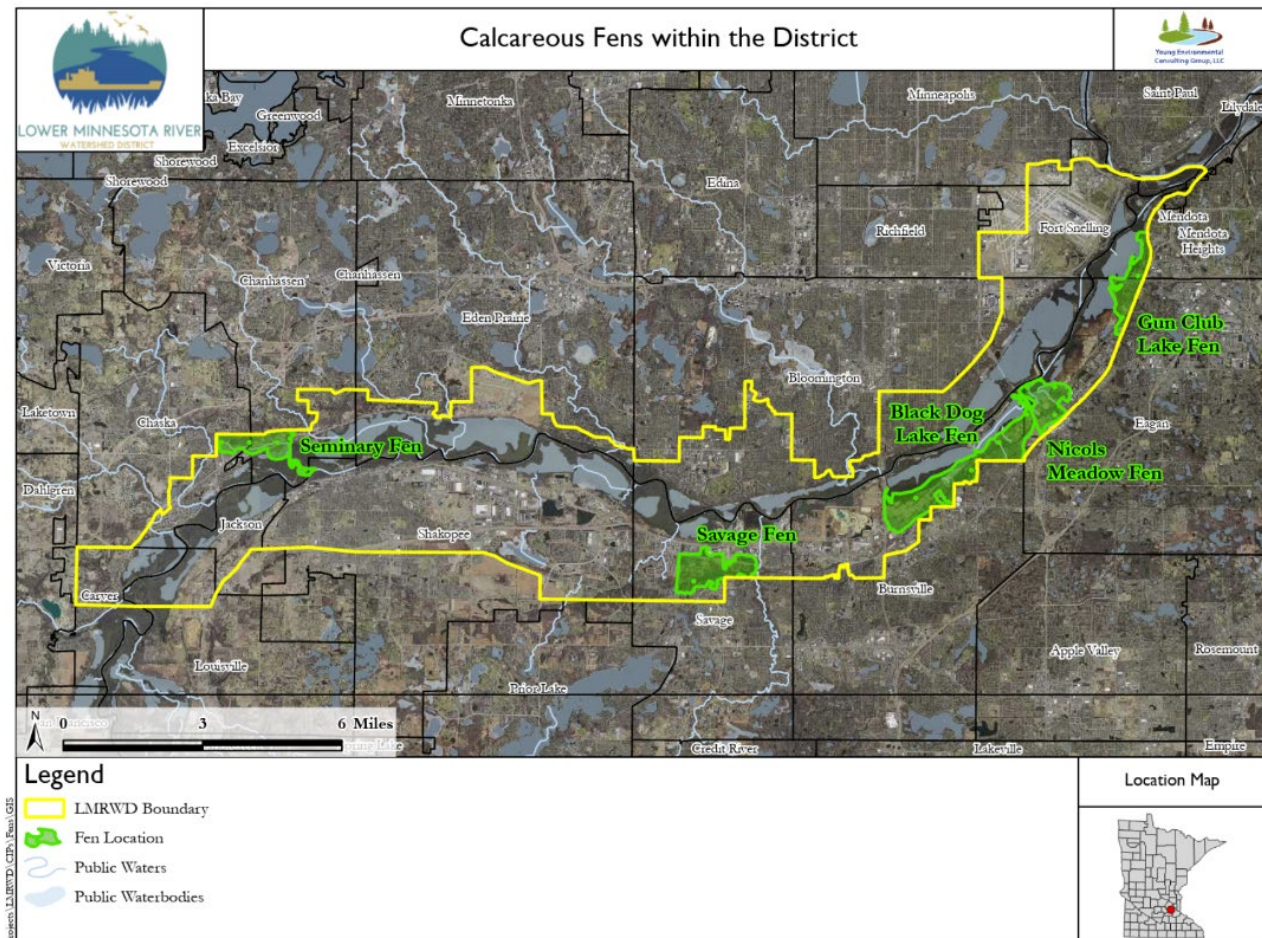
Setting aside valuable land for the public benefit is widely supported but is not without its detractors. Private property is sacred to many people and cultures, so selling or sharing land that may have been in a family for generations can be difficult. On the other hand, communities and developers see opportunities to use undeveloped private properties for growth and expansion of residential and commercial spaces that also may increase the tax base. Public lands generally do not provide a meaningful tax benefit and may be of limited value to those that are unable to enjoy their value. Public lands may be repurposed when other uses outweigh their aesthetic value.

