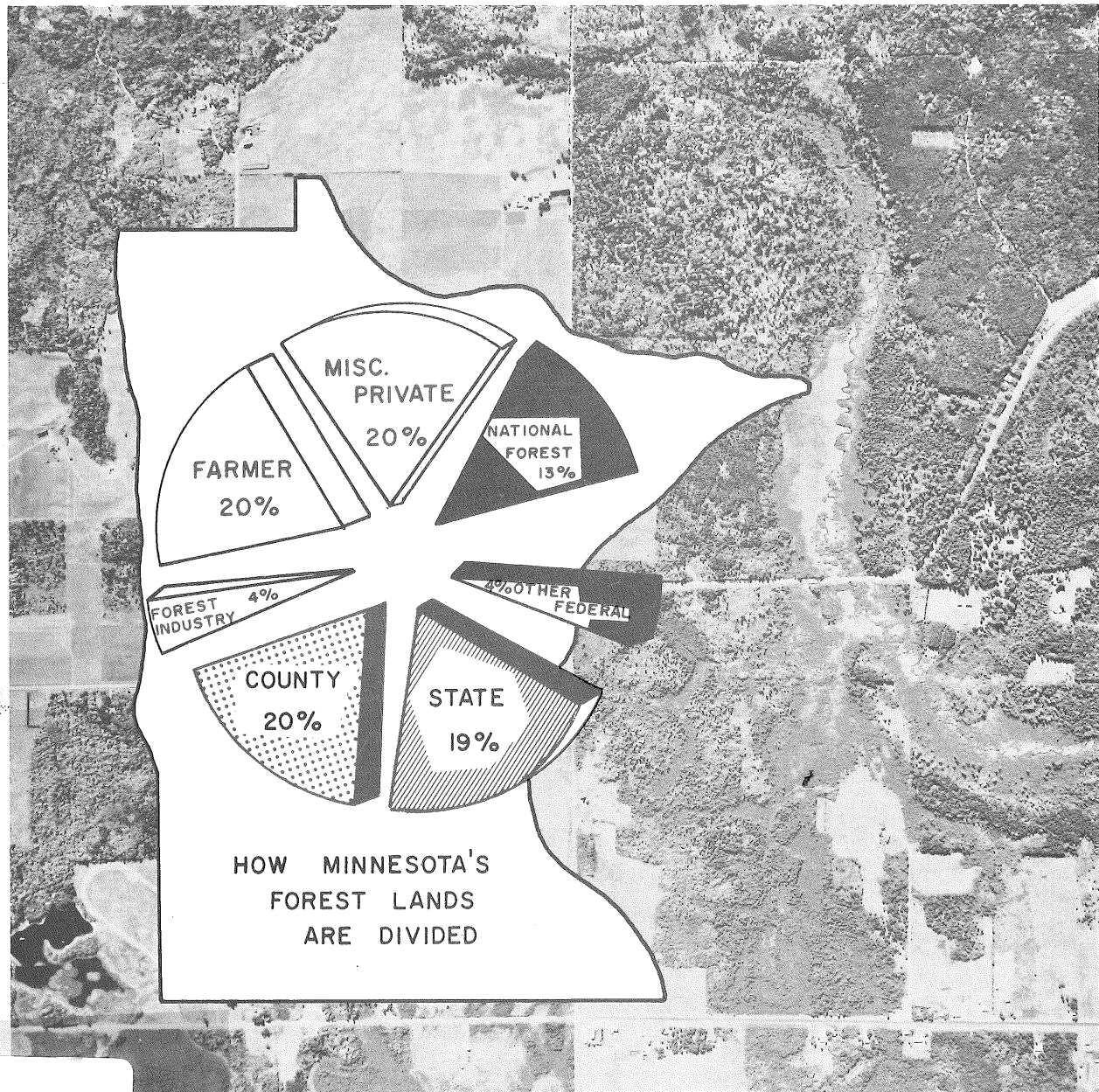


# LAND EXCHANGE STUDY REPORT



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MINNESOTA DEPARTMENT OF CONSERVATION  
DIVISION OF LANDS AND FORESTRY

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# MINNESOTA CONSERVATION DEPARTMENT

## DIVISION OF LANDS AND FORESTRY

St. Paul, Minnesota

### LAND EXCHANGE STUDY REPORT

JANUARY, 1969

#### Consultants:

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## ACKNOWLEDGMENTS

In a study of this scope, it is not possible to mention all of those who contributed generously of their time when contacted by the Consultants.

Following is a partial list of individuals who gave information of value in the preparation of this report. Although a significant number of individuals contacted are in agreement with the recommendations of the Consultants, some are not in agreement.

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Vern Gunvalson, Division of Game and Fish  
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J. K. Vessey, U. S. Forest Service  
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R. V. Sutter, St. Louis County Land Commissioner  
Gil. Sabin, Cass County Land Commissioner  
Mike Miller, St. Louis County Zoning Administrator  
Donald Ferguson, Lake County Board of Commissioners, 5th District  
R. U. Hagman, Consolidated Papers, Inc.  
Wm. MacConnachie, The Northwest Paper Company  
F. T. Frederickson, Boise Cascade Corporation  
Neil McKenna, Kimberly-Clark Corporation  
Ed. Gorman, Forest Industries Information Committee  
M. R. Allen, Minnesota Timber Producers' Association  
M. J. Latimer, Blandin Paper Company  
John P. Sullivan, Park Region Timber Company  
W. F. Betzler, Jones & Laughlin Steel Corporation  
L. D. Bertolas, Jones & Laughlin Steel Corporation

Members of the Senate Public Domain Committee, House Recreation and Water Resources Committee, Minnesota Resources Commission, State Planning Agency, Land Exchange Review Board, and the Minnesota Lands and Forestry Advisory Committee have shown continuing interest in the study.

## INTRODUCTION

Following a meeting on September 19, 1967, between representatives of the Conservation Department and the State Planning Agency to assure coordination, Chief Consultant R. N. Cunningham, co-author of the book "Minnesota Lands," was retained to be in overall charge of this study December 11, 1967. Approximately one month later in January, 1968, Mr. Paul J. StAmant and Mr. Jacob N. Licke were hired to assist Mr. Cunningham.

An informal advisory committee within the Conservation Department, Division of Lands and Forestry, was appointed to assist and advise Mr. Cunningham. Before establishing the study program, other divisions of the department and a number of interested agencies were contacted. It was necessary to review a large amount of background material prior to firming up the work program.

At this stage, it became apparent that the completion of final long-range land exchange plans were dependent on the solution to the complex problem of adequate land use planning, which is complicated by uncertainties as to the extent of mineral values on state lands, and the uncertain effects of the proposed Voyageurs National Park, together with a review in progress of national forest organization and objectives.

The summary of the book "Minnesota Lands"\* 1960 contains these notations: "Minnesota has one of the most complex patterns of land ownership in the United States. It is unique in the large amount of forest and related lands in county ownership and decidedly unusual in the small amount of industrial ownership." "State, county, federal, industrial, and other private lands are so intermingled as to greatly hamper effective administration and management. Boundary adjustments and consolidations of ownership are an urgent need."

The same book traces the origin of the complex ownership pattern, including (1) disposition of 96 percent of the original public domain in grants to the state, sales to individuals and corporations, homestead patents, etc., (2) similar disposition of more than two-thirds of the 16.4 million acres granted to the state, (3) sale of corporation land to settlers after removal of timber, and (4) reversion of millions of acres to public ownership via tax-forfeiture.

\*MINNESOTA LANDS, Ownership, Use, and Management of Forests and Related Lands, by Samuel Trask Dana, John H. Allison, and Russell N. Cunningham, American Forestry Association, 919 17th St. N.W., Washington D. C. 22206 (1960).

The difficulties in protecting and managing lands in this complex situation can be readily seen. They include excessive travel by administrative personnel, necessity of running out of property lines and marking boundaries, need for easements when building roads and trails, vigilance in preventing trespass, inability to carry out large-scale reforestation projects or to regulate water levels without time-consuming and sometimes costly agreements. Mixed ownership reduces the opportunity for balanced multiple-use and sustained-yield management. These difficulties increase progressively as the demands for more recreational facilities, more roads and trails, more intensive forest management increase.

Most of the public agencies, and some private corporations have been making efforts over the years to effect consolidation by means of sales, purchases, and land exchanges. This report is concerned primarily with land exchange as a tool for improving the position of state and other agency land holdings.

State land management is complicated by a number of things in addition to the land's location relative to that of other landowners.

It is divided as to legal status into several classes of trust fund land, several categories of acquired land, and several special categories which determine how it may be used, how revenue from it is treated, and in what manner the land may be traded or sold.

The state land has a wide range of physical characteristics. Close to half of the land is swamp, some so poor that no other owner wants it. The remainder consists of rocky and stony lands, sandy or gravelly areas, poorly drained heavy soils, and some level or gently rolling loamy lands limited for agricultural use only by unfavorable climatic conditions and poor location. It includes a large number of lakes and some valuable mineral properties.

The various types of land under the jurisdiction of the Department of Conservation have different appeals to the several administration divisions. The Division of Game and Fish, for example, has greatest interest in wetlands and more open grassy and brushy areas. This division favors a wide geographic dispersal of game management units. The Division of Parks and Recreation, the Planning Bureau, the Division of Enforcement and Field Service, and other branches have special interest in lands fronting on lakes and streams.

The Division of Waters, Soils and Minerals wants to retain mineral rights in the possession

of the state and to increase these wherever feasible. It does not favor disposing of surface rights in recognized mineral zones. In speculative areas, it believes that a checker-board pattern of ownership provides greater likelihood of mineral discovery. These varying interests complicate the processing of desirable land exchanges, especially when large acreages are put together in a single proposal.

The various proposals for manipulating distri-

bution of lands have raised the question of "What is a desirable division of ownership between public and private owners and between several levels of government — federal, state, county, and municipal?"

The writers cannot answer this question with certainty at this time. Rapidly changing conditions suggest that the most desirable proportion may change with time. The present pattern is about as follows:

**TABLE A**  
**LAND OWNERSHIP IN MINNESOTA — JUNE, 1964<sup>1</sup>**

COUNTY GROUPS	PUBLIC					
	Federal	State	County	Total	Private	Total
14 NE Counties <sup>2</sup> .....	21.5	24.5	19.0	65.0	35.0	100.0
10 NW Red River Counties.....	2.6	7.2	3.7	13.5	86.5	100.0
Remainder of State.....	0.3	1.9	1.0	3.2	96.8	100.0
Total State.....	7.9	10.5	7.5	25.9	74.1	100.0

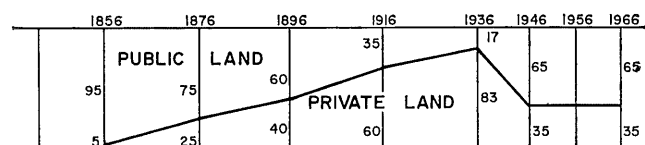
<sup>1</sup>From MORRC Staff Report #6 "Minnesota Land Ownership."

