



Board Meeting Minutes - DRAFT

1:00 – 4:00 PM, Wednesday, July 23, 2025

Present in person: Al, Dale, Tim, Danni, Laura, Peter

Staff Present: Andy, Angie, Hannah, Jen, Katie, Shannon, Steph, Zach

Present via Zoom: Jordy, Lauren, Darla

Call to Order: The meeting was called to order at 1:08pm by Danni. Danni reviewed the agenda.

Item 1: Secretary's Minutes

Secretary's minutes from 4/23 and minutes from 6/10 were adopted as presented. Motion by Al, second by Tim. Motion passed unanimously.

Item 2: Treasurer's Report & Finance Committee Update

- Our investments have recovered in June. Our revenue is higher than expected both from contributions and grants. We have a surplus currently even though we projected a deficit for the half way point of our fiscal year. A discussion was had briefly about whether our 7-month reserve fund was appropriate. Members were also reminded about our different accounts that hold our legal defense fund, reserves, and catalyst funds. Particular attention was paid to whether our Legal Defense fund was where it needed to be.
- Motion to accept the Treasurer's report including the Quarter 2 Financial Summary by Dale, seconded by Lauren. Motion passed unanimously
- Our Audit was with a new person from our usual firm. They did find that one of our projects closed in late 2023 but we forgot to record at that time. This has led to us restating 2023. It was noted that the accounting software that we use will have to move to the online version due to changes with Quickbooks. Tim noted that the auditor commented that we might not be using the best software. Jen agreed to check in with the auditor – but this might be that Quickbooks Desktop will be unsupported soon.
- Motion to accept DALC's 2024 Audited Financial Statements prepared by Johnson Block and presented by the Treasurer by Peter, second by Mark. Motion passed unanimously.

Item 3: Committee & Staff Reports

- Governance Committee
 - New member recruitment continues. There was a slate of very promising connections. Some folks were identified for other cultivation avenues like committee work which should enhance our pipeline for new board members in the future. Board members will be asked to get involved in interviewing the candidates.
 - Peter reviewed the revised Governance Committee charge and announced that Al is now the vice chair of the Committee.
- Land Conservation Committee
 - Perry Primrose BCA – Gasner Addition

- The Land Conservation Committee moves to approve DALC to apply for Knowles Nelson Stewardship Fund and Dane County Conservation Fund Grants by passing the Resolution described in the Board Packet. Motion by NAME, second by NAME. Motion passed unanimously.
- Lauren reviewed the revised LCC charge, and stated that the Committee is still working out a few details. Yasi has agreed to be vice-chair.

Motion to enter closed session to discuss Wintergreen and Bloomfield. Motion by Dale, second Al.

Motion to exit closed session. Motion by Dale, second Tim.

- Fundraising Committee
 - Jordy will email notes after their meeting next week but generally our conservation vision needs to match our fundraising. Growth of new members is the most exciting metric from recent successes. The new baseline is big bold projects, so we need to accept this as our new normal and grow our fundraising program and how we leverage the board. Legacy gifts are very important and yield to big leaps in our organization. One goal to consider is if we can get 100% of board participation in the Legacy Society.
 - The FC is meeting later this month to discuss updates to the committee charge. Darla agreed to be vice-chair of the committee.
- Events/Outreach
 - Board was reminded of the Legacy Picnic August 12

Item 4: Board Member Open Comment Session

- Laura brought up that the scale of our organization is changing and encouraged members to think of what our personal role in that transition is. She feels her is how to help Agriculture be a more pronounced part of our work.
- Lauren shared a link about other public lands.
- There was a brief update that the trail committee is meeting and moving forward. Barb agreed to send the board a written update on the project as a whole.
- Jen agreed to send board members a reminder of how to access the Land Trust Alliance's "All Access Pass" to webinars.
- Laura will share her template for "meet and greets" with potential board members.

Adjourn 4:05 pm. Motion by AL, second Dale, unanimous support.

Minutes Prepared by – Danni

Edited by – Jen



MEMORANDUM

To: DALC Board of Directors
From: Jen Filipiak
Date: September 3, 2025
Re: Review and acceptance of DALC policy updates and new procedure

DALC staff have updated three existing policies as described below. The final drafts are attached, along with DALC's current policies for comparison.

Gift Acceptance Policy and Guidelines – update, reviewed by Executive Committee

- Simplified some of the language, especially introductory language (eliminated redundancy)
- Fixed formatting for clarity
- Added legal language regarding IRS rules and tax shelters (last two sections)
- Revised Section VII (Gifts of Real Estate) for clarity (revised ambiguous language, strengthened language around the due diligence work needed to take title to land.)

CE Violation Policy* - update, includes adding procedural guidance

- Combined the background section with the main body of the policy to eliminate redundant language
- Streamlined the language for clarity
- Added a Technical Violation category to provide a category for violations that are purely documentation-related. For example, there are no threats to the conservation values but the CE requires a management plan that is revised every 10 years or less, and the one we have is expired.

CE Violation Procedure* - New

- Provides details to staff on the process for investigating, assessing impact, implementing a remedy, and documentation CE violations based on the guidelines of the policy.
- Defines requirements for entry of CE violations into Landscape
- Clarifies when discretionary consent may be given for actions that are not permitted per the CE but supports and protects the conservation values. For example, CE prohibits construction outside the footprint of current structures but the course of a river changes making the previous footbridge location obsolete. Discretionary consent allows DALC to approve the construction of the footbridge in the new location.
- Establishes requirements for reporting CE violations to the LCC and Board
 - Each LCC meeting - List of active CE issues
 - Annual report to the Board – Annual summary of all discovered major and minor CE violations

*This policy revision has not been reviewed by the LCC ahead of the board meeting. Since most of the Board is on the LCC, I thought it would be more efficient to simply bring this to the full board rather than wait for the next LCC meeting (or host an LCC meeting for just this action).



