SF4304 Outdoor Heritage Fund Appropriation and Prior Appropriations Extension and Modification

Legislative Testimony: Opposition to Continued Funding of Roseau River Watershed District Projects

Speaker: Erick G. Kaardal, Mohrman, Kaardal & Erickson, P.A.

Estimated Time: 2 Minutes

Committee Members,

My name is Erick Kaardal. I represent 30-plus landowners currently litigating against the Roseau River Watershed District in federal court. I am here to address a "statutory masquerade" that utilizes state habitat money to bypass the U.S. Constitution and the property rights of Minnesota citizens. The District is receiving Outdoor Heritage Funds to execute what is, in reality, a non-consensual eminent domain scheme. Under Minnesota Statutes § 97A.056, these funds cannot be used to acquire property via eminent domain unless the owner requests it. My clients have not made that request.

The District attempts to circumvent this prohibition by exploiting a loophole in Chapter 117, Minnesota's primary eminent domain law. Chapter 117 contains a statutory exception that allows watershed districts to use Chapter 103D and 103E procedures instead of standard condemnation rules. The District is using this exception as a "black box" to take land without providing the mandatory money and procedural protections found in Chapter 117. By "laundering" habitat funds through these administrative proceedings, the District is facilitating several illegal physical takings:

1. Physical Seizures: We have documented the excavation and removal of 120 truckloads of native soil from private embankments, the construction of permanent weirs on private acreage, and the use of "cutoff plugs" to intentionally flood productive farmland.
2. Unrecorded Easements: The District is asserting "customary" 50-to-80-foot Right-of-Way easements that do not appear on any property title, using these phantom rights to occupy land without notice.
3. The Baseline Shift: This is the most egregious maneuver. For over 100 years, Minnesota Supreme Court and appellate decisions have held that landowners have a vested property right to the original hydraulic capacity of a ditch system—in this case, the 1916 design. The District has administratively erased a century of settled law by using current, silted-in conditions as a "pre-project baseline," masking new flooding as a "natural condition" to avoid paying just compensation.

We are considering seeking a federal injunction to declare this funding legally unauthorized. When state agencies fund projects that use statutory exceptions to ignore the "constitutional floor" of just compensation and a century of judicial precedent, they exceed their authority. I urge this committee to suspend all further appropriations for these projects. The State should not

fund a process designed to strip citizens of their vested property rights through administrative maneuvers.

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Speaker: Max Becker, Attorney, Mohrman, Kaardal & Erickson, P.A.

Estimated Time: 2 Minutes

Committee Members,

My name is Max Becker. I am an attorney with Mohrman, Kaardal & Erickson, and I am here today to present the evidence that the Roseau River Watershed District is in direct violation of the statutory "floor" of the Outdoor Heritage Fund.

Under Minnesota Statutes § 97A.056, the law is unambiguous: Outdoor Heritage money "shall not be spent to acquire property by eminent domain unless the owner requests" that acquisition. This is a consent-based fund. Yet, the District is using these habitat dollars to force through a project against the explicit, documented will of the people living there.

The record of "Non-Consent" in this case is overwhelming:

1. Mass Protests: In 2022, Roseau landowners demonstrated right here at the Capitol, putting the State on notice that their farmland and homes were being targeted for intentional flooding without their consent.
2. Formal Objections and Petitions: The 30-plus landowners filed formal legal protests and petitions against the District's "Alternative 1" plan. They have identified over 100 landowners and 12,600 acres at risk—none of whom have "requested" that their property be taken.
3. Settled Prior Litigation: Landowners were forced to file a lawsuit in 2024 for the wrongful destruction of soil and trespass on private property. We won a settlement in that case in 2025, proving that the District's physical actions are not only non-consensual but legally wrongful.
4. New Federal Lawsuit: We are currently in the Discovery and Summary Judgment phase of a federal case filed in 2025. This litigation is the ultimate expression of non-consent, challenging the unconstitutional use of Chapters 103D and 103E to bypass standard eminent domain protections.
5. Future Federal Lawsuit: More landowners are contacting us with their concerns over uncompensated physical takings of property due to Outdoor Heritage-funded RRWD projects.

Despite this mountain of evidence—protests, petitions, and multiple lawsuits—the District continues to receive and spend Outdoor Heritage money as if this were a consensual project. It is not.

By funding a project that involves taking land from owners who are actively suing to stop it, the State is violating the core mandate of the Outdoor Heritage Fund. I urge this committee to stop the funding until the District can prove it has the consent required by law.