<sup>2</sup>Northeast Group, plus Aitkin, Carlton, Crow Wing, and Pine.

The large public ownership in the northeast is not the result of deliberate public policy so much as economic and climatic conditions which have made it difficult for agricultural or private forestry development.

In 1856, 95 percent of the land in the 14 northeastern counties was in public ownership. During the next 80 years, public policy dictated transfer to private hands and about 83 percent became privately owned. Then, during the early 1930's, tax-forfeiture reduced private ownership to 35 percent where it has remained fairly stable since.

Trends in Land Ownership, Northeastern Minnesota, 1956-1966\*



There are evidences of some increase in interest in private ownership in northern Minnesota —

\*Extension of chart by A. D. Wilson: "Progress in Development of a Land and Timber Management Program in Northeastern Minnesota." Agr. Exp. Sta. Univ. of Minnesota, June 12, 1944.

some buildup in industrial forestry, more urban people seeking tracts of wild land for camping and hunting, new types of agriculture, such as beef raising and wild rice production. On the other hand, the national agricultural program is still trying to restrict, if not reduce, crop acreages. The situation calls for flexible adaptations, but no broad policy change in administration of public lands.

As to division of acreage between federal, state, and county ownership, a decision does not appear urgent. The important thing now is to get the best possible management on the lands in question. The need for improved services is so great that, whatever agency has the desire and facilities to make a contribution, should be encouraged to do so.

This report develops the idea of maintaining and strengthening county forest management, creating an efficient balanced use of state-owned properties, bringing forest industries into the land planning process, working out mutually advantageous land adjustments with the U. S. Forest Service and other public and private agencies. It is also aimed at clarifying objectives and improving management up to the time that exchanges can be made.

## SUMMARY OF MAJOR CONCLUSIONS AND RECOMMENDATIONS

### Land Classification

Before the State and counties can proceed with confidence in land exchanges and land disposal they have need for a realistic review of their management-unit pattern in the light of current conditions and prospective future demands.

Recommendation: The Department of Conservation, jointly with the northern counties should, within the next couple of years, classify their lands broadly into two categories: (1) **Management Units.** State and tax-forfeited lands suitable for management as parks, game management units, multiple-use forests, or special use tracts. (2) **Other Lands.** They should proceed with the first group to prepare plans covering jurisdiction and management. They should classify the "Other Lands" in detail to reach conclusions on proper disposition, i.e., permanent or temporary retention, sale, or exchange.

### CHAPTER I

#### State Aid to Counties

Northern counties are making progress in managing tax-forfeited lands but most are having difficulty financing development activities. Imminent termination of Iron Range Resources aid will be seriously felt. The State of Minnesota has a very real concern in the treatment of these lands in that they serve the same general purpose as other state lands — for recreational use, hunting and fishing, timber production, etc. The State is justified in providing tangible aid to the counties.

Recommendation: The Department of Conservation should be authorized and enabled to provide aid to the northern counties in the form of (1) assistance in land classification, (2) matching funds to upgrade the position of Land Commissioner, (3) 15 cent per acre allotment of state funds for development of memorial forests (paralleling somewhat the Wisconsin system), (4) some practical help with quarters and communication, and (5) technical services. Estimated annual investment \$325,000.

### CHAPTER II

#### Land Exchanges with National Forests

The unsettled mineral situation, uncertainties about the proposed Voyageurs National Park and other factors which brought on the 1965 "moratorium" preclude immediate agreement between the State and National Forests on long-range exchange plans. Yet a number of things can and should be done to improve the situation.

Recommendations: (1) the agencies should attempt immediately to process a few small (2500 to 3500 acre) and non-controversial exchanges to regain momentum on a program which has been operating to mutual advantage since 1948; (2) they should continue studies and negotiations leading to agreement on a long-range plan as soon as present major difficulties can be overcome; (3) they should seek a high-level conference (between representatives of the Governor and Secretary of Agriculture) to resolve certain questions of major policy and to consider alternatives to present methods of exchange.

### CHAPTER III

#### Other Intermingled Lands

Small-scale land exchanges continue to have productive results in ownership consolidation in cases involving mining companies and forest industries. They have been useful in settler relocation and in adding crop and pasture lands to farms. They have helped to implement both federal and state wildlife programs. Such exchanges make up a large part of the day to day activity of the land exchange personnel and doubtless will continue to do so for some time.

Land exchanges have not been effective in consolidating ownership or eliminating jurisdictional overlaps in the case of Indian Lands, Land Utilization Project areas, or federal public domain (BLM) lands. Each of these land holding groups has peculiar conditions which defer moves to consolidate.

### CHAPTER IV

#### Voyageurs National Park

The fact that about seven-eighths of the value of non-federal property in the proposed park area is represented by water-front values, only one-eighth by interior land and timber values makes acquisition by means of land exchange extremely difficult. If complete federal ownership is necessary, outright purchase by the National Park Service would seem to be the simplest and most expeditious method of acquisition and would avoid conflict with existing state-federal land exchange understandings.

### CHAPTER V

#### Overcoming Obstacles

Land exchanges, which in theory offer a direct and practical means for consolidating ownership, have in practice encountered numerous obstacles

which slow progress and in some cases prevent completion of exchange.

**Recommendations:** The Department of Conservation should examine its own procedures and should seek the help of its collaborators in overcoming these obstacles. Among the possibilities:

- (a) A Land Exchange Coordinator should be added to the complement of the Division of Lands and Forestry to expedite processing of exchange cases and to keep the Land Exchange Review Board informed on exchange proposals.
- (b) The legislature should take steps to provide a marketable title for tax-forfeited lands.
- (c) The Department and the counties should seek the participation of private land owners and forest industries in preparation of management plans for state and county lands and should take account of their constructive suggestions on land exchanges.
- (d) The Department should support an accelerated program of geological surveys in the mineral zones so that areas of real potential can be identified and other areas released for sale or exchange. The State of course should reserve mineral rights on all lands given up.
- (e) The Department and the Land Exchange Commission should reexamine their positions on exchange of lands with the federal government across county lines, and on public waters, considering the advisability of some greater flexibility in policy.
- (f) The Department should give serious thought to the possibility of exchanging surplus land in northern Minnesota for land in the Hardwood Memorial Forest and cer-

tain State Parks in southern Minnesota and should present its recommendations to the Land Exchange Commission.

## CHAPTER VI

### State Organization

The proposed increase in state cooperation with counties in land management together with increasing participation of personnel in county land-use planning and frequent contacts with other county-oriented agencies suggests the desirability of some restructuring of the forestry field organization.

**Recommendation:** The Division of Lands and Forestry should give serious consideration to the feasibility of making northern "Area" units conform to counties or groups of counties as is now the case in southern Minnesota. Where this is not practicable, a single Area Forester nevertheless should be designated to represent the Division in each county.

## CHAPTERS I and II

### Interim Arrangements

In view of the many obstacles to rapid progress in land exchanges, the study group believes that a major portion of the attention of public agencies during the next few years should be directed toward interim arrangements to improve the management of the intermingled lands. These arrangements may be sought through such channels as (1) cooperation between State, counties, and federal agencies in land classification and management planning (CHAPTER I), (2) integration of state and county management (CHAPTER II), and (3) harmonizing of operations within National Forests and considering greater use of cooperative agreements, leases, and easements (CHAPTER III).

# CHAPTER I

## FIRST STEP LAND CLASSIFICATION

### (Organization of Public Lands for Management)

#### Need for Classification

The principal reasons for the proposals made in this Chapter can be briefly stated:

The State of Minnesota owns approximately nine million acres of land, mostly in the northern part of the state. The Department of Conservation is directly responsible for a little more than five million acres (57 percent), counties administer about 3.5 million acres (40 percent), and the Department of Highways and various state institutions have the remaining 3 percent.

Of the lands under the Department of Conservation, 57 percent are in state forests, 7 percent are in game and fish management areas, 3 percent are in state parks. That leaves 33 percent in unorganized status.

Of the lands under county control, about one-third are in memorial forests; the remainder unorganized.

Before the state and counties can proceed with confidence into large land exchanges, and before they can adopt a good land disposal policy, they have need to re-examine the pattern of public management units and reach some decisions on what to do with the undedicated lands — in short, to make a realistic land classification.

A clear-cut pattern of state forests, game management units, and state parks is obviously needed as a basis for land exchanges with the federal government. This is the immediate reason for starting the work.

The field work will draw upon services of men in all divisions of the Conservation Department, should stimulate close cooperation between these divisions in actual land management.

State - administered and county - administered lands are thoroughly intermingled both within state forests, within county memorial forests, and in undedicated areas, so it is logical that the two agencies should cooperate in making classifications. Cooperation with national forest personnel should be possible in a number of locations and also with private landowners.

A cooperative study with the counties hopefully will lead to some joint management operations where state and county holdings are intertwined, thus obviating need for costly and difficult land exchanges.

Joint planning with federal agencies, and private landowners may introduce a new era of co-

operation in conservation and land-use planning where they all have a common interest.

For these reasons, the proposition appears to be well worthwhile.

#### Basic Proposal

The analysis proposed here can be considered a first phase land classification of state land under the jurisdiction of the Department of Conservation and the tax-forfeited land under county supervision.\*

**Step 1.** The Department, jointly with the northern counties, will establish boundaries for logical conservation MANAGEMENT UNITS, based upon county zoning plans, the ownership pattern, character of land, and accessibility from feasible administrative centers. These may be state units, county units, or units under joint management.

**Step 2.** They will classify the lands within the MANAGEMENT UNITS along rather broad lines as to suitability for various uses, such as recreation, fish and game management, multiple-use forestry, or simply custodial care. They will then proceed systematically into more detailed planning of management activities wherever plans are not already in effect and to working out details of jurisdiction and administration.

**Step 3.** The two agencies will continue with a careful examination and classification of state and county lands lying **outside** of designated MANAGEMENT UNITS. They will try to identify:

- (a) Surplus lands which should be offered for sale.
- (b) Surplus lands which for one reason or another should not be sold at this time; that is lands to be retained provisionally.
- (c) Tracts likely to be needed for some specific public purpose and therefore to be retained.
- (d) Surplus state and county lands which may be valuable to other agencies "trading stock."

\*Land Classification is not a new experience for the Division of Lands and Forestry. As early as 1928, classification crews covered thousands of acres of northern Minnesota and laid the basis for some of the first state forests. Task forces from the Department, with representatives from Fisheries, Lands and Minerals, Waters, Parks, Game, and Forestry, made a resource study of Mahanomen County in 1959 and later of Kittson, Marshall, and Beltrami counties. Over a period of three decades, the Division of Lands and Forestry has prepared timber type maps, timber inventories, budgets for timber cutting, game production plans, and recreation plans for state forests and other state lands under its jurisdiction.