The LMRWD is not actively pursuing land acquisition but understands it's an important part of Seminary Fen stewardship. They have actively worked with the Minnesota Department of Natural Resources (MNDNR) on this effort. The MNDNR has attempted to contact fen-adjacent property owners to advocate for protection of these lands; however, this effort has not been successful as property owners did not respond to the inquiries. The MNDNR also has given higher priority to other aspects of fen stewardship.

Introduction

Seminary Fen is the most pristine and protected of the LMRWD fens shown in Figure 1 (Young Environmental, 2020). The fen is perched on a hillside north of the Minnesota River where it receives calcium-enriched groundwater flowing from beneath. The area is located in a growing suburb of Minneapolis, and the location has desirable building sites with good views and accessibility.

Figure 1: Calcareous Fens along the Lower Minnesota River Valley.



Seminary Fen Land Ownership and Features

The properties immediately surrounding Seminary Fen are owned by a variety of entities, both public and private. Private landowners may have a future interest in profiting from the value of property given its desirable location adjacent to a pristine SNA managed by the MNDNR. Development of fen-adjacent properties for residential or commercial purposes could have

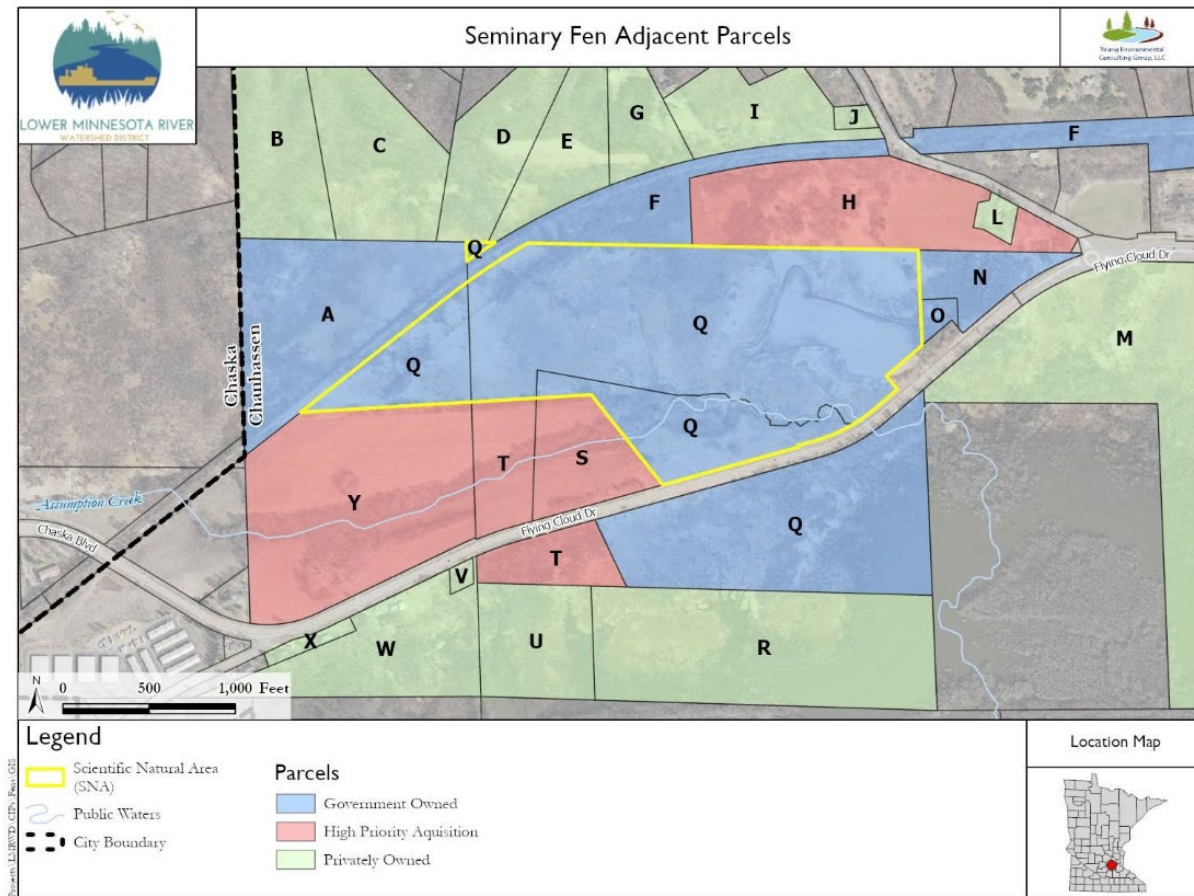
unintended consequences that would adversely affect the fen and its unique vegetation. Landscaping that accompanies development often adds impervious surfaces that increase runoff, added vegetation changes the hydrologic characteristics of soils, introduced plants may encroach on the fen and become invasive, and chemical and fertilizer treatments could alter the fen ecosystem. Development can add access directly to the fen for off-highway vehicles, allowing people to traverse and potentially damage the fragile fen environment.