GIFT ACCEPTANCE POLICY AND GUIDELINES

Driftless Area Land Conservancy, Inc. (“DALC”) is a 501(c)(3) nonprofit conservation organization whose mission is to maintain and enhance the health, diversity and beauty of Southwest Wisconsin's natural and agricultural landscape through permanent land protection and restoration, and improve people's lives by connecting them to the land and to each other. DALC encourages the solicitation and acceptance of all gifts for purposes that will help it further and fulfill its mission. The following policy and guidelines govern acceptance of such gifts made to DALC for the benefit of any of its operations, programs, or services.

I. Purpose of Policy

The Board of Directors and staff of DALC solicit current and deferred gifts from individuals, corporations, and foundations to secure the organization's future growth and accomplish its mission. This policy governs the acceptance of gifts by DALC and provides guidance to prospective donors and their advisors when making gifts. The provisions of this policy shall apply to all gifts received by DALC for any of its programs or services. This is a policy of the Board of Directors of DALC and must be created and amended by majority vote of that Board.

While this policy will greatly facilitate decisions regarding what gifts to accept and under what conditions, exceptions to the policy and guidelines will sometimes be appropriate. It will be the responsibility of the Executive Committee, with concurrence of the Board of Directors, to address and resolve such exceptions and unanticipated circumstances.

II. Directing Your Gift

DALC will accept unrestricted gifts as well as gifts for specific programs, funds and purposes, provided that such gifts are consistent with DALC's stated mission, purposes, and priorities. Donors are encouraged to make unrestricted gifts so that DALC may direct funds where they are most beneficial to support our mission. DALC staff is available to discuss these options with donors.

III. Criteria for Refusing Gifts

DALC will not accept gifts that:

- a. would result in DALC violating its corporate charter;
- b. would result in DALC losing its status as an 501(c)(3) not-for-profit organization;
- c. are too difficult or too expensive to administer;
- d. would result in unacceptable consequences for DALC; or
- e. are for purposes outside DALC's mission.

Decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Executive Committee, in consultation with the Executive Director.

IV. Use of Legal Counsel

DALC will seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate.

Review by counsel is recommended for:

- a. Gifts of securities that are subject to restrictions or buy-sell agreements;
- b. Documents naming DALC as trustee or requiring DALC to act in any fiduciary capacity;
- c. Gifts requiring DALC to assume financial or other obligations;
- d. Transactions with potential conflicts of interest; or
- e. Gifts of real estate.

V. Gifts Generally Accepted Without Review

- a. *Cash*. Cash gifts are acceptable in any form, including by check, money order, or credit card. Donors wishing to make a gift by credit card must provide the card number, expiration date, and name of the card holder as it appears on the credit card.
- b. *Marketable Securities*. In the event an individual security is gifted to DALC, it will be immediately sold and the proceeds will be reinvested into the appropriate portfolio. Marketable securities may be transferred electronically to an account maintained at one or more brokerage firms or delivered physically with the transferor's endorsement or signed stock power (with appropriate signature guarantees) attached. In some cases marketable securities may be restricted, for example, by applicable securities laws or the terms of the proposed gift; in such instances the decision whether to accept the restricted securities shall be made by the Executive Committee.
- c. *Bequests and Beneficiary Designations under Revocable Trusts, Life Insurance Policies, Commercial Annuities, and Retirement Plans*. Donors are encouraged to make bequests to DALC under their wills, and to name DALC as the beneficiary under trusts, life insurance policies, commercial annuities and retirement plans. Please inform DALC if you plan to include us in your legacy giving – we want to honor your gift during your lifetime!
- d. *Charitable Remainder Trusts*. DALC will accept designation as a remainder beneficiary of charitable remainder trusts.
- e. *Charitable Lead Trusts*. DALC will accept designation as an income beneficiary of charitable lead trusts.

DALC does not issue *charitable gift annuities*. Donors interested in a CGA may arrange one through a qualified provider (e.g., a community foundation) and designate DALC as the remainder beneficiary.

VI. Gifts Accepted Subject to Prior Review

Certain forms of gifts or donated properties may be subject to review prior to acceptance. Examples of gifts subject to prior review include, but are not limited to:

- a. *Tangible Personal Property*. DALC shall review and determine whether to accept any gifts of tangible personal property in light of the following considerations: does the property further the organization's mission? Is the property marketable? Are there any unacceptable

restrictions imposed on the property? Are there any carrying costs for the property for which the organization may be responsible? Is the title/provenance of the property clear?

- b. *Life Insurance*. DALC will accept gifts of life insurance where DALC is named as both beneficiary and irrevocable owner of the insurance policy. The donor must agree to pay, before due, any future premium payments owing on the policy.
- c. *Real Estate*. All gifts of real estate are subject to review by the Executive Committee. As a land trust, DALC has unique opportunities and challenges regarding donations of real estate. Please see the **Section VII** below for more details on our evaluation of real estate donations.

VII. Gifts of Real Estate

Prior to acceptance of real estate, DALC will assess:

- a. Whether the property 1) has conservation value according to criteria set forth in DALC's land protection ranking, and 2) furthers objectives of the current organizational strategic plan;
- b. Whether the property is marketable;
- c. Whether there exist any restrictions, reservations, easements, or other limitations associated with the property;
- d. Whether there are carrying costs, which may include insurance, property taxes, mortgage, or notes, etc., associated with the property; and
- e. Whether an environmental review reflects that the property poses environmental risks to DALC.

Real property gifts will not be accepted until a thorough due diligence review (including but not limited to a Phase I Environmental Site Assessment, title commitment, survey, building inspection report, land use permits and full seller environmental disclosures) shows that the donor has clear, marketable title to the property and that there are no outstanding easements, legal, land use, or environmental issues or conditions that would cause problems or potential liability. DALC may decline gifts where investigation indicates actual or potential liability under Wisconsin's Spills Law (Wis. Stat. §292.11) or related DNR guidance.