The new dimension in the current plan comes from inclusion of 1,600,000 acres of undedicated state lands recently transferred to the Division of Lands and Forestry, and the provision for county participation.

### General Organization and Procedure

The analyses will be made on a county-unit basis. The state representative on the ground will usually be a field man, such as an Area Forester. This man will maintain close contact with field representatives of other divisions of the Department. Also, he will have technical guidance from a classification supervisor in the office of the Division of Lands and Forestry.

The county representative will normally be the County Auditor, County Land Commissioner, or some other person designated by the County Board. (Foresters employed by the Iron Range Resources Commission have good qualifications to assist the county representatives in the field work.)

It is assumed that one or two-man field examiners will be able to classify the bulk of the public lands — those portions that lie in rather remote localities and obviously have no other value than for conservation. To assist with analysis of marginal situations, there should be a technical advisory committee in each county. The make-up of these committees will vary from county to county but should include persons well acquainted with local agriculture, recreation and industrial needs. The committees should not be too large and should consist of men willing and able to spend a day in the field from time to time.

Periodically, the county representative on the classification team should make a progress report to the County Planning Commission, or the County Board.

### Cooperative Aspects

Basically, the classification project outlined is a state and county undertaking, but inevitably it will demand close cooperation with other agencies and individuals.

Within and adjacent to the national forests, the state and county plans will be affected by the plans for the surrounding areas and the opportunities for cooperative action. Moreover, the several agencies can benefit from joint analysis of economic and social trends in the area. To a large extent, they will be working toward a common objective.

In marginal agricultural areas, where difficult decisions on proper use of public lands will be required, the classification teams will need advice

from county planning groups, agricultural agents, soil conservationists, and other specialists.

In commercial timber areas, help of timber users will be needed in planning for sustained yields of the kinds of timber that will be in greatest demand. Where private holdings are intermingled with state and county lands, some cooperative planning should be possible. When substantial acreages of forest industry lands are included, representatives of industries will be invited to participate in the analysis.

In mineral areas, industrial needs will assume great importance. In lake areas, the interests of resorts and summer home owners will need to be taken into account. Throughout the area, the views of local residents and taxpayers will need to be considered.

The importance of these contacts is the primary reason for proposing the classification project on a county-unit basis. The county is a place where most of these interests come together at a local level.

### Pilot Analysis of St. Louis County

St. Louis County, by far the largest county in the state, has some unusual conditions that affect the possibilities for land exchange and land management such as the Boundary Waters Canoe Area, the proposed Voyageurs National Park, and the large acreage of public lands with proven or possible mineral value.

The State of Minnesota owns 582,275 acres in St. Louis County of which the Department of Conservation has jurisdiction over 568,949 acres.

Division of Lands and Forestry	562,080 acres
Division of Game and Fish	1,380 acres
Division of Parks and Recreation	5,489 acres *

St. Louis County itself administers 1,012,537 acres, including 524,327 acres in designated memorial forests.

### Preliminary Investigations

One of the consultants, acting as agent for the Conservation Department, started the St. Louis County analysis in early February, 1968.

He first discussed the problem with local department men in the Division of Lands and Forestry; Division of Game and Fish; and the Division of Waters, Soils and Minerals and obtained their thinking on administration and land management.

He then conferred with the County Auditor, members of the County Board, and the County Land Commissioner and obtained valuable background information and detailed maps of rural zoning from the County Planning Agent.

He made contact with the U. S. Forest Supervisor and learned of the Forest Service's objectives and that agency's ideas on land adjustments.

He interviewed agents of the principal forest industries operating in the county.

He talked with a number of individuals, including staff of the University of Minnesota at Duluth; local representatives of the School of Forestry, University of Minnesota; and the North Central Forest Experiment Station.

From these discussions, he obtained a good idea of the problem and a number of constructive suggestions for solution.

### State Administrative Pattern

To help visualize the possibilities for cooperation between the State Department of Conservation and St. Louis County, the consultant assumed certain alterations in the area and district boundaries to trim them on county lines and to eliminate some areas within the National Forest which appear impractical to administer from State headquarters. In these assumptions, he reduced the number of districts from 15, partially within the county, to 8, wholly within St. Louis County. (Figure 1) He did not go into area organization but assumed that some adjustments would be required. He provided one new feature of major significance. That was a State Land Manager at or

close to Duluth, who will have general supervision of the activities of the Division of Lands and Forestry in the whole St. Louis County. He visualized this manager as one who will be responsible for maintaining cooperative relations with other divisions of the department, as well as with the County Land Commissioner and U. S. Forest Supervisor, and one who will represent the Division of Lands and Forestry in land-use planning and various other activities related to land and resource management in St. Louis County. Because of the large size of state holdings in this county and the complexity of conditions with which he must deal, this man should be of high caliber.

The proposed district boundaries are sufficiently close to existing lines that the district foresters can make use of existing plans for care of state lands, including a timber inventory, a timber cutting budget, reforestation schedule, policy statement on wildlife development, recreational plan, etc.

On Fig. #1, certain areas have been shown as "Not in Management Units." The northernmost one is the Kabetogama Peninsula, which is the site of the proposed Voyageurs National Park. The other two lie within the Superior National Forest and include scattered state holdings, which are rather impracticable to manage as independent units.

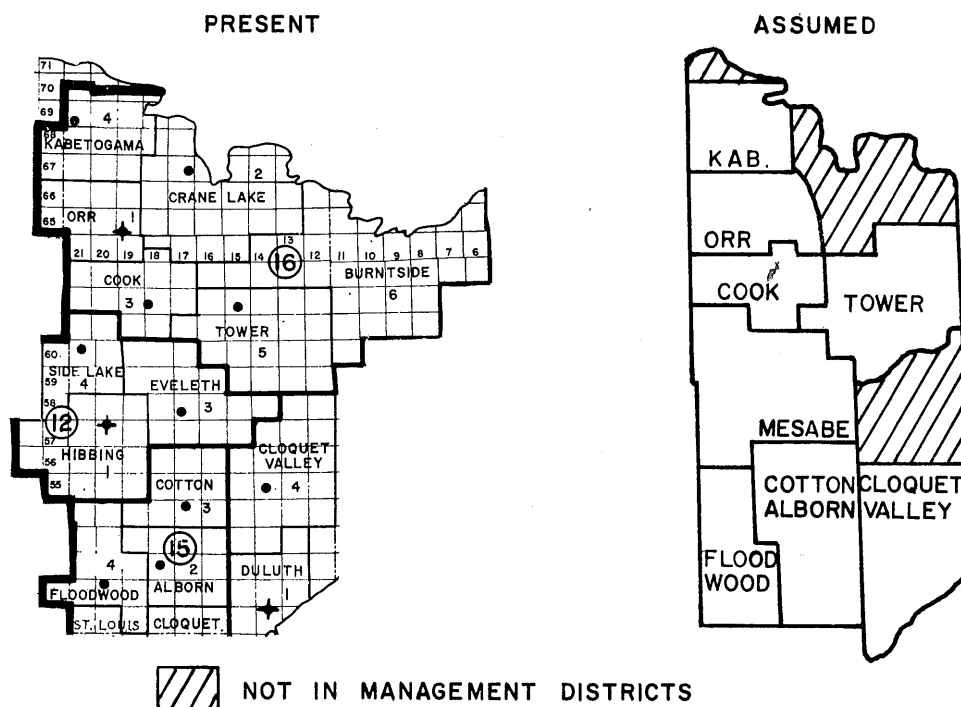


Figure 1: Present and recommended state forest district boundaries in St. Louis County.

## County Administrative Pattern

The County Land Commissioner, appointed by the County Board, has headquarters in the Court House at Duluth. He has a staff of 16, including two clerical people and one technical office man. The remaining 13 are fieldmen — land and timber appraisers, and resource managers. They are divided about equally between Ely and Duluth. From these centers, they cover the northern and southern halves of the county.

To provide closer coordination with state people in managing intermingled lands, the consultant proposed that some of the fieldmen should be stationed in joint headquarters with the state in such locations as Orr, Floodwood, Cotton, and possibly Tower.

The county memorial forests, with some additions and minor adjustments, form reasonably

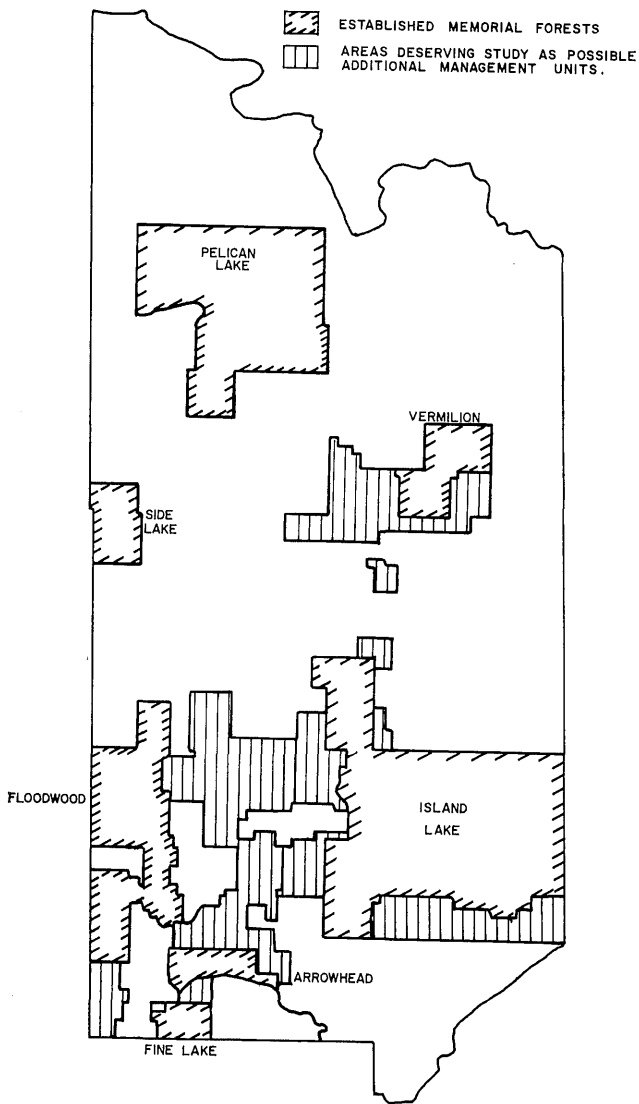


Figure 2: Existing county memorial forests and potential additional management units.

adequate management units for tax-forfeited land. In most cases, they are satisfactory for intermingled state lands. (Figure 2)

Some additions and modifications of boundaries of memorial forests, the integration of state and county management within these units, and the planning for disposition of surplus lands outside of feasible units are the prime purposes of the analysis undertaken here.

Some preliminary steps taken in the Cloquet Valley District will illustrate the method.