Much of Seminary Fen is bounded by features, both natural and man-made, that impact hydrology and affect the development potential of adjacent properties. A railroad grade to the north of the SNA is built tens of feet above the surrounding landscape and has been repurposed to provide a scenic walking and biking path. Its steep slopes limit access to the adjacent landscape. Roadways to the east and south form boundaries that can limit development to narrow strips between the roadways and the fen. Assumption Creek, an intermittent designated trout stream that may have been perennial, forms a southern boundary for part of Seminary Fen. The creek also reduces the development potential near parts of the fen unless it is altered to accommodate development.

Figure 2 shows the parcels in and adjacent to Seminary Fen, and road and surface water features. The alphabetic characters on the parcels correspond to the rows in Table 1 that show parcel ownership. The system for color-coding the map is introduced below:

- **Green:** The green colored parcels are considered to have less influence over the fen resource because they may have limited development, such as one single family dwelling, and are relatively isolated from the fen because of the features described previously. Many of the parcels south of Flying Cloud Drive are downgradient of the fen and are subject to flooding from the Minnesota River, making development impractical.
- **Blue:** The blue colored parcels are owned by government entities including the MNDNR.
- **Red:** The parcels in red are considered priority for acquisition because they are privately owned and are adjacent to the fen and the SNA. These desirable parcels bordering pristine natural areas could be prime for development, which could adversely affect the fen ecosystem. Acquiring these parcels would provide a buffer to protect the fen ecosystem.

Figure 2: Seminary Fen-Adjacent Parcels



Parcels owned by government entities that are under land protection programs, such as the SNAs, can be considered protected from development. However, parcels under the control of local governments could be subject to sale as needs and opportunities arise.

Table 1 provides selected information publicly available on the Carver County website. Some columns were not included in this memorandum to condense the research and because they are irrelevant, redundant, misleading, or potentially deleterious. The columns *not* included are Taxpayer 2, Taxpayer Address, Property Address, City/Township, Last Sale Price, Last Sale Qualified/Unqualified, Plat Name, Lot, Block, School District, and Watershed District.

Table 1: Selected Information for Parcels Associated with Seminary Fen.