If a property is deemed to have significant conservation value, then the Board shall determine whether it is appropriate:

- a. to retain ownership and manage the property* to protect its conservation values; or
- b. to convey ownership to another non-profit or governmental entity that will manage the property to protect its conservation values; or
- c. to sell the property to a private owner subject to a restrictive covenant, such as a conservation easement, which will ensure protection of the property's conservation values.

*In considering the donation of land for long-term ownership by DALC, the Board, in consultation with the Executive Director and Conservation Director, will determine whether there is sufficient capacity to own and manage it responsibly. In most cases DALC cannot accept donations of land for long term ownership without an additional donation of funds to cover the cost of land management. DALC will work with potential donors to determine the value of a land management fund for the individual property.

VIII. Remainder Interests in Property

DALC may accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of Section VII, above. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the donor, DALC may use the property or reduce it to cash. Where DALC receives a gift of a remainder interest, expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or non-DALC beneficiaries during the life of the donor.

IX. Bargain Sales

A bargain sale is the sale of a good or service to a charitable organization for less than the fair market value of the good or service received. DALC may enter into a bargain sale arrangement for land in instances in which the bargain sale furthers its mission and purposes. All bargain sales must be reviewed and approved by the Board and may be reviewed by legal and/or financial counsel. Factors used in determining the appropriateness of the transaction include:

- DALC must obtain an independent appraisal substantiating the value of the property.
- If DALC assumes the debt of the property, the debt ratio for the property must be less than 50% of the appraised market value.
- DALC will endeavor to determine that it will use the property, or that there is a market for the property, allowing sale within 12 months of receipt.
- In assessing acceptance, DALC will calculate the costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period.

X. IRS Acknowledgments & Filings

DALC will issue contemporaneous written acknowledgments for all charitable contributions as required by the Internal Revenue Code. In accordance with provisions of the Internal Revenue Code and related regulations, proper records will be kept and required tax returns filed by DALC. This includes signing and returning IRS Form 8283 when submitted by a donor along with a qualified appraisal. DALC will also file IRS Form 8282 upon the sale of such asset within three years of its donation, when such asset is valued at more than \$5,000.

XI. Anti-Inflated Valuation / Tax Shelter Advisory

DALC will not participate in any transaction that appears to be an abusive syndicated conservation donation or otherwise inconsistent with Land Trust Alliance guidance, including transactions with pass-through entities where appraisals show an increase in value $\geq 2.5\times$ the investor's basis/investment within 36 months and the donation value $\geq \$1$ million, unless an applicable LTA exception is met.

Approved by Driftless Area Land Conservancy's Board of Directors on _____



Driftless Area Land Conservancy

GIFT ACCEPTANCE POLICY AND GUIDELINES

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While this policy will greatly facilitate decisions regarding what gifts to accept and under what conditions, exceptions to the policy and guidelines will sometimes be appropriate. It will be the responsibility of the Executive Committee, with concurrence of the Board of Directors, to address and resolve such exceptions and unanticipated circumstances.

Driftless Area Land Conservancy solicits and accepts gifts for purposes that will help the organization further and fulfill its mission. Driftless Area Land Conservancy urges all prospective donors to seek the assistance of personal legal and financial advisors in matters relating to their gifts, including the resulting tax and estate planning consequences.

2. Directing Your Gift

DALC will accept unrestricted gifts as well as gifts for specific programs and purposes, provided that such gifts are not inconsistent with DALC's stated mission, purposes, and priorities. DALC encourages donors to make unrestricted gifts, so that the Board of Directors may direct funds where they are most beneficial to supporting DALC's mission and conservation projects. Donors may wish to direct their gift to a specific purpose such as a current project, program, or fee-owned DALC property. DALC staff is available to discuss these options with donors.

3. Criteria for Refusing Gifts

Driftless Area Land Conservancy will not accept gifts that:

- A. would result in Driftless Area Land Conservancy violating its corporate charter;
- B. would result in Driftless Area Land Conservancy losing its status as an 501(c)(3) not-for-profit organization;
- C. are too difficult or too expensive to administer;
- D. would result in any unacceptable consequences for Driftless Area Land Conservancy; or
- E. are for purposes outside Driftless Area Land Conservancy's mission.

Decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Executive Committee, in consultation with the Executive Director.

4. Use of Legal Counsel

Driftless Area Land Conservancy will seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is recommended for:

- A. Gifts of securities that are subject to restrictions or buy-sell agreements.
- B. Documents naming Driftless Area Land Conservancy as trustee or requiring Driftless Area Land Conservancy to act in any fiduciary capacity.
- C. Gifts requiring Driftless Area Land Conservancy to assume financial or other obligations.
- D. Transactions with potential conflicts of interest.
- E. Gifts of real estate.

5. Gifts Generally Accepted Without Review

- A. Cash. Cash gifts are acceptable in any form, including by check, money order, or credit card. Donors wishing to make a gift by credit card must provide the card number, expiration date, and name of the card holder as it appears on the credit card.
- B. Marketable Securities. In the event an individual security is gifted to DALC, it will be immediately sold and the proceeds will be reinvested into the appropriate portfolio. Marketable securities may be transferred electronically to an account maintained at one or more brokerage firms or delivered physically with the transferor's endorsement or signed stock power (with appropriate signature guarantees) attached. In some cases marketable securities may be restricted, for example, by applicable securities laws or the terms of the proposed gift; in such instances the decision whether to accept the restricted securities shall be made by the Executive Committee.
- C. Bequests and Beneficiary Designations under Revocable Trusts, Life Insurance Policies, Commercial Annuities and Retirement Plans. Donors are encouraged to make bequests to Driftless Area Land Conservancy under their wills, and to name Driftless Area Land Conservancy as the beneficiary under trusts, life insurance policies, commercial annuities and retirement plans. Please inform DALC if you plan to include us in your legacy giving – we want to honor your gift during your lifetime!

