

April 23, 2024

Senate Environment, Climate, and Legacy Committee

Re: SF 3887, Article 4 Section 5 subd 2 Abolish Upper Sioux Agency State Park and Section 11 Redwood County State Land Bordering Public Waters

Dear Members:

I represent a large group consisting of historians, descendants of victims of the 1862 massacre that occurred on the grounds referred to in the sections above, current Yellow Medicine County landowners (4th and 5th generation dating to the 1870s), Minnesotans, and nonprofits who are adversely affected by the transfer of the Upper Sioux Agency State Park (section 5) and Historic Site and Redwood County land (Section 11) to Indian tribes.

With regard to Article 4, Section 5, subdivision 2, no communication or approval has been received from the **State Historic Preservation Office who is in charge of the State's Historic Site** listings including those found in Upper Sioux Agency State Park. This Office is not part of the nonprofit MN Historical Society and its powers are not of the nonprofit or any executive board, but of the Department of Administration since 2018. **Three county boards of commissioners** (letters under HF3508 <https://www.house.leg.state.mn.us/comm/docs/ut0daQnrq0i0P-RaRClsPQ.pdf> ; Chippewa, Renville, Yellow Medicine) have publicly stated their suspicion of the public land being **wrongfully transferred under federal code**. The lands were purchased from private land owners using federal funds (Land and Water Conservation Funds) and the LWCF Act requires strict accounting of the land for **perpetual public recreational use** under Section 6(f) referred to as **anti-conversion; no such report has been completed**. Not a single federal procedure has been completed because there has not been a single 30 day “public comment” period nor any proper publication notice. **Federal legislation and repayment was not addressed in the mandated report** required under 2023 Laws, chapter 60, article 4, section 97 leaving the state responsible for funds received from the federal government not addressed by the \$250,000 defeasement allotted which only addressed state capital investments.

More profound is the Governor's choice to transfer the property to the nearest Indian tribe, not the Indian tribe that occupied the land prior to 1851 per Indigenous history and US Treaty. **Governor Walz continued the errors made by Alexander Ramsey and the Dakota** in the 1851 treaty of Mendota and Traverse des Sioux created by an 1840s map. The state park land was assigned to the Upper Sioux Community's ancestors; their ancestors did not occupy the land – the Yankton and Yanktonai Sioux occupied the land according to 1851 and 1858 Treaty (1858 Yankton Treaty). Regardless, **both tribes agreed to drop all land claims in the federal Indian Claims Commission dockets** – a federal entity created in 1946 to address treaty wrongs and settle land disputes.

Now, **several landowners are now without public access to their private property**. There has been no resolution to the issue of public right-of-way. The lack of access **includes emergency**

vehicle access; these homes and businesses are not within the reservation but use the road that was paid for with federal funds and transferred to the tribe rather than the county. Surveys remain in dispute leaving **legal title of the property in question**. Private land owned by the same family since the 1870s continues to experience changing property lines that have yet to be resolved by the DNR.

Lastly, the DNR took federal funds from the Federal Highway Administration's Recreational Trails Program in 2019 for the Park's trail maintenance. This was done by the DNR with FULL knowledge the **park and trails were to remain open through 2039, a twenty year time period**. The MN Trail Riders Association has the documentation (contract attached to this letter) and provided the funds that were matched by the federal program.

2023 law does not require transfer of Upper Sioux Agency State Park. Nowhere in 2023 Laws, chapter 60, article 4, section 97 does it state **when** the Park is to be transferred only that it "must" be with regard to the DNR and "may" referring to the historic site inside the Park's boundaries. As there are **numerous unanswered questions** including surveys of State owned/park land and private land owned for more than 100 years by the same family (John Ihms), **no access to private property, and no replacement land under federal requirements** not identified by the mandated report, and an **existing clause requiring the Park to remain open through 2039** under federal FHWA matching grant programs, not to mention **transfer to the wrong Sioux tribe**, this section need not be included in the lands bill until all formalities are ironed out. Further, the Department of Administration's State Historic Preservation Office has not been involved in 2023 law or process as required by federal code and **no public comment period has been taken** (community meetings in 2023 were not advertised under the Federal Register and no Section 106 information was provided at any of the three meetings). The Governor's move to transfer the land was premature and will require nullification.

Article 4 Section 11 Redwood County land contains 3 to 7 singular burial mounds according to 1887 surveys documented in the pamphlet, *"The Aborigines in Minnesota; a report based on the collections of Jacob V. Brower, and on the field surveys and notes of Alfred J. Hill and Theodore H. Lewis, collated, augm. and described by N.H. Winchell"* and published by the Minnesota Historical Society in 1911. The mounds are more than 100 ft above the river and **in no jeopardy** in state ownership as the record supports. (pamphlet pages 114-115) **Current state statute permits uniform application of parties seeking visitation for spiritual purposes**; tribal ownership makes no such guarantee. **No current federally recognized Minnesota tribe constructed the mounds** as the current Dakota tribes did not arrive in southern MN until the mid-18th century (see above pamphlet, pages 399-408; available online).