Map ID	PID:	Taxpayer:	Use 1:	GIS Acres:	Last Sale Date:	Public Land Survey System:
A	259990700	Carver County	Sp. Tax District	22.69	N/A	TWP 116, RNG 023, SEC 34
B	253320150	William H Kirkpatrick Revocable Trust	Res 1 unit	13.75	8/31/2004	TWP 116, RNG 023, SEC 34

Map ID	PID:	Taxpayer:	Use 1:	GIS Acres:	Last Sale Date:	Public Land Survey System:
C	253320160	Mary E Briol	Res 1 unit	15.59	6/27/1997	TWP 116, RNG 023, SEC 34
D	253320230	Brandon Michael Pitzer	Res 1 unit	11	6/15/2021	TWP 116, RNG 023, SEC 35
E	253320240	William N Decoulos	Res 1 unit	9.15	6/16/2016	TWP 116, RNG 023, SEC 35
F	259990600	Carver County	Sp. Tax District	62.41	4/19/2021	null
G	253320250	Scott A Lindblad	Res 1 unit	6.3	9/5/2014	TWP 116, RNG 023, SEC 35
H	250350500	Heidi R Moe	Agricultural	6.07	8/14/1998	TWP 116, RNG 023, SEC 35
I	253320260	Maren Dvorak	Res 1 unit	9.37	2/5/2016	TWP 116, RNG 023, SEC 35
J	253250050	Jeffrey M Good	Res 1 unit	0.7	2/12/1995	TWP 116, RNG 023, SEC 35
L	250350800	Goran Pujic	Res 1 unit	1.11	7/27/2017	TWP 116, RNG 023, SEC 35
M	250351200	Brian J Colvin	Q Golf Course	97.63	11/18/1998	TWP 116, RNG 023, SEC 35
N	250351000	Carver County	Co Srvc. Ent	5.06	4/4/2014	TWP 116, RNG 023, SEC 35
O	250351100	Chanhassen City	Muni Srvc. Other	0.92	N/A	TWP 116, RNG 023, SEC 35
Q	250350111, 250350112, 250340420	State Of Minnesota - MNDNR	State Property	101	6/4/2008	TWP 116, RNG 023, SEC 35
R	250350200	Peterson Farm Holding No 3 LLP	Rural Vacant Land	30.18	8/2/1996	TWP 116, RNG 023, SEC 35
S	250350100	High Terrace LLC	Agricultural	8.15	9/19/1996	TWP 116, RNG 023, SEC 35
T	250350110	High Terrace LLC	Agricultural	11.23	6/4/2008	TWP 116, RNG 023, SEC 35
U	250350300	Peterson Farm Holdings No. 3 LLP	Res V Land	9.99	5/10/2016	TWP 116, RNG 023, SEC 35
V	250340600	Mary Beth & Patrick Ripley	Res 1 unit	0.47	11/12/2014	TWP 116, RNG 023, SEC 34
W	250340410	Mark S Thome	Res 1 unit	14.39	3/14/2008	TWP 116, RNG 023, SEC 34
X	253880020	Joseph Robert Monnens	Res 1 unit	1.04	N/A	TWP 116, RNG 023, SEC 34

Map ID	PID:	Taxpayer:	Use 1:	GIS Acres:	Last Sale Date:	Public Land Survey System:
Y	250340400	High Terrace LLC	Agricultural	30.86	5/22/2008	TWP 116, RNG 023, SEC 34

Source: Carver County Property Information. Data verified January 31, 2025.

The red colored parcels have certain features that are worth discussing in detail. These features suggest a deliberate and intentional justification for acquiring the parcels and making them more protected for the benefit of Seminary Fen SNA.

The Parcel H identified as 250350500 may be the most critical piece of property adjacent to the Seminary Fen SNA. It is listed as agricultural land and Heidi Moe is listed as the taxpayer. The parcel is upgradient of the fen on the northern boundary of the SNA and development of groundwater resources on this property has the potential to interfere with groundwater needed by the fen. The parcel is on the SNA side of the boundary created by the repurposed railroad grade. The parcel also has one of the most significant communities of fen indicator plants (Young Environmental, 2024). Acquiring this parcel of land should be given the highest priority.