## Cloquet Valley District

The district contains about 31,200 acres of state land and 192,200 acres of tax-forfeited land. The Cloquet Valley State Forest and the Island Lake County Memorial Forest, with more or less contiguous boundaries, occupy the northern half of the district and include more than 80 percent of the public land. (Figure 3)

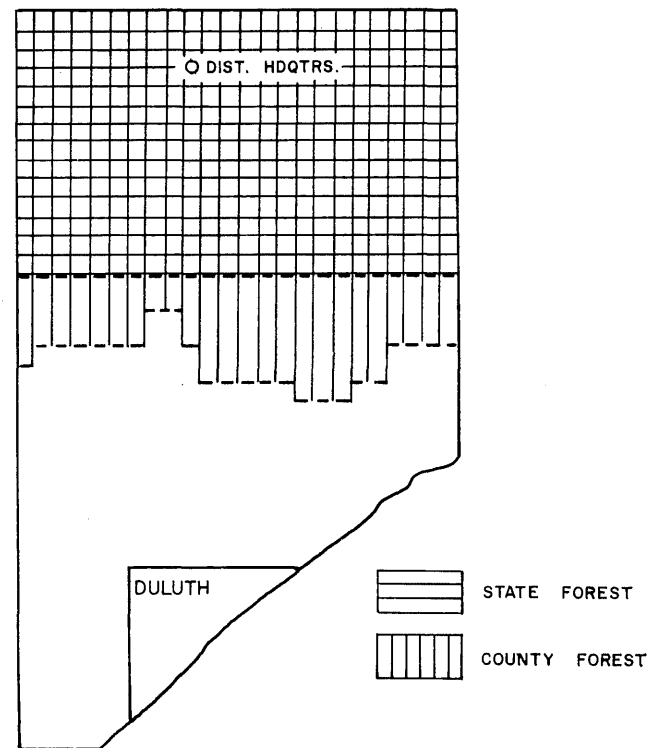


Figure 3: Cloquet Valley management district showing overlap of Cloquet Valley State Forest and Island Lake County Memorial Forest.

The Cloquet Valley State Forest has been subjected to considerable criticism because only 12 percent of the land within its boundaries is state owned, compared with 72 percent tax-forfeited land and 16 percent private land. In this analysis,

we are not particularly concerned with this imbalance, since we are considering integrated management for combined state and tax-forfeited land and since a considerable degree of cooperation is already in effect. For example, the state provides fire protection for the entire area but can call out county personnel and equipment in emergencies. Both agencies maintain roads serving the area. Both provide seasonal work for residents. No doubt, further cooperative action is possible.

To consider the adequacy of present MANAGEMENT UNIT boundaries and to experiment with land classification techniques, representatives of the county land department met with state men from the Division of Lands and Forestry, the Division of Game and Fish, and Iron Range Resources on August 7, 1968. (Figure 4)



Figure 4: Land classification group on south boundary of Island Lake Memorial Forest, St. Louis County. From left to right: Guy Pederson, Lands and Forestry; R. V. Sutter, St. Louis County Land Commissioner; Leonard Rowson, Iron Range Resources; Paul J. St Amant, State Consultant; LeRoy Rutske, Game and Fish; J. C. Ryan, Lands and Forestry; and Robert Tate, St. Louis County Land Department.

Prior to going into the field, this group studied the recently completed land-zoning plan for four townships in the southeast corner of the unit. (Figure 5) Also, they considered the ownership pattern. (Figure 6) These two considerations suggested some likely adjustments in unit boundaries. (Figure 7)

In the field, the group studied several tracts of state and tax-forfeited land along the margin and made detailed classification of some. (Figures 8, 9, and 10) The result of these examinations was to modify further the boundary proposals. More field work will be required to complete the analysis. The county men are proceeding with the analysis of tax-forfeited land along this border.

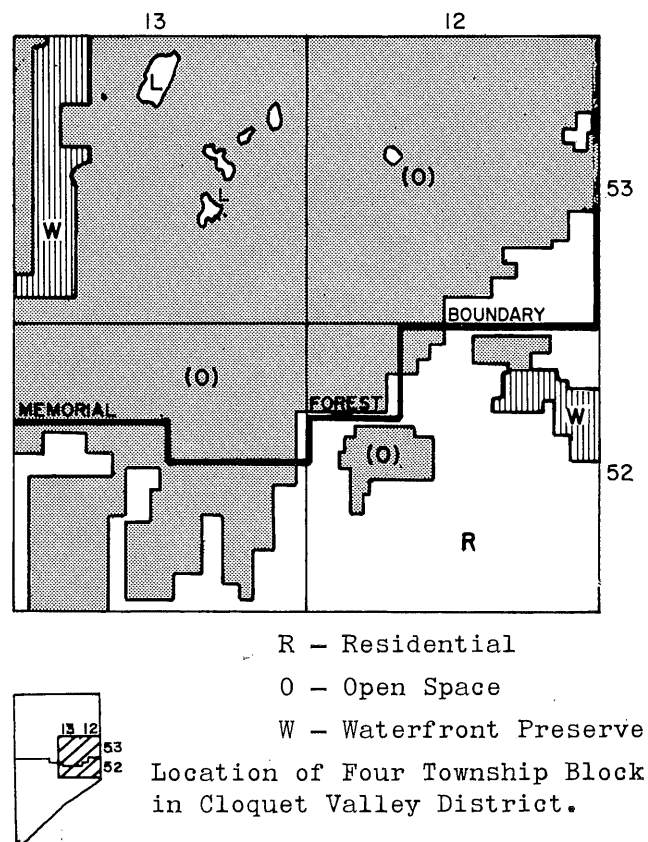


Figure 5: Open space and waterfront preserve as indicated by St. Louis County zoning plan for four townships in southeast corner of Cloquet Valley-Island Lake management unit.

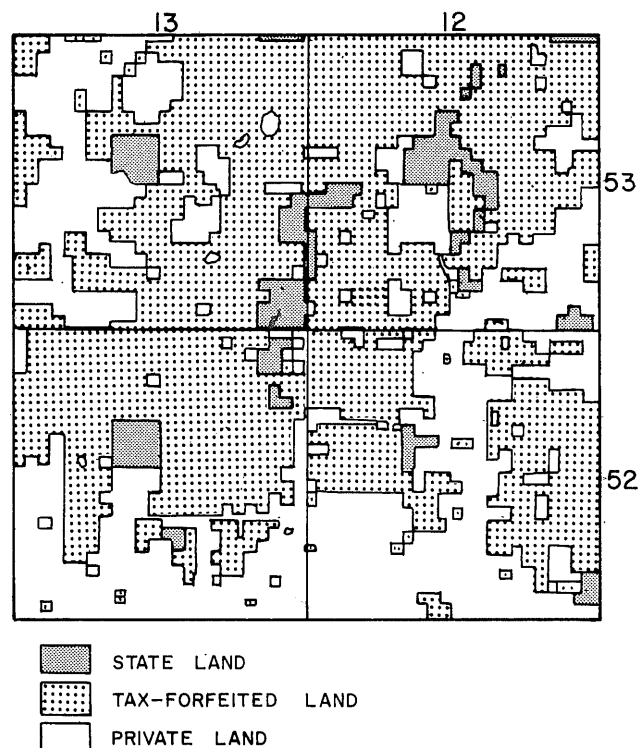


Figure 6: Land ownership in four-township block in Cloquet Valley District.

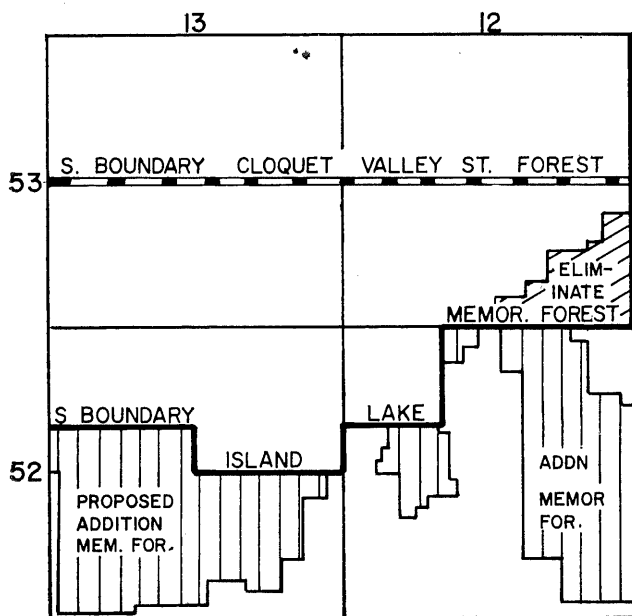


Figure 7: Preliminary changes in boundary of the Island Lake Memorial Forest based upon office study of zoning and ownership maps.

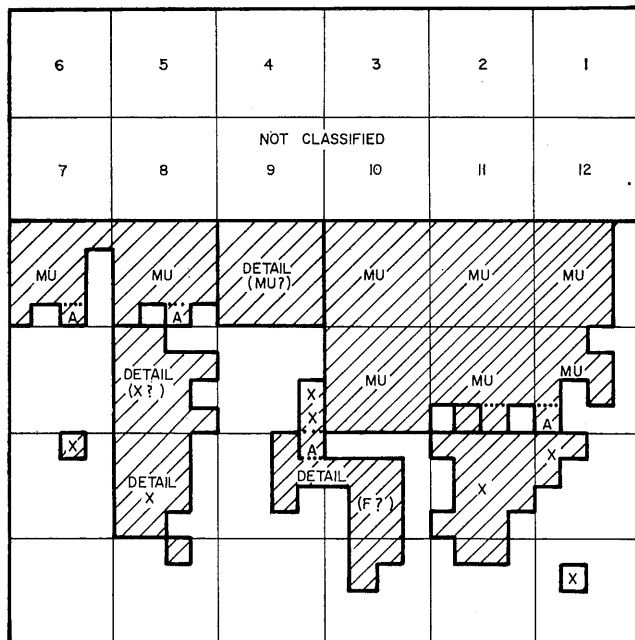


Figure 8: First state field classification of public lands along southern boundary of Island Lake Memorial Forest. Note several parcels set aside for more detailed study.

Classification Symbols mean:

MU — Recommended for Multiple-Use forest management.

A — Parcels needed for access to interior land.

F — Valuable for public fishing.

X — Surplus—may be sold when demand appears.

Detail — Recommended for further detailed study.