The parcels are **downstream from the location of the civil war era Battle of Redwood Ferry** where 23 soldiers and an interpreter were killed with three soldiers' remains never recovered from the shoreline and river battle. The shorelines and river were the main escape route used by unarmed civilians (of which 400 remain unaccounted for from the US – Dakota War of 1862).

Once the MN River and its shorelines have been **searched by technology and cadaver dogs** and the descendants of mound builders, missing civilians and US Army privates McAllister, Kusda, and Shepherd of Company B, 5th Minnesota Volunteer Infantry, have been informed and included, then the issue of land transfer can be discussed. To do so now is an insult to **descendants who visit these state properties** in search of connection and peace with their families' traumatic history. Contrary to DNR opinion, these parcels have not been included in previous bills heard by any committee; the public has had no chance to weigh in on the land's meaning and importance.

SF 3887 Article 4 Sections 5 Subdivision 2a and Section 11 are not eligible to be declared surplus state property because **they are hallowed ground. Neither has been given opportunity before committee for discussion and neither is required by 2023 laws.** Please remove Article 4 Section 5 Subd. 2a and Section 11 from SF3887. Article 4 contains sections that have not been addressed by the public or reviewed by legal counsel and deserve adequate address on both fields before legislative action creates further problems for the state to defend, repay, or correct.

On behalf of the thousands of people affected by the historic events on Redwood County and Upper Sioux Agency State Park and Historic Site proposed to be declared surplus and present Minnesota taxpayers and property owners,

Stephanie Chappell

Historian, 5th generation Minnesotan, Federal Signatory/Consultant Section 106 Process

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**STATE OF MINNESOTA
GRANT CONTRACT
Federal Sub-Award Agreement
Project # 0005-18-S**

This grant contract is between the State of Minnesota, acting through its Commissioner of Natural Resources ("State") and Minnesota Trail Riders Association, 3115 110 St NW, Oronoco, MN, 55960 ("Grantee").

Recitals

1. Under Recreational Trail Program (F RTP), United States Department of Transportation, Federal Highway Administration, CFDA #20.219, TRAL024, the State received a federal award of \$2,869,534, of which \$27,000 was sub-awarded to the Grantee on October 12, 2018 to help maintain and improve trails and campgrounds in parks and forests for all users. and as provided in Minnesota Statutes, section 84.026. This project is not a research and development project.
2. The State sub-awards to the Grantee for the purpose of conducting the program entitled Trail & Campground Improvement & Maintenance in the approved Project Scope and Budget that is attached hereto as Attachment "A" which is attached and incorporated into this grant contract.
3. The Grantee represents that it is duly qualified and agrees to perform all services described in this grant contract to the satisfaction of the State.

Grant Contract

1. Term of Grant Contract

- 1.1. **Effective date:** This contract becomes effective on May 6, 2019 or the date the State obtains all required signatures under Minn. Stat. §16B.98, Subd. 5, whichever is later. Per Minn. Stat. §16B.98 Subd. 7, no reimbursements will be made to the Grantee until this grant contract is fully executed. **The Grantee must not begin work under this sub-grant contract until this contract is fully executed and the Grantee has been notified by the State's Authorized Representative to begin the work.**
- 1.2. **Expiration date:** The contract shall remain in effect until June 30, 2021, or until all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3. **Survival of Terms:** The following clauses survive the expiration or cancellation of this grant contract: 9 Liability; 10 Audits; 11 Government Data Practices and Intellectual Property; 13 Endorsement; 14 Governing Law, Jurisdiction, and Venue; 16 Data Disclosure; 19 Monitoring; and 25 Additional Program Requirements.

2. Grantee's Duties

The Grantee, who is not a state employee, will:

The Grantee will comply with required grants management policies and procedures set forth through Minn. Stat. §16B.97, subdivision 4 (a) (1).

The Grantee shall operate the Project or cause it to be operated as outlined in the approved Project Scope and Budget that is attached hereto as Attachment "A" which is attached and incorporated into this grant contract. The Grantee agrees to complete the Project in accordance with the approved budget to the extent practicable and within the program period specified in the grant contract. Any material change in the grant contract shall require an amendment by the State (see Section 7.2). The application has been approved by the Grantee's appropriate governing entity as evidenced by Attachment "B" which is attached and incorporated into this grant contract.

The Grantee shall not, prior to twenty years after the date of completion of the project, at any time convert any property acquired or developed pursuant to this contract to uses other than those specified in this contract without the prior written approval of Grantor. The Grantee must maintain property developed as per this contract in a manner consistent with the original purpose of this grant.

The Grantee shall be responsible for the administration, supervision, management, record keeping and program oversight required for the work performed under this contract.