High Terrace LLC is an unknown landowner that could have considerable impact on Seminary Fen and associated Assumption Creek. The LLC owns three parcels S, T, and Y having parcel identifiers 250350100, 250350110, and 250340400 located along the southwest borders of the SNA. High Terrace LLC does not unambiguously show up in an online search and their address is not accompanied by a city name. Searching the parcel-owners' address provides a private residence in Greenwood, MN, near Lake Minnetonka. Discussion with fen-management staff from the MNDNR revealed that High Terrace LLC may be under the purview of, or connected with, Sam Wetterlin, a person that has considerable interest in protection of Seminary Fen, Assumption Creek, and related resources. These parcels may presently be safe from further development, but the owner(s) might consider protecting the resource through a trust or easement.

Other parcels surrounding Seminary Fen also could be considered for acquisition and protection. However, present understanding of the associated resources suggests that those parcels are relatively benign in their relation to fen sustainability.

Considerations for Land Acquisition

Various tools and methods are available to approach property owners with opportunities to protect important fen-related parcels. These include outright purchase, setting up a land trust, rezoning the property, placing an easement on the property, or eminent domain. Some of these approaches are more desirable than others. For instance, using eminent domain to protect fen resources may be considered an excessive application of government powers.

Outright purchase

Developing a reasonable asking price for fen-adjacent properties is difficult because people have different perspectives on the value of acreage on or near wetlands. Historically, wetlands were considered undesirable. They were often used as landfills or dredged to create open water. Wetland value has increased as we understand wetland contributions to hydrology and natural resources as

well as opportunities for people to connect to nature. Nearby wetlands present open views, add privacy, and may prevent unwanted development. However, as people landscape and enhance their wetland-adjacent properties the temptation to encroach upon the existing wetland continues to pose a threat.

Developing a conceptual model could allow resource managers to make purchase-price offers within budgetary constraints while considering the real value of the property. Wetlands typically are valued lower than adjacent properties based on their intrinsic value for various land uses. Persuading the landowner to sell the unproductive wetland portion of their property could potentially reduce their tax burden and offer a tax deduction for selling a property with limited development potential.

Setting up a Land Trust

Land trusts have produced some of the most successful approaches to conserving and protecting high-value natural resources. The process itself, which may in some cases be slow, involves working directly with the landowner to acquire the desired property. In many cases, the acquisition and transferring of property to public ownership may occur after the existing landowner has passed away or suffered a life-changing event.

Setting up a land trust in Minnesota can be complex and may require the help of an experienced estate planning attorney who specializes in trusts. Here are some steps the landowner should consider:

- **Choose a trustee:** Select a person or entity to hold the legal title and manage the property. This person or entity is called the trustee.
- **Identify the property:** Decide what property to include in the trust. This will include the legal description of the parcels included in the property. Overall, the property should be considered a high-value resource for conservation and protection purposes.
- **Select beneficiaries:** Determine who will benefit from the trust and receive the property.
- **Create the trust document:** Work with an attorney to create a legal document that outlines the terms, rights, and responsibilities of the trust. The document should also specify the landowner's wishes, name the trustee, and describe what the trustee can do.
- **Sign the document:** Sign the trust document in front of a notary to authenticate it.
- **Transfer the title:** Legally transfer the title of the property to the trust. Depending on the asset, the landowner may incur fees and transfer taxes.
- **Manage the property:** Manage the property according to the trust terms, including maintenance and tax obligations.

The land trust could reduce the cost of an outright purchase although there are legal expenses to set up the trust. The existing landowner also may realize a substantial tax benefit through reduced tax liability and/or through a deduction because they are gifting the property to the government or other non-profit entity.

Rezoning the Property

Within each local jurisdiction, properties are zoned based on determined classifications. While nomenclature varies, the classification or zoning districts generally encompass residential,

commercial, industrial, and agricultural. Each district has specific rules governing the types of development allowed, building height, density requirements, structure setback, and other factors. Specific zoning ordinance requirements are intended to be used to protect the natural environment and are generally found within the environmental performance standards. Some zoning classifications are more stringent than others.

In addition to local regulations, state or federal regulations often dictate what can be done with special value resources such as wetlands. Unfortunately, regulations are often insufficient in protecting small, isolated wetlands – especially when they have indeterminate boundaries. The boundaries established by the SNA program, parks and refuges protect lands but the lands and resources they protect do not conform to the established parcel boundaries. Uninformed zoning can cause serious damage that encroaches on the protected area.