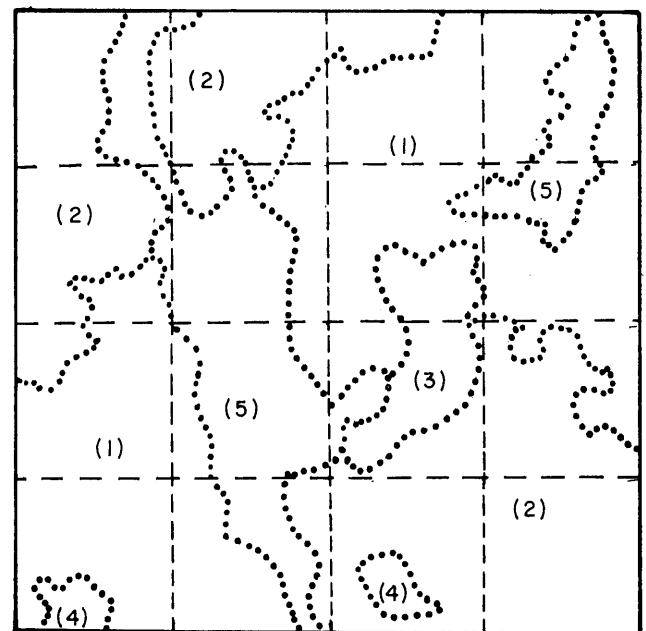


Figure 9: Results of detailed study of state Section 16-52-13. Physical features and the fact that the area has been classified as "Open Space" in the St. Louis County zoning plan suggest that the section as a whole is primarily valuable for multiple-use forestry and should be retained in state ownership. (See Appendix I for definitions and criteria.)

Remarks:

The section as a whole is primarily valuable for multiple-use forestry. It should be incorporated in Island Lake Memorial Forest.

Area 1: Moderately productive timberland now stocked principally with aspen and birth, with some spruce-balsam.

Area 2: Rather poor forest of off-site aspen-birch with some lowland hardwoods.

Area 3: Planted pine forest, 1961-1965

Area 4: White and Norway pine groves.

Area 5: Lowland areas principally valuable for game and fish. (Fairly good trout fishing — stream improvement possible.)

8-6-68

Guy Pederson  
P. J. St. Amant



 ASPEN-BIRCH POLES AND SAPLINGS			 ASPEN-BIRCH

Figure 10: Trial Classification of three forties of tax-forfeited land in Section 35, Township 52, Range 12. The land has been zoned as residential. It has an all-weather road on the north and is fairly close to Duluth. It is not urgently needed for public use. Thus, most criteria indicate it suitable for sale. However, there appears to be little active demand for residential land in this vicinity. The inspectors recommended that the land should be retained (provisionally) until such demand appears.

### Classification Within National Forest

The State owns slightly more than 400,000 acres within the Superior National Forest. St. Louis County has 73,320 acres, Lake County 36,045 acres, and Cook County 8,360 acres.

The land exchange consultant spent a great deal of time during the spring of 1968 exploring the possibilities of land exchanges to improve the ownership pattern within the Superior National Forest. It became apparent very early that neither the U. S. Forest Service nor the State had a sufficiently clear view of the long-range goals and management objectives in this area to support firm exchange commitments at this time. Moreover, it appeared to him that both agencies were going to have difficulty arriving at decisions on these matters by working independently.

The Superior National Forest has made considerable progress under the Multiple-Use Management Act of 1960 in planning balanced use of federal lands for timber production, water protection, hunting, fishing, and other forms of recreation. Since 1967, it has been carrying on a special land classification project which includes as background material (1) an analysis of prospective demand to the year 2000 for wood, water, minerals, transportation, fishing, hunting, and other recreation, (2) a forecast of economic needs of counties, communities and individual residents in the forest

area and an estimate of national forest contributions in lieu of taxes, and (3) consideration of logical boundary adjustments, organizational shifts roads, and recreation. It is greatly concerned with the economy of the region. The Department, however, cannot develop a well-rounded conservation program based solely upon its own land ownership, and land exchanges. The Superior National Forest, however, cannot complete either multiple-use zoning or long-range organizational planning without reference to what will happen on the intermingled lands in other ownerships.

The State Department of Conservation, in its several divisions, is likewise giving serious thought to the long-range needs of northeastern Minnesota in timber, water, minerals, fish and game, access

The counties are concerned with the relationship of the forest area to tourism, part-time agriculture, forest industry expansion, mineral development, and other aspects of the local economy. They are in a position, through their zoning authority, to take steps to safeguard waterfront and roadside areas, and to regulate forest area settlement. They need technical help, however, from public conservation agencies.

The general conclusion that the consultant drew from this situation was that there is urgent need for cooperation between the federal, state, and county agencies in a great part of the general planning for the Superior National Forest area. Assuming the willingness of the parties concerned, this joint problem analysis should be started, on a trial basis at least, early in 1969 before the National Forest classification is completed and while the State and counties will be starting their joint classification of state and tax-forfeited land.

Locations favorable for joint federal, state, and county planning are (1) Burntside State Forest and nearby Trout Lake area in St. Louis County, (2) Finland State Forest in Lake County, and (3) Grand Marais district and Pat Bayle State Forest in Cook County.

### Pilot Analysis of Cass County

Preliminary analysis, similar to that in St. Louis County, indicated two rather distinct sets of problems regarding management of public lands. The northern half of Cass County lies almost entirely within the Chippewa National Forest and presents problems related to management of state lands intermingled with federal lands (county holdings are involved also but to a lesser extent than in the south half). The southern half of the County presents problems related to intermingled state and tax-forfeited land. The southern area received first attention in the pilot study.

Southern Cass County has a total land area of 711,342 acres divided:

State .....	74,307 acres	10.4%
Tax-forfeited .....	213,028 acres	30.0%
Forest Industry .....	22,659 acres	3.2%
Other .....	401,348 acres	56.4%
Total .....	711,342 acres	100.0%

One of the consultants, acting as agent for the Division of Lands and Forestry, first with the district foresters of the Division, who have responsibility for much of the state lands in southern Cass County. Later, he worked with the County Land Commissioner, Mr. Gil Sabin, and his assistant, Mr. Fay Harrington.

### State Organization

At present, Cass County is divided between two state regions, among five administrative areas, and seven management districts. No area forester resides within Cass County. Five of the seven districts extend into two or more counties. Thus, the state organization is not ideal for cooperative management on a county-unit basis. However, many factors are involved in placing fieldmen, and the matter of organization was left for further study.

Three state forests, while not complete MANAGEMENT UNITS in themselves, form natural nuclei for such units. (Figure 11)

The Land O'Lakes State Forest has a consolidated block of 20,000 acres of state land, with an additional 25,000 acres within a 20-mile radius of Outing (Washburn Lake) district headquarters. Within the same radius are some 116,000 acres of

tax-forfeited land. The combined properties could be effectively managed under a cooperative plan under supervision of state and county managers.

Similarly, the Foothills State Forest, with 17,000 acres of state land, makes a feasible group of MANAGEMENT UNITS when combined with some 65,000 acres of intermingled or adjacent tax-forfeited lands. This will provide a unit of sufficient size to justify joint state and county headquarters.

The Pillsbury State Forest, with 8,500 acres of state land, is a relatively small block for independent management. However, with 27,000 acres of nearby tax-forfeited land and 4,500 acres of scattered state land, it will justify local administration.

All of these units have impressive recreational and game-producing values in addition to their timber possibilities and thus are definite multiple-use areas. Three other relatively small blocks of land are existing or proposed game-management units but will not require special local supervision.

### County Organization

The Cass County Land Commissioner, with headquarters in the Court House at Walker, is responsible for managing 213,000 acres of tax-forfeited lands in southern Cass County. With assistance from the Iron Range Resources Commission, he has one full-time assistant and one clerk at Walker, one fieldman at Pequot Lakes, and seasonal scalers as needed.

The Land Commissioner has obtained County Board approval for designating 139,000 acres as memorial forest, but, prior to the pilot study in 1968, he had not given definite boundaries to the forest units.

### Setting Tentative Unit Boundaries

The Assistant Land Commissioner, working with the state consultant, studied the tax-forfeited lands using aerial photos, available timber type maps, zoning maps, and personal knowledge of the county and set tentative unit boundaries for nine proposed memorial forests encompassing 154,378 acres of tax-forfeited land, 10,841 acres of state land, and 11,934 acres of forest industry land. (Figure 12)

### More Detailed Boundary Studies

Along the boundaries of the memorial forests, and sometimes within, are marginal areas about which there is question as to proper use. Are they suitable for farming or residential use? Are they needed for industrial or commercial development? Are they essential for public purposes such as to

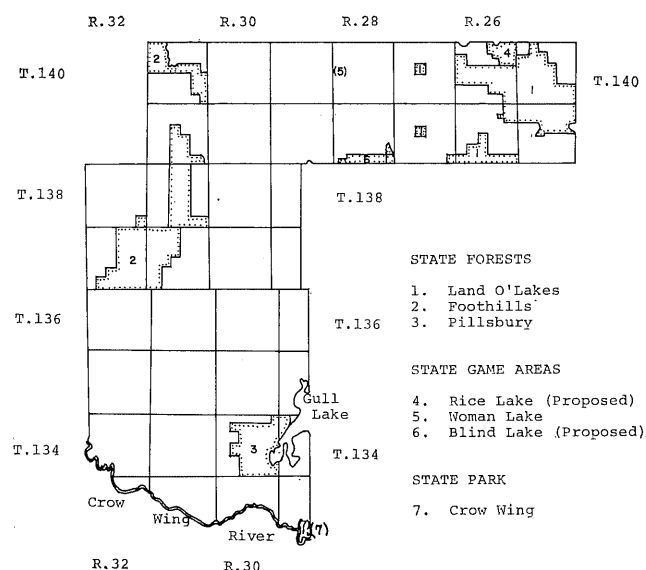


Figure 11: State forests, game management areas, and park in southern Cass County.

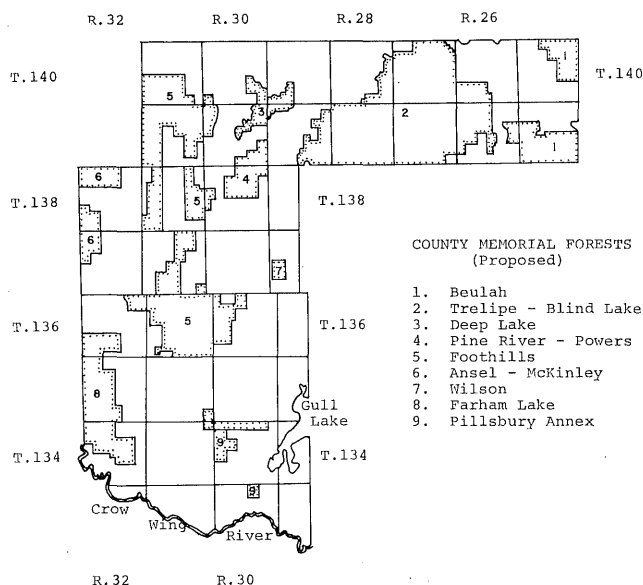


Figure 12: Proposed county memorial forests in southern Cass County.

provide access to lakes or interior timberlands? Are they needed for wildlife, public hunting, extensive recreation, or preservation of natural areas?