- D. Charitable Remainder Trusts. Driftless Area Land Conservancy will accept designation as a remainder beneficiary of charitable remainder trusts.
- E. Charitable Lead Trusts. Driftless Area Land Conservancy will accept designation as an income beneficiary of charitable lead trusts.

6. Gifts Accepted Subject to Prior Review

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- B. *Life Insurance*. Driftless Area Land Conservancy will accept gifts of life insurance where Driftless Area Land Conservancy is named as both beneficiary and irrevocable owner of the insurance policy. The donor must agree to pay, before due, any future premium payments owing on the policy.
- C. *Real Estate*. All gifts of real estate are subject to review by the Executive Committee. As a land trust, DALC has unique opportunities and challenges regarding donations of real estate. Please see the section below for more details on our evaluation of real estate donations.

7. Gifts of Real Estate

Gifts of real estate may include developed or undeveloped property. Prior to acceptance of real estate, DALC may require an initial environmental review of the property to help the ED assess whether the real estate poses risks to DALC. When appropriate, a title binder, costs covered by the donor, shall be obtained for DALC prior to the acceptance of the real property gift.

DALC accepts donations of land for conservation purposes, and to further our mission. Gifts of real estate may be sold by DALC, unless the Board finds that real estate meets:

- a. Criteria set forth in DALC's land protection ranking criteria and priorities in the current organizational strategic plan.
- b. Such gift is in general accordance with the other needs and considerations of DALC.

Upon finding that the real property may be accepted by DALC, the ED and Board may elect to have outside legal counsel and/or financial consultants review the transaction before approval. The Board may recommend rejection of the donation upon any ground that has an adverse impact on DALC. As part of the Board's consideration the ED will report on any issues, including without limitation:

- a) Whether the property is useful for the purposes of DALC;
- b) Whether the property is marketable;

- c) Whether there exists any restrictions, reservations, easements, or other limitations associated with the property;
- d) Whether there are carrying costs, which may include insurance, property taxes, mortgage, or notes, etc. associated with the property; and
- e) Whether an environmental review reflects that the property poses environmental risks to DALC.

If a property is deemed to have significant conservation value, then the Board shall determine whether it is appropriate:

- a) to retain ownership and manage the property to protect its conservation values; or
- b) to convey ownership to another non-profit or governmental entity that will manage the property to protect its conservation values; or
- c) to sell the property to a private owner subject to a restrictive covenant, such as a conservation easement, which will ensure protection of the property's conservation values.

If you wish to donate land to DALC for our organization to own and manage in perpetuity—for example, as a nature preserve—please note that we strongly request the establishment of an endowment to cover the cost of good management of the land.

Before a donation of real estate will be accepted by DALC, a written appraisal by a reputable appraiser shall be provided by the donor. DALC may opt to have an independent appraisal done if there is a question of the original appraisal's validity.

Remainder Interests in Property: DALC may accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of Section 7, above. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the donor, DALC may use the property or reduce it to cash. Where DALC receives a gift of a remainder interest, expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or non-DALC beneficiaries during the life of the donor.

Bargain Sales: A bargain sale is the sale of a good or service to a charitable organization for less than the fair market value of the good or service received. DALC may enter into a bargain sale arrangement for land in instances in which the bargain sale furthers its mission and purposes. All bargain sales must be reviewed and approved by the Board and may be reviewed by legal and/or financial counsel. Factors used in determining the appropriateness of the transaction include:

- DALC must obtain an independent appraisal substantiating the value of the property.
- If DALC assumes debt of the property, the debt ratio for the property must be less than 50% of the appraised market value.
- DALC will endeavor to determine that it will use the property, or that there is a market for the property allowing sale within 12 months of receipt.
- In assessing acceptance, DALC will calculate the costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period.

Approved by Driftless Area Land Conservancy's Board of Directors on May 18, 2022



DRIFTLESS

AREA LAND CONSERVANCY

DRIFTLESS AREA LAND CONSERVANCY CONSERVATION EASEMENT VIOLATIONS

POLICY

Driftless Area Land Conservancy enforces the conservation easements it holds to assure the protection of conservation values. Therefore, DALC is prepared to correct violations of easement terms and to legally defend and enforce its easements when necessary.

All suspected easement violations are unique and DALC will approach each situation and potential remedy with that in mind. In all instances, legal enforcement will be pursued as a remedy of last resort.

When faced with any suspected conservation easement violation, DALC will:

- Promptly investigate and document the situation.
- Determine whether, in fact, a violation of the easement has occurred.
- Determine the cause or source of the violation.
- Assess the impact of the violation on the conservation values of the property protected by the easement.
- Establish and implement an appropriate remedy.

In order to better understand and track the nature of easement violations and their impact on the organization and the land, DALC will classify the severity of easement violations as follows:

Low or Technical Violation: A technical violation of the terms of a conservation easement that does not impact the conservation values protected by the easement. Examples of technical violations include errors or omissions in paperwork or documentation, such as failure to update a land management plan while continuing to conduct appropriate restoration work on the property.

Medium or Minor: An act or activity that is expressly prohibited by a conservation easement but does not cause substantial harm or diminishment to the conservation values protected by the easement.

High or Major: An act or activity that is expressly prohibited by the terms of a conservation easement and has or will, if allowed to continue, substantially impair

or diminish the conservation values protected by the easement.

DALC will maintain a current policy with TerraFirma, and will implement placeholder claims for any potential major or minor violation. Any judicial action taken by Driftless Area Land Conservancy requires approval by the Board of Directors. Violations and suspected violations may otherwise be handled by staff with advice from the Land Conservation Committee of the Board as may be appropriate for more serious situations. Whenever possible, DALC will work with the landowner to have the landowner correct the situation without further DALC action or involvement.