Zoning to designate how properties will be used generally is a political process incorporating input from people of varied interest trying to influence local development practices. Zoning often encourages revenue-generating development rather than resource-protective land use which generates negligible revenue. An approach to protecting land is to advocate that equivalent revenue can be generated through the enhanced value of property near wetland areas. The increased quality of life provided by wetland areas attracts revenue-generating development elsewhere in the community. This approach requires persistence by resource advocates to ensure wetland resources are protected.

Placing an Easement on the Property

A property easement in Minnesota is a written agreement that gives another entity the right to use a landowner's property for a specific purpose, while still allowing the owner to maintain and use the land. Easements can be created for many reasons, including:

- **Access:** Providing access to a driveway, private road, lake, or other body of water.
- **Right of way:** Allowing someone to use a road or driveway.
- **Utility access:** Easements can allow private utility companies to bury cables or access utility lines.
- **Building:** Permitting the construction of a barn or the piling of wood or brush.
- **Support:** To allow for the right to the support of land and buildings. This may include a perpetual flowage easement, which gives allowance to flood a property or area of a property in perpetuity.
- **Drainage:** To allow for drainage and sewer conveyance or flooding of a property.
- **Entry:** Allowing someone to enter the land for any purpose related to the dominant estate, such as walking or birdwatching.
- **Nuisance:** Permitting someone to do something that might otherwise be considered a nuisance, such as burning or raising livestock.

Conservation easements involve the acquisition of limited rights in land for conservation purposes. The Minnesota Board of Water and Soil Resources (BWSR) website provides an overview of conservation easement programs including Reinvest in Minnesota (RIM). Landowners who offer the state a conservation easement receive a payment to stop cropping and/or grazing the land, and in

turn the landowners establish conservation practices such as native grass and forbs, trees, or wetland restorations. The easement is recorded on the land title with the county recorder and transfers with the land when the parcel is sold (Minnesota Board of Water and Soil Resources, 2024).

The Conservation Reserve Program (CRP) administered by the Farm Service Agency of the U.S. Department of Agriculture is a federal program that supports protection of wetlands. Eligible applicants include farmers and landowners with environmentally sensitive land that meets specific criteria related to cropping history and environmental characteristics. Applicants must demonstrate the potential for significant environmental benefits through the implementation of conservation practices (U.S. Department of Agriculture, 2024).

Easements generally are initiated by the landowner but also can be initiated by the applicable soil and water conservation district (SWCD). It may be necessary to incentivize the landowner, so they feel that the easement benefits them. Other than an outright cash incentive, resource managers could describe the value of the protected resource and how protecting the resource would increase the value of the remaining property. However, increased property value might also incentivize the landowner to ask more money for the easement or whatever other method of property acquisition is employed.

Financial incentives will vary based on location and the history of land use on the property, but it is important to provide fair value for the rights being purchased. The property may be valued based on tax-assessed value or township-based rates. Minnesota has several programs that support the establishment of easements.

Other consideration for easements:

- Most easements purchased by the state are perpetual. Some eligible lands may be enrolled under limited duration easements but should last at least 20 years.
- Building, cropping, excavating, and other detrimental land uses generally are prohibited.
- All access to the land is controlled by the landowner. No public access is allowed unless granted by the landowner.
- Landowners receive financial assistance for the costs of establishing the conservation practices (vegetation or wetlands), as outlined in a conservation plan developed by the SWCD in cooperation with the landowner. The landowner is responsible for maintaining the practices and controlling noxious weeds. Easements are inspected annually by the SWCD for the first five years and every third year thereafter. A copy of the inspection form is provided to the landowner and to the Minnesota BWSR. If necessary, the SWCD provides directions to the landowner to assure compliance.
- One disincentive for this program is that the landowner is responsible for paying all taxes and any other levies and assessments on the enrolled land. Assessed values vary from county to county and there may be a way to reduce the tax liability.