To experiment with the more detailed kind of classification involved in answering such questions, a group of state and county people gathered at Leader on July 20, 1968. The group included foresters, game men, and recreational planners. (Figure 13) They looked over the eastern boundary of the proposed Farham Lake Memorial Forest



Figure 13: Land classification inspectors who examined state and county lands in Cass County July 20, 1968. From left to right: James Spangler, State Regional Forester; Willard West, Division of Lands and Forestry; Wilfred Berglund, Ass't State Land Appraiser; Jerome Kuehn, Director, Conservation Planning Bureau; David Vesall, Supervisor, Game Section, Division of Game and Fish; Don Carlson, Land Classification, Division of Lands and Forestry; John Martin, Deputy Director, Division of Parks and Recreation; Sidney Rommel, Land Exchange Appraiser, Division of Lands and Forestry; and Jacob Licke, State Consultant.

in Byron Township (135-32) giving special attention to state Section 16.

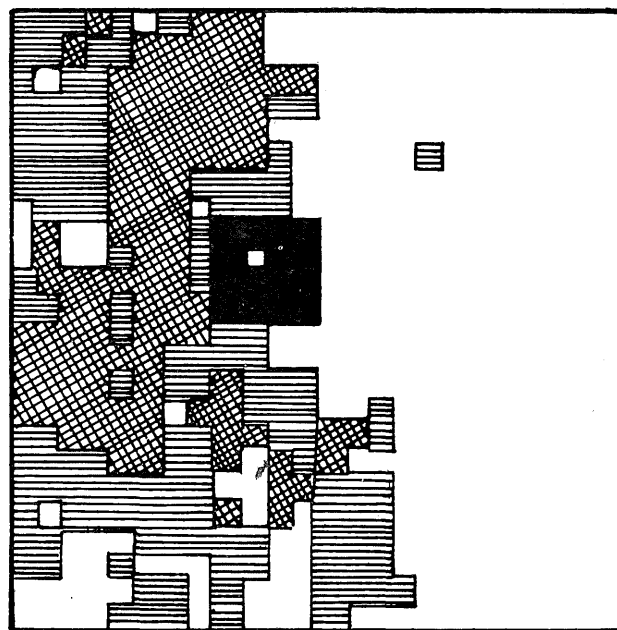
The ownership pattern within the memorial forest in Township 135-32 raises questions as to whether parts of the area, the state section for instance, should be made available for private acquisition for forest management. (Figure 14) This is not primarily a land classification question, and the group did not try to answer it.

The Cass County zoning plan, in the process of completion, designates the area within the Memorial Forest boundary as "Open Space," indicating low potential for farming, residential, or commercial use. The study group found no reason to quarrel with the zoning pattern. (Figure 15) The state section is a mixture of dry, sandy land swamp. (Figure 16)

The boundaries of the proposed forest unit so far as examined appeared reasonable.

1. Wet Land—Marsh and Brush Chiefly Valuable for Fish and Game.

#### TOWNSHIP 135, RANGE 32



	— COUNTY	4,980 — ACRES
	— STATE	578 — ACRES
	— INDUSTRIAL	4,406 — ACRES
	— PRIVATE	1,800 — ACRES

Figure 14: Ownership of land in western part of Township 135W, Range 32N.

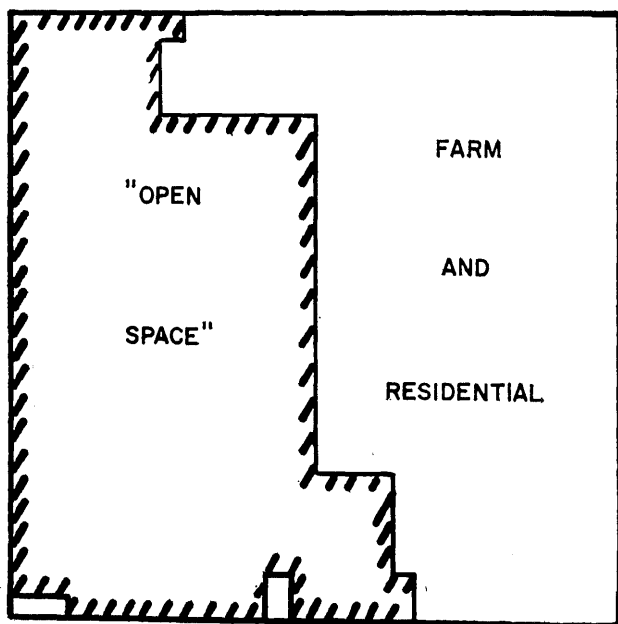


Figure 15: Portion of preliminary Cass County zoning map applicable to Township 135W, Range 32N.

2. Dry, Sandy Land—Partially Stocked with Jack Pine, Partially Upland Grass and Brush.

#### Planned Jurisdiction and Management

Because of difficulties in financing county operations and in view of possible revision of the state organization in the county, little concrete progress could be made in detailed planning for the proposed MANAGEMENT UNITS. Agreement in principle was reached on a number of points:

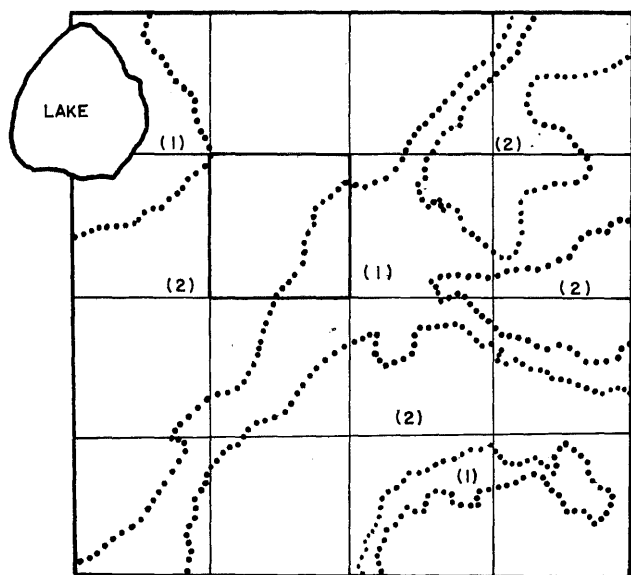


Figure 16: General land type of state-owned land in Section 16, Township 135W, Range 32N. This map in connection with the zoning map and other data was the basis for classifying the tract as principally suited for MULTIPLE-USE FORESTRY.

1. Close coordination of state and county land management is desirable in view of the intermingled nature of the holdings.
2. Decentralization of the county organization with two or three fieldmen stationed in close proximity to the state district foresters would simplify management.
3. Some of the MANAGEMENT UNITS proposed are of multiple-use character, some have special values for recreation, some for game management. More detailed plans need to be developed for each.

#### Classification of Lands Outside of Units

Outside of MANAGEMENT UNITS in southern Cass County are 8,341 acres of scattered state lands and 30,000 acres of tax-forfeited lands.

The study group on July 20, 1968, made cursory inspection of some of these areas. They found that the same features considered in unit boundary adjustments apply to the scattered lands.

For example, the group found that a 120-acre tract of state land in Section 16, Township 134, Range 31, had most of the characteristics justifying a classification "for sale." (Figure 17) It is in an area zoned for agriculture and has soil and topography similar to nearby cultivated lands. It is on a good road. However, the tract has a fairly heavy timber cover for which there is no good local market but which would have to be included in a purchase price. Game men expressed an interest in maintaining a few tracts of public land of this kind in generally agricultural areas as a refuge for birds and small game. Moreover, there is a great deal of comparable private land in the vicinity that has not yet been developed. Indicated

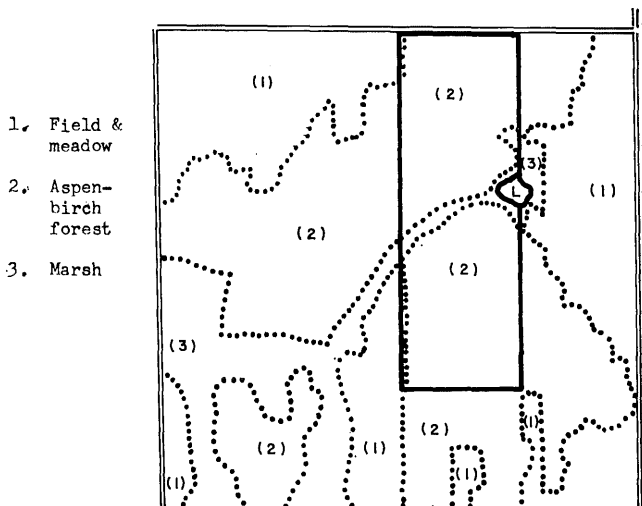


Figure 17: Land type map of Section 16, Township 134W, Range 31N, in Cass County. Section contains three forties of state land needing classification.

highest use classification is "Agricultural," but no immediate disposition is recommended.

### **Remaining Work to be Done**

Obviously, only the preliminary phases of classification have been completed in Cass County. Among the major things still to be accomplished are:

1. The Division of Lands and Forestry must evaluate the proposed MANAGEMENT UNIT set-up and see what can be accomplished without excessive dislocation of field personnel and lines of authority.
2. The County Board must decide if it is ready to commit the county to a long-range program of resource management and whether the specific memorial forest units proposed are satisfactory.
3. If both the State and the County agree on policies, details of jurisdiction and operation must be worked out. (Some suggestions for state financial aid to the county are made in Chapter II.)
4. State and county land classifiers will need to complete the detailed examination of boundaries and scattered parcels outside the MANAGEMENT UNITS.
5. Unit managers will need to develop plans (or modify existing plans) to incorporate (1) coordinated state-county supervision, (2) full multiple-use management, and (3) close cooperation with local industries and local forest users.

### **Classification Within the National Forest**

The State owns 103,880 acres within the Cass County portion of the Chippewa National Forest, and the county has 54,440 acres of tax-forfeited land.

A cursory examination of maps and records for the state and tax-forfeited lands within the Chippewa National Forest indicates that they fall mainly into the following types.

#### **1. Custodial areas**

Large blocks of state land in the Bowstring and Battleground State Forests are coniferous swamps of inherently low productivity and justify at this

time little more than protection from fire and attention to water regulation. There is need to define the boundaries of these areas with some accuracy.

#### **2. Waterfowl and Other Game Management Areas.**

State and county lands in the Mud-Goose, Big Rice Lake, White Oak, and a number of smaller areas have good prospective value for game habitat. Classification teams should consider both the possibilities of cooperative management and land exchange.

#### **3. Timber Producing Lands.**

A rather large but poorly consolidated acreage of state and county land is stocked with aspen, pine, spruce, and associated species, while some equally good land has only grass and brush. Scattered location and uncertainty as to future disposition stand in the way of reforestation, timber stand improvement, systematic harvesting, and other steps in good management. Classification should be focused on opportunities to consolidate by interior trades.

#### **4. Waterfront Lands.**

The State has a long frontage on lakes, especially Winnibigoshish and Leech. Most of the frontage is marshy. Of the limited sandy and rocky beaches, careful examination and analysis will be required to separate those which are needed for public use and those which can be released for private development.

#### **5. Potential Farm Lands.**

The presumption is that the acreage within the National Forest is rather limited but this can be ascertained only by parcel analysis.

In a majority of cases, the state and county lands adjoin national forest lands of similar character. The classification and management planning, therefore, can be greatly assisted by conferences and in some cases joint analysis with the federal rangers. Ultimately, the decisions on what to do with the state and county lands — whether to retain, exchange, or sell — will be made from an analysis of the ability of the state and county to supervise directly on the one hand, and what arrangements can be made with the National Forest on the other.

## CHAPTER II

### STATE-COUNTY RELATIONS

#### Land Exchange Possibilities

Difficulties and inefficiencies in management caused by intermingling of state-managed and county-managed land in northern Minnesota was one of the principal problems presented to the Land Exchange Study. At present, no state legislation authorizes exchanges of land between state and counties.

A number of legal and practical difficulties will need to be overcome to make land exchanges possible. In addition to lack of constitutional and legislative authority to make such exchanges, there is the matter of insecure title on tax-forfeited land, discussed elsewhere in this report. Another difficulty is in obtaining comparability in water frontage when exchanging trust-fund land since some counties control little lake frontage. The practical difficulties are those commonly met in getting mutual agreement on objectives, methods, and values. At best, land exchanges of significant size will take many years to accomplish.

Meanwhile, the two agencies can take steps to improve the situation by administrative means. If they complete land classification as proposed in Chapter I, they can proceed with plans for coordinated management of adjoining and overlapping areas. Hopefully, they will accomplish a general strengthening of both organizations in the process.

Assuming that mutually satisfactory management can be provided for both state and county units, "de facto" land exchanges can be made without disturbing the actual ownership or distribution of income of the land. In other words, the counties can assume responsibility for physical care of scattered state parcels within memorial forests, and vice versa. Some small-scale trials of this method are possible now.

#### Other Reasons for Cooperation

A number of recent developments support the idea that the Department of Conservation should become a more active participant in county activities. Notable among these are:

1. The counties are going to need both technical and financial help in managing the large areas of tax-forfeited land.
2. The Iron Range Resources and Rehabilitation Commission, which has been lending forestry aid to the northern counties for the past 20 or more years, has indicated the need to phase-

out this help in the very near future. It may terminate it in 1969.\* The Department of Conservation should be ready to fill the gap.

3. Increasing demand for land for private summer homes, hunting lodges, etc., and new agricultural developments are presenting both the counties and the State with difficult decisions on proper land use. Presumably, state and county land managers, working together and with the help of County Boards and land-use planning groups, and utilizing county zoning plans, will arrive at the best decisions.
4. Danger that Minnesota's extremely valuable water resources may become over-developed and polluted also calls for close cooperation between state and counties including many steps which can be taken by the land managing agencies.
5. For forestry statistics of various kinds, a county is the usual unit for presentation. A county is a common meeting ground for most federal, state and local conservation interests. It is thus in many ways a very convenient administrative unit for the Department of Conservation.

These developments seem to justify the Department of Conservation, particularly its Division of Lands and Forestry, adjusting District and Area boundaries and orienting its activities more along county lines. They also point to the need for financial aid to counties.

#### Justification for State Aid

Justification for state aid to counties rests primarily upon recognition of a state-wide interest in tax-forfeited land going considerably beyond the commonly recognized 10 percent tax equity.

The public at large has access to these northern woodlands for hunting, fishing, camping, and general recreation. It will benefit from a build-up of resources and expansion of industries supported by them. It has the same reason to seek good management on these tax-forfeited lands as it has on conservation areas and acquired state forests under direct state supervision.

State aid to counties in Minnesota has ample precedent in the fields of roads, education, health, and welfare. The Department of Conservation al-

\*The I.R.R.R.'s county aid budget for F.Y. 1968 was \$143,250; for F.Y. 1969, \$123,810. It covered 11 technical foresters loaned to the counties for various assignments ranging from acting Land Commissioner to Timber Appraiser and Scaler.

ready provides fire protection for county administered lands and passes on some \$20,000 federal aid to 5 counties for planting trees under Title IV Forestation Program (Agricultural Act of 1956).

In conservation work, a precedent can be seen in the neighboring State of Wisconsin. Here, the State makes an outright grant to the local taxing districts from the general fund of 15 cents per acre on lands designated County Forest. It makes a further advance of 10 cents per acre to the county as a noninterest-bearing loan for forestry purposes to be repaid eventually by a 20 percent severance tax on products cut. The Conservation Commission may allot additional interest-free forestry aid loans on a project basis. Moreover, the state fieldmen devote a large share of their time to assisting counties with planning and executing development projects. (See excerpts from Wisconsin Law in Appendix II).

The amount and form of aid for Minnesota counties should be based upon analysis of the counties' principal needs.

### The County Land Situation

Thirteen northern counties each have jurisdiction over 89,000 acres or more of tax-forfeited rural land (Figure 18.), and nine others have more than 10,000 acres each.\*

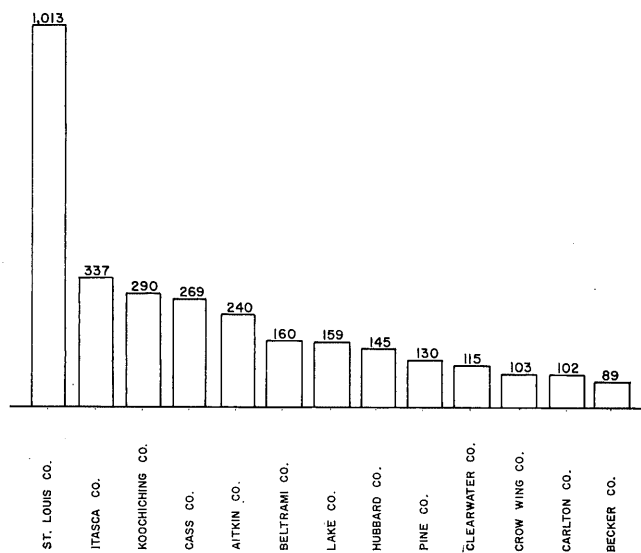


Figure 18: Acreage of tax-forfeited land (in thousands), managed by 13 northern Minnesota counties.

\*The counties with tax-forfeited acreages ranging from 10,000 to 89,000 acres are:

Cook  
Kanabec  
Kittson  
Lake of the Woods  
Mahnomon  
Mille Lacs  
Pennington  
Roseau  
Wadena

The thirteen principal land-managing counties have a total of approximately 3,138,655 acres of tax-forfeited land. The group as a whole has roughly 7 percent of its land within the boundaries of the national forests or other federal projects, 18 percent within states forests, 34 percent in county memorial forests,\* and 41 percent outside of these established units. (Fig. 19.)

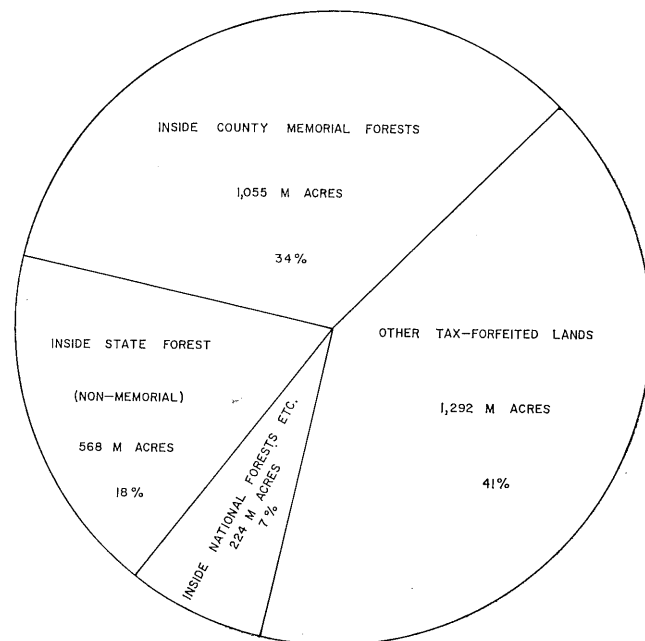


Figure 19: Location of tax-forfeited land in relation to dedicated public forests.

Within the state forests, a great deal of tax-forfeited land is intermingled with the state holdings and, in a few cases, far exceeds the state land in area.

Within memorial forests, both existing and proposed, the State is almost always a minority land-owner. For example, the State owns 13 percent of the land in the Floodwood (St. Louis County) Forest, 15 percent of the Godfrey (Itasca County) Forest, and 5 percent of the Trelupe-Blind Lake (Cass County) proposed Forest.

In the unorganized areas of woodland and swamp, the ratio of state to tax-forfeited land is commonly about one to five (higher in Aitkin and Koochiching).

This intermingling of state and tax-forfeited land, although inconvenient, has not prevented some degree of cooperative management. The state organization has assumed responsibility for protecting the entire area from fires. As required by law, state men check timber appraisals where county timberlands are offered for sale. State and

\*Some limited additional area was added to memorial forests in the fall of 1968.

county men assist each other in many minor ways. However, as resource management progresses from primarily custodial and extensive care into more and more specialized and intensive development, more definite measures will be needed.

### The Financial Situation

The county management of tax-forfeited land, except for I.R.R.R. help and a few other minor aids, is financed from receipts from the business.

In 1967, twelve of the 13 principal land-managing counties received \$1,180,492 which means an average of 38 cents per acre (15 cents from timber sales and miscellaneous income and 23 cents from the sale of land and timber). They spent \$361,649, or an average of 12 cents of county funds per acre, for administration. The remainder was apportioned to the various taxing districts as provided by law. Variations among counties are shown in Figure 20.

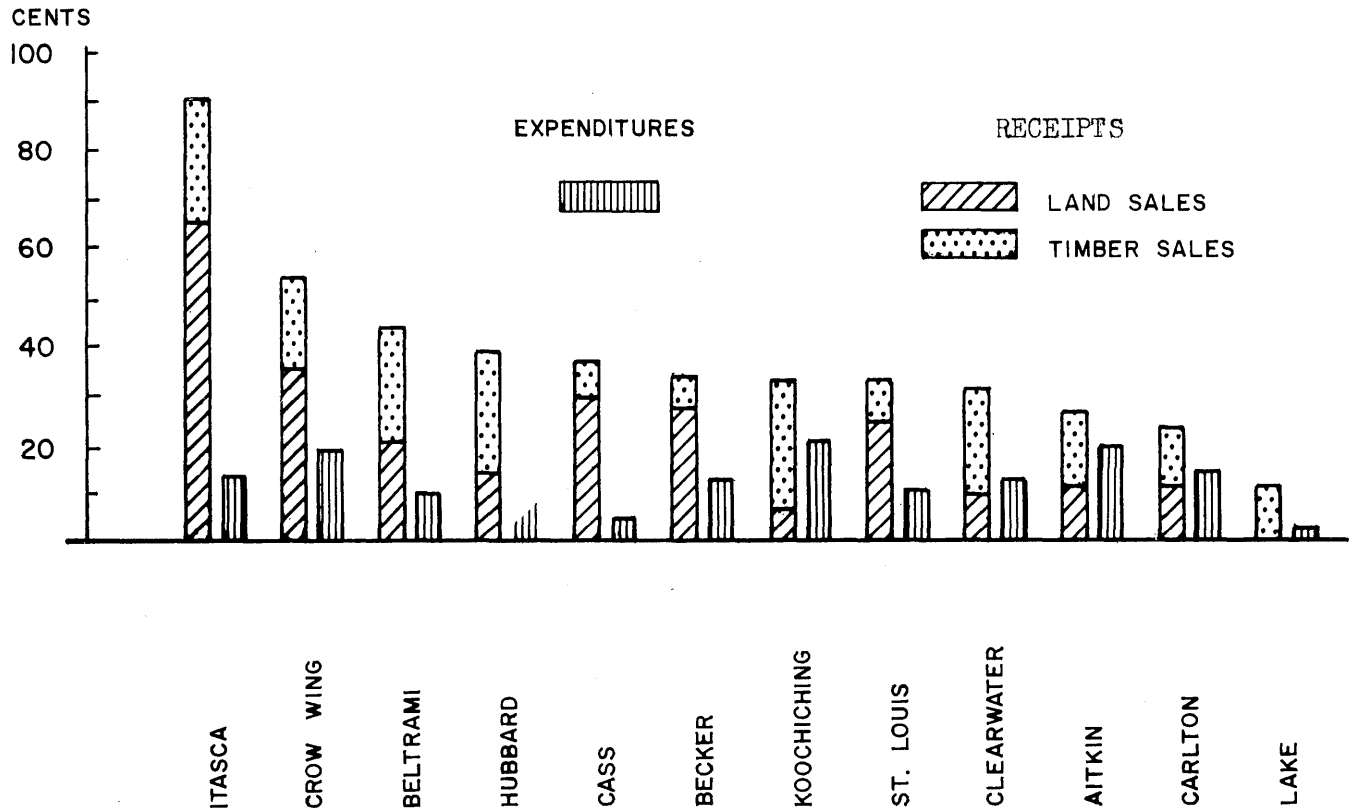


Figure 20: Comparison of Receipts and Expenditures per acre from Tax-forfeited Lands—Eleven Minnesota Counties—1967.

Twelve cents per acre is a very low administrative cost at today's prices. It is accomplished by maintaining a low salary scale for land commissioner and assistants and by holding the number of employees to a minimum. A comparison of the number of fieldmen per hundred thousand acres shows that the average of 1.6 for the counties is below the average for the state and national forests. (Fig. 21)

The salary for land commissioners varies considerably among counties but, in general, is lower than that for men with comparable responsibility in the state and federal service.

Office facilities and clerical help are minimal.

Field quarters, as a rule, are not provided by the counties.

One may ask why the counties do not plow back a larger share of income into the land or appropriate money from their general funds. The answer, no doubt, is that these counties are squeezed by a rather fixed tax base and rising costs in nearly all of their activities. They need the money. This is one of the conditions which prompts consideration of state aids.

### Principal County Needs

To do a competent job of forest land management over the next ten years, the counties need principally five things, and for each of these, suggestions are offered as to how the State Conservation Department can help.

1. First need is a clear policy with regard to management. Areas primarily suitable for con-

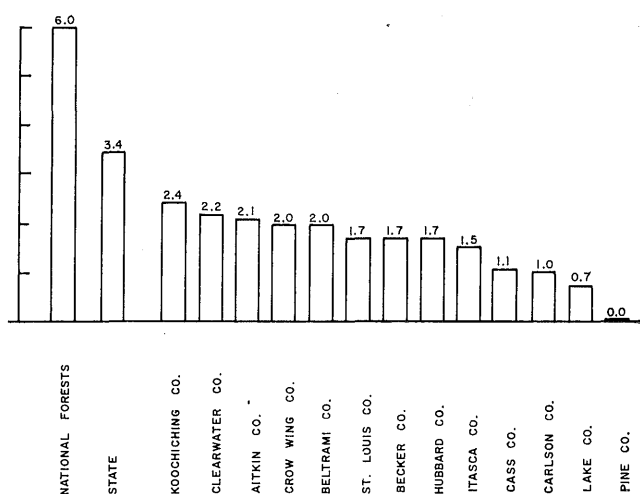


Figure 21: Number of fieldmen employed per 100,000 acres of land managed (omits clerical force, business office, and work crews up to and including foreman). The state figure is somewhat misleading in that the state men have responsibility for fire protection, checking timber appraisal's on tax-forfeited lands, tree planting, market studies, assistance to private land owners and other services not related to state-owned land.

servation, if not already reserved, should be designated as memorial forest, park, game area, etc., and reserved from sale. Other lands should be classified for highest use and sold or exchanged at the proper time. The Department should give every possible assistance to the counties in this classification and subsequent management planning.

2. A second need is to up-grade the position of land commissioner. It would help make this position competitive with comparable state and federal jobs if the State Conservation Department could offer to match the counties 50-50 on a salary to be set by the County Board up to a figure of \$10,000 per year, and to provide cost of living increases.
3. The third need is to provide more adequate funds for management activities. A State con-

tribution of 15 cents per acre to counties for land included in memorial forests would enable them to hasten restoration to a productive condition.

4. The fourth need is some improved placement of fieldmen to simplify cooperation between the state and county. Where conditions permit, the Department of Conservation should offer office space and communication assistance to county men.
5. The fifth need is access to technical information. Land Commissioners should be on the mailing list for the type of technical circulars commonly sent to state fieldmen. They should feel free to call upon specialists in the Department for advice. New men in county service should be included in state training programs when conditions permit. To prepare to this kind of service, the Division of Lands and Forestry should have a small unit devoted exclusively to cooperation with the counties.

#### State Aid Summary

The several kinds of aid suggested in the preceding paragraphs would cost the State roughly \$325,000 per year divided:

	Yearly Cost 1969-70
Personnel loaned to counties for classification and planning (1) .....	\$100,000
Part salary of land commissioners..	40,000
15 Cent per acre payment (Memorial Forests) .....	150,000
Office facilities .....	10,000
Technical assistance and miscellaneous .....	25,000
Total .....	\$325,000

(1) Unless financed by I.R.R.R.C.

## CHAPTER III

### LAND EXCHANGES WITH THE U. S. FOREST SERVICE

#### General Situation

The State of Minnesota possesses some 676,323 acres of land within the Chippewa and Superior National Forests. Some of this land is reasonably well consolidated in state forests and presents no very serious problem. A large share, however, is scattered and intermingled with federal land in such way as to create serious administrative problems for both agencies.

After several years of negotiation, local representatives of the State and the U. S. Forest Service in 1961 agreed upon a long-range land exchange plan, and shortly thereafter proposed several rather large trades to implement it. In public hearings on the plan and the exchange cases, objections were raised on a number of grounds, sufficiently severe to cause the 1965 Legislature to enact a two-year moratorium. The moratorium was not renewed in 1967 but with the understanding that no large exchanges would be processed before the plan had been carefully reviewed.

The appropriation act covering the Land Exchange Study did not spell out its scope and purposes. However, the MORRC Report #17, which recommended the study, included this point among its recommendations:

1. The study should provide "a new land exchange plan in the National Forest areas. . . with a view to establishing definite guidelines and limitations on future land exchanges, as well as to up-date exchange plans for presentation to the 1969 Legislature."

#### Results of Study

The long-range plans for both the Chippewa National Forest and the Superior National Forest obviously need revision. Legitimate points raised at the public hearings, new developments in mining, changes in agency plans, all create need for a new look at the pattern.

The consultants gave a great deal of attention to possible revisions, consulted many people and discussed many alternative propositions. By the end of summer, they came reluctantly to the realization that neither the State nor the U. S. Forest Service was ready to make firm commitments at this time.

The U. S. Forest Service is in process of reviewing objectives, analyzing district boundaries and organizational set-up. Its land exchange objectives are considerably clouded by the uncertain mineral situation and possible effects of the proposed Voy-

ageurs National Park. Its plans may be affected also by the forthcoming reports of Public Land Law Review Commission.

The State likewise will need some time to work out its land classification and analysis of state forest boundaries within the national forests. To clarify the mineral situation through additional surveys and results of private exploration may take several years.

In a series of preliminary county reports concerning intermingled lands, the study group focused attention on the most critical problem areas in the national forests and set down a number of alternate land exchange propositions that had come to their attention. They had the hope that circulating these discussions would generate some serious thinking on the subject and perhaps lead to a consensus upon which to act. They have, as a matter of fact, received some very constructive responses on these reports, but not of kind to give much hope for early agreement.

The Supervisor of the Superior National Forest submitted a preliminary statement of his broad aims and added: "In view of the mineral problem, the unsettled status of National Park proposals, and the fact that the land classification study for the Superior National Forest is not scheduled for completion until the late spring of 1969 at the earliest, it is not practical to provide a complete commentary on the St. Louis and Lake and Cook County reports at this time. . . However, we are agreeable to pursuing your suggested course of initially effecting a number of small non-controversial exchanges." Informal comments from the Chippewa National Forest were along the same line.

Department of Conservation personnel favored some proposals but felt that decision on others should await completion of land classification studies now being started. The Minerals Section would like to see results of additional geological surveys and industrial exploration before releasing state lands in the Duluth-Gabbro area.

A number of forest industry representatives reiterated opposition to large exchanges that would leave a single public agency in charge of a logging district.

In spite of poor prospects for reaching complete agreement on a new plan in the immediate future, it should be possible to carry out a number of small trades within the general frame-work of the earlier plan. Certain features of this plan have

been in agreement for 20 years or more. Also, many small interior "house cleaning" exchanges can be negotiated without need for a comprehensive over-all plan.

## SUPERIOR NATIONAL FOREST

### The Statistical Picture

Approximately two-thirds of all land in the three-county group of St. Louis, Lake, and Cook is publicly managed — either U. S. Forest Service, Indian Service, State, or County. Only a small fraction is owned by forest industries that must therefor depend heavily upon sale of public timber. Both industries and officials of local government are naturally and legitimately interested in public and land policies, including land exchange.

Sixty percent of the public land lies within the boundaries of the Superior National Forest. It is a mixture of federal, state, and county managed lands as shown in Figure 22, and Table I.

### IN SUPERIOR NATIONAL FOREST