Finally, DALC recognizes the importance of evaluating the harm caused or potentially caused by the violation with the cost or benefit of the selected enforcement response. DALC prefers to resolve problems cooperatively since judicial action—which may be necessary in some situations—is also costly, time-consuming and does not include guaranteed results.

Staff will track and, at least annually, report to the Board in writing on the following:

- All discovered major and minor violations of conservation easements.
- The impact of each major violation on the conservation values of the property protected by the easement.
- The actions taken to resolve each issue.

This policy is adopted in compliance with Land Trust Alliance Land Trust Standards and Practices 2017, Easement Stewardship 11.E. Conservation Easement Enforcement. It replaces any prior DALC policies on this topic. Reviewed and Approved by Driftless Area Land Conservancy's Board of Directors <Date>.

Revision History

| Effective Date | Description of changes |
|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| 10 Nov 2020 | Initial version |
| <Date> | Combined the background section with the main body of the policy, added a Technical Violation category, and revised policy language for clarity. |

Conservation Easement Violation Procedure

Final XX July 2025

This document describes the procedure for evaluating and resolving Conservation Easement Violations. It complies with the Land Trust Alliance (LTA) Standards of Conservation, Easement Stewardship 11.E. Conservation Easement Enforcement, and the DALC Conservation Easement Violation Policy.

When a potential conservation easement violation is noted, DALC staff will

- Promptly investigate and document the situation.
- Determine whether, in fact, a violation of the easement has occurred.
- Determine the cause or source of the violation.
- Assess the impact of the violation on the conservation values of the property protected by the easement.
- Establish and implement an appropriate remedy.

Investigate and Document

When a potential CE violation is discovered, or discretionary consent may be warranted, DALC staff will

- Review the recorded CE, baseline documentation, prior monitoring reports, and any other documentation that may clarify whether the issue is a CE violation, and discuss with senior staff if there is any ambiguity about the potential issue.
- Assess the impact of the potential CE violation on the conservation values of the property as documented in the CE. Use this assessment to determine the Issue Type and Severity in Landscape.
- Document the potential CE violation photographically, usually as part of a site visit in Landscape, and ensure all CE violation-related communications are documented in LGL.
- Implement a placeholder claim with TerraFirma for all Major and Minor CE violations. Staff who can create a claim include the Executive Director, Conservation Director, Conservation Easement Stewardship Manager, or Operations Manager. Information needed to submit a placeholder claim includes:
 - Property Name

- Type of challenge: Violation, Trespass or encroachment, litigation notice, verbal or other threat of a violation, disregard of easement obligations, mediation or arbitration notice or demand, adverse claim of legal right
 - Date first learned of the problem
 - Person preparing the report
 - Contact email & phone
 - Description of the issue
 - Challenger party's info
 - Attorney info for DALC and challenger
 - Supporting files/documentation
- Document the issue within Landscape land trust software as an Issue work item within the property. The Issue will be updated throughout the investigation and remedy process until resolution.
- Issue Type
 - Threat of Violation or Trespass
 - The initial Issue Type assigned before it is determined whether the issue is a CE violation or not.
 - CE Violation
 - Issue Type once it has been established that there is, in fact, a CE violation.
 - Issue Severity
 - 1 – High or Major
 - An act or activity that is expressly prohibited by the terms of a conservation easement and has or will, if allowed to continue, substantially impair or diminish the conservation values protected by the easement.
 - 2 – Medium or Minor
 - An act or activity that is expressly prohibited by a conservation easement but does not cause substantial harm or diminishment to the conservation values protected by the easement.
 - 3 – Low or Technical Violation
 - A technical violation of the terms of a conservation easement that does not impact the conservation values protected by the easement. Examples of technical violations include errors or omissions in paperwork or documentation, such as failure to update a land management plan while continuing to conduct appropriate restoration work on the property.
 - Status
 - Active – The issue remains active until it has been remedied, determined to not be a CE violation, or has been resolved in some other way.

- Resolved – Issue has been remedied, resolved, or determined to not be a CE violation upon review.

Establish and Implement a Remedy

Throughout the process of evaluating a potential CE violation, determining the severity, and developing a remedy, DALC staff will always work with the landowner to have the landowner correct the situation without any further DALC action or involvement. Only when this avenue is exhausted will DALC staff pursue other means of resolution such as DALC implementing a remedy or legal action.

Activity related to the investigation and remedy of any CE violation will be documented within the Landscape Issue and communications will be copied to LGL.

Technical violations will frequently be remedied by working with the landowner to generate missing or update outdated documentation.

Technical and minor violations may be resolved by formally approving or accepting an action already completed by the landowner which does not have a negative impact on the conservation values, but may require prior approval or notice to DALC before implementation. An example is if the landowner exercises a right which requires prior approval without first receiving approval from DALC, or conducting a timber harvest occurring without notice but which follows a forest management plan and does not impact the conservation values.

Discretionary consent may be given when an action is not permitted per the CE, but the action supports and protects the conservation values. For example, the CE language specifically prohibits any construction outside of the existing footprint of man-made structures and the course of a river changes, making the previous footbridge location obsolete. Discretionary consent may be granted for the landowner to move or reconstruct the footbridge to cross the new course of the river.

Other remedies for CE violations may include, but are not limited to,

- Creation and implementation of a land management plan
 - For example, a landowner may be required to implement or update a management plan that addresses the concern, such as overuse of herbicide, excessive grazing, or similar.
- Requiring the landowner to cease the harmful activity
- Requiring the landowner to repair damage to the conservation values
 - For example, a landowner may be required to replant trees to infill a viewshed cut in violation of the easement.
- Amending the conservation easement
 - Amending the conservation easement is not allowed to loosen protection of the conservation values but may be used to clarify contradictory or confusing wording, or change the restricted activities or reserved rights as long as the protections to the conservation values are equal to or stronger than the original conservation easement.

If legal action is being considered, DALC Staff will

- Consult with senior staff such as the Executive Director and the Leadership Team
- Consult with DALC's legal representative
- Present the issue to the Board of Directors
 - Approval from the Board is required to pursue litigation
- Implement a placeholder claim with TerraFirma, if not previously created

Reporting

Land Conservation Committee (LCC) Reporting

A report of active conservation easement issues will be reported to the LCC at each LCC meeting, and will include the following information.

- Property name
- Issue name or description
- Issue type
- Issue severity

Annual Reporting

All discovered major and minor CE violations will be reported to the Board in writing and will include the following information.

- Property name
- Date discovered
- Summary of the CE violation
- Impact on the conservation values of the property protected by the easement
- Current status
- Actions taken to resolve the CE violation

Revision History

| Effective Date | Description of changes |
|----------------|------------------------|
| XX July 2025 | Initial version |

Current Policy
Approved in 2020



Driftless Area Land Conservancy

DRIFTLESS AREA LAND CONSERVANCY CONSERVATION EASEMENT VIOLATIONS

POLICY

It is the policy of Driftless Area Land Conservancy to enforce the conservation easements it holds as written. Therefore, DALC is prepared to correct violations of easement terms and to legally defend and enforce its easements when necessary.

All suspected easement violations are unique and DALC will approach each situation and potential remedy with that in mind. In all instances, legal enforcement is considered and will be pursued as a remedy of last resort.

When faced with any suspected conservation easement violation, DALC will:

- Promptly investigate and document the situation.
- Determine whether in fact a violation of the easement has occurred.
- Determine the cause or source of the violation.
- Assess the impact of the violation on the conservation values of the property protected by the easement.
- Establish and implement an appropriate remedy.

Whenever possible, DALC will work with the landowner to have the landowner correct the situation without further DALC action or involvement.

DALC will maintain a current policy with TerraFirma, and will implement placeholder claims, or open claims if any judicial action is being considered. Any judicial action taken by Driftless Area Land Conservancy requires approval by the Board of Directors. Violations and suspected violations may otherwise be handled by staff with advice from the Land Conservation Committee of the Board as may be appropriate for more serious situations.

Staff will track and, at least annually, report to the Board in writing on the following:

- All discovered violations of conservation easements.
- The impact of each violation on the conservation values of the property protected by the easement.
- The actions taken to resolve each issue.

Staff, with advice from the Land Conservation Committee, will also create appropriate processes and procedures to implement this policy.

This policy is adopted in compliance with Land Trust Alliance *Land Trust Standards and Practices 2004*. It replaces any prior DALC policies on this topic.

BACKGROUND

The ultimate responsibility of Driftless Area Land Conservancy is to protect and conserve the conservation values associated with each property protected by a DALC conservation easement.

Although most landowners respect—and often embrace—the provisions contained in the conservation easements covering their land, problems do arise. Non-compliance may arise from a landowner being unaware of a provision in the easement or may be the result of more serious, intentional behavior. A violation of easement terms may also be the result of a third party rather than the landowner.

Failure to comply with easement terms may be a technical issue with no adverse impact to the land or may result in irreversible damage to the conservation values the easement was created to protect.

DALC always first seeks to prevent easement violations and encourage voluntary compliance with easement terms. This includes:

- Drafting easements with clear and enforceable restrictions and allowing for enough time and flexibility for thorough easement negotiations.
- Establishing and maintaining good relationships with landowners and the communities in which easements are located.
- Documenting the conditions of the land protected with each easement at the time the easement is completed.
- Monitoring the condition of the property over time.
- Maintaining accurate records.

Nevertheless, problems are inevitable over time. Suspected easement violations require prompt and individualized attention.

DALC recognizes that there are gradations of violations, each of which must be addressed in the appropriate manner. For example, failure of a landowner to provide prior notice required under the easement before exercising a reserved right where no harm has resulted will likely trigger a different response than the building of a structure not allowed under the easement.

But while the response to each violation may be different, all violations must be addressed.

In order to better understand and track the nature of easement violations and their impact on the organization and the land, DALC will categorize violations as follows:

Minor Violations: A technical violation of the terms of a conservation easement or an act or activity this is expressly prohibited by a conservation easement but does not cause substantial harm or diminishment to the conservation values protected by the easement.

Major Violation: An act or activity that is expressly prohibited by the terms of a conservation easement and has or will, if allowed to continue, substantially impair or diminish the conservation values protected by the easement.

Minor violations will more likely be resolved by staff while major violations will require more involvement of the Board of Directors and possibly Terrafirma.

Finally, DALC recognizes the importance of evaluating the harm caused or potentially caused by the violation with the cost or benefit of the selected enforcement response. DALC prefers to resolve problems cooperatively since judicial action—which may be necessary in some situations—is also costly, time-consuming and does not include guaranteed results.

Reviewed and Approved by Driftless Area Land Conservancy's Executive Committee November 10, 2020.

Driftless Area Land Conservancy – Strategic Plan Overview – 2023-2027

| VISION, MISSION, & CONSERVATION TARGETS | GOALS | CORE STRATEGIES |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><u>VISION</u> The Driftless Area Land Conservancy (DALC) envisions Southwest Wisconsin's Driftless Area to be a landscape of resilient and diverse grasslands, oak-dominated forests, pine relicts, and healthy agricultural lands that support clean water, wildlife, scenic open spaces, and rural livelihoods.</p> <p><u>MISSION</u> To maintain and enhance the health, diversity and beauty of Southwest Wisconsin's natural and agricultural landscape through permanent land protection and restoration, and improve people's lives by connecting them to the land and to each other.</p> <p><u>CONSERVATION TARGETS</u> Our conservation targets are:</p> <ul style="list-style-type: none"> • native prairie remnants • surrogate grasslands • oak-dominated savanna and forest • pine relicts <p>By improving the health and resilience of these characteristic habitats of the Driftless Area, we are improving the health and resilience of all the people, plants and animals that depend on them.</p> | <ol style="list-style-type: none"> 1. Reduce threats to our conservation targets, particularly the threats of invasive species, lack of fire, incompatible development, and lack of resources. 2. Strengthen the connection between ecosystem services and human well-being by: <ol style="list-style-type: none"> a. Increasing agricultural systems and practices that do no harm, buffer, or improve the health of our conservation targets; b. Contributing to a thriving rural economy; and c. Growing a community that is climate-smart, protects and manages the Driftless landscape, and connects with nature in meaningful ways. 3. Grow and maintain sufficient organizational capacity to implement strategies that achieve our vision. | <ol style="list-style-type: none"> 1. Protect high quality grasslands, oak-dominated forests, and pine relicts, from incompatible development through conservation easements. 2. Manage and restore DALC-owned properties in a manner that achieves our ecological and human well-being goals, creating sites that demonstrate best management practices and provide the public with opportunities to connect with nature. Sites include: <ul style="list-style-type: none"> • Spring Valley Preserve (Belleville) • Sardeson Preserve (Mineral Point) • Erickson Conservation Area (Argyle) • Morrison Preserve (Muscoda) 3. Develop and nurture alliances and partnerships that strengthen the efforts and outcomes of each partner organization. These include: <ul style="list-style-type: none"> • Driftless Trail • Lowery Creek Watershed Initiative • Southern Driftless Grasslands • Cardinal-Hickory Creek Opposition • Iowa County Clean Local Energy Alliance - Now 4. Grow and engage target audiences through effective communications and outreach. 5. Increase the capacity of landowners to implement best practices on their property, related to our conservation targets. 6. Promote and nurture regenerative agricultural systems and practices that do no harm, buffer, or improve the health of Driftless Area natural systems. 7. Continually improve organizational capacity and administration. |

Driftless Area Land Conservancy

Project Evaluation & Approval Tracking Worksheet

Project: _____ **Location:** _____

Project Size: _____ Acres **Total Score:** _____

| | | |
|-------------------------------------|--------------------------------|-----------------------------|
| Likely Land Protection Tool: | Conservation Easement Donation | Purchase at Bargain Sale |
| | Conservation Easement Purchase | Purchase at Appraised Value |
| | Land Donation | Other: _____ |

I. Mandatory Criteria for Consideration (first 5 conditions or the 6th must be met; check all that apply)

- a. Property is within the Driftless Area of Iowa, Lafayette, Richland, Sauk, Grant Counties or western Dane or Green Counties.
- b. The projects maintains and/or enhances the health, diversity, & beauty of SW Wisconsin's natural and/or agricultural landscape.
- c. Property is 40 acres or more, or is within a priority area of DALC, a partner, or is contiguous with other protected natural lands.
- d. There appear to be no known or foreseen circumstances (political, geographical, other) that may significantly impair land protection.
- e. Project clearly meets IRS criteria for inherent public value, if it is likely a tax deduction will be claimed
- f. Special circumstances exist that warrant waiver of the above criteria

Explain item "f" if checked: _____

II. Significant Biological Resources

Choose the highest 1 of the 3 point categories that accurately describes the subject property:

A. Property contains a functional, recognized, imperiled or rare natural community (i.e. pine relict, mesic prairie, oak opening, dry prairie).

If yes, list: _____ 20 pts. _____

OR

B. Property contains a functional, recognized natural community, other than an imperiled or rare community, (i.e. southern dry, dry-mesic, or mesic forest, southern sedge meadow, dry or wet cliffs).

If yes, list: _____ 15 pts. _____

OR

C. Property contains quality surrogate habitat (i.e. pastures, grassland, tree plantation, ponds). If yes, list _____

10 pts. _____

Choose the highest 1 of the 3 point categories that accurately describes the subject property:

D. Property contains resident threatened or endangered species (state or federal). If yes, list: _____ 20 pts. ____

OR

E. Property contains rare or “state listed” species, other than threatened or endangered, (i.e. species of special concern or greatest conservation need).

If yes, list: _____ 15 pts. ____

OR

F. Property contains healthy populations of native flora and fauna.

If yes, list _____ 10 pts. ____

G. Property Acreage: _____ 45 pts. ____

Subtotal = ____

III. Significant Geological and Water Resources

A. Property contains unique, rare or highly valued geological formations, landforms, or resources (i.e. scenic rock cliffs, caves, sink-holes, etc.). 10 pts. ____

If yes, list them: _____

B. Property contains unique, rare, or highly valued water resources (i.e. cold-water stream, springs, lake, pond, wetlands, etc.). 10 pts. ____

If yes, list them: _____

C. Property serves as a significant surface-water buffer, filter, or storage area. (i.e. adjacent or drains immediately to high value waterway that would be impacted by erosion onsite) 10 pts. ____

Subtotal = ____

IV. Significant Agricultural Resources

A. At least 50% of the Property is covered by soils of prime or statewide importance 15 pts. ____

Property hosts regenerative agricultural systems that are compatible with conservation:

B. Grass-based Agriculture 10 pts. ____

C. Farmer integrated conservation best practices (i.e. contour strips, cover crops, stream buffers) 10 pts. ____

Subtotal = ____

V. Location and Connectivity Considerations

- A. Property is adjacent to natural land permanently protected by DALC or a conservation partner. If yes, list property _____ 20 pts. ____
- B. Property lies within a currently identified DALC priority area. List priority rank: 15 pts. ____
- C. Property is within a priority area of a conservation partner (i.e. WIDNR, BCA, IBA, RPBB Area, etc). If yes, list priority area _____ 15 pts. ____
- D. Property is within 3 miles of another protected property. 10 pts. ____
- E. There is a realistic potential to protect adjoining lands in the future (DALC is talking with landowners, actively working on project, et. 10 pts. ____

Subtotal = ____

VI. Other Benefits to the Public

- A. Property provides significant value to the public (i.e. adjoins or is visible from public recreation area). Explain: 10 pts. ____
- B. Property has significant recreational or educational access/value to the public (i.e. educational workshops hosted onsite, open to public, etc.) Explain: 10 pts. ____
- C. Property has significant historic, cultural, or archeaological value. Explain: 10 pts. ____

Subtotal = ____

VII. Financial, Legal, and Practical Considerations

- A. Degree to which an urgen need or imminent threat to valued resources exists due to unique circumstance or timing (i.e. at risk of development, landowner urgent need). 10 pts. ____
- B. Acquisition funds available or not necessary for project (i.e. donation). 10 pts. ____
- C. The project would provide a special opportunity for: developing our membership base, fundraising, advancing our goals in a community, or otherwise advancing an important partnership. 10 pts. ____
- D. The Property is a future host site for the Driftless Trail 20 pts. ____
- E. Property is already protected by some legal mechanism (i.e. easement), or is undevelopable or not threatened due to factors such as restricted access, steep slopes, or wetland status. -10 pts. ____

Subtotal = ____

Additional comments/explanation of financial, legal, & practical considerations:

Total Points - Check One

Total Project Points = _____

= _____

- Highest level priority (> 80%) = 300 - 240 points
- High level priority (79 - 60%) = 239 - 180 points
- Moderate level priority (59 - 40%) = 179 - 120 points
- Low level priority (< 40%) < 119 points

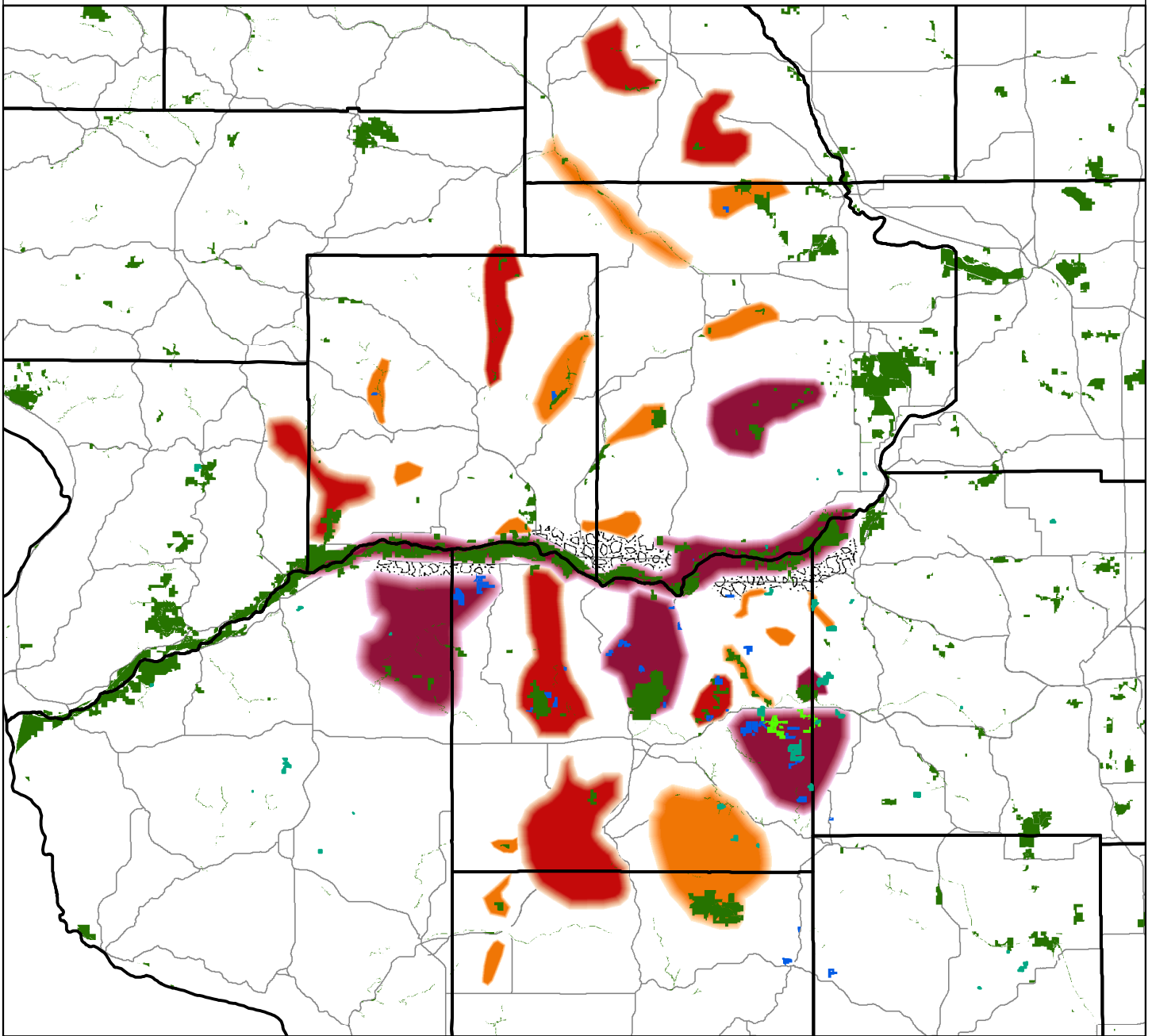
Evaluated by: _____

Title: _____

Other Considerations to be Discussed by DALC Staff at Time of Bi-Annual Project Review:

- Does DALC currently have the staff time required for this project?
- Is DALC the most suitable CE holder/owner?
- Is the proposed project the best tool based on the landowner's protection goals?
- Is the landowner motivated by financial benefits that appear dubious, or are the motivations of the landowner a potential threat to the integrity of the project or DALC?
- Do the current uses of the property compromise the conservation values?
- Is there any risk that our protection of this property would result in a negative public reaction that could outweigh the protection benefits?

Priority Conservation Areas Conservation Planning 2018



0 2.5 5 10 15 20
Miles



Driftless Area Land Conservancy
Created August 2018 A. Alstad