Many of the properties having conservation easements are administered by the Minnesota Land Trust (Minnesota Land Trust, 2024). Wetland reserve easements are administered by the Natural Resources Conservation Service (NRCS, 2024).

Eminent Domain

Eminent domain is the power of the government to take private property for public use, while paying the owner just compensation. The LMRWD can partner with other local government units on the acquisition. This is a unique and often complicated process under the law. If steps are missed, the government must go back to the beginning and start over. The process of eminent domain in Minnesota as it relates to the LMRWD is described below by John Kolb, the attorney that represents the LMRWD in legal matters:

Eminent domain or condemnation is a governmental authority outlined in Minnesota Statutes, chapter 117. For watershed districts, additional authority to acquire property interests “involuntarily” is contained in chapter 103D. To advance a public purpose, the watershed district may exercise the power of eminent domain under either chapter.

The process starts with a finding of public purpose and an authorization to exercise the authority by the government body. From there, depending on what statute is being utilized, there is a process of appraisal, notice, good faith negotiation, final written offer and initiation of proceedings. As part of the proceedings, depending on what process is followed, the government body may have to pay for the other party to obtain an appraisal. There are some exemptions for public service corporations like watershed districts under chapter 117.

If the entity initiates eminent domain proceedings, it may exercise a quick take option. This allows acquisition after a 90-day period while the formal proceedings move forward. The government is required to deposit the appraisal or last written offer value into the court as part of the process.

Involuntary acquisition by either eminent domain under chapter 117 or the alternative processes under 103D are options to acquire a property interest for a public purpose. These rights of government entities are clear and courts have affirmed their use.

The most important thing to remember is that the process needs to begin internally before starting discussions or negotiations with owners. There is a concept called “threat of condemnation” that can undermine an acquisition if the process is not followed correctly. With any project where there is a need to acquire property interests, the government entities and its consultants should sit down early to chart a path forward on the acquisition (Kolb, 2025).

The eminent domain process can be complicated, and it is recommended parties involved work with an eminent domain attorney to ensure just compensation (Minnesota Legislative Reference Library, 2024).

Conclusion

Preserving land adjacent to Seminary Fen is critical to maintaining the ecological integrity of this rare and sensitive ecosystem. As one of the most pristine fens in the LMRWD, Seminary Fen relies on a delicate balance of hydrology, vegetation, and groundwater flow that could be significantly disrupted by development on nearby parcels. The potential impacts of land use changes—including altered

groundwater recharge, increased runoff, habitat degradation, and encroachment from human activity—pose serious risks to the long-term viability of this unique natural area.

While we understand that the LMRWD has tabled discussions around land acquisition, proactive land protection strategies remain essential. Options such as conservation easements, land trusts, and zoning protections can safeguard the fen while respecting private property rights and local land use priorities. Collaborative efforts between the LMRWD, MNDNR, and other stakeholders will be necessary to identify and implement the most effective protection measures.

Recommendation: Although land acquisition is not actively being pursued at this time, we recommend that the LMRWD:

- **Maintain open lines of communication with priority parcel owners** (such as Heidi Moe and High Terrace LLC) to explore voluntary conservation measures, such as land trusts or easements, should their interest change in the future.
- **Develop a funding and resource plan** that could be activated if and when opportunities arise to secure land adjacent to the fen.
- **Appoint a liaison or use the working group** to monitor development proposals near the fen, engage with landowners, and facilitate future protection efforts.
- **Advocate for zoning and policy protections** at the local level that minimize development impacts on fen-adjacent properties.

While economic development and land ownership rights must be considered, the value of preserving Seminary Fen extends far beyond its immediate landscape. Protecting this resource benefits water quality, biodiversity, and future generations who will rely on healthy natural systems. Strategic conservation actions taken today—even those that prepare for future opportunities—will ensure that Seminary Fen remains a thriving and resilient natural area, reinforcing the commitment to responsible stewardship of Minnesota’s unique fen ecosystems.

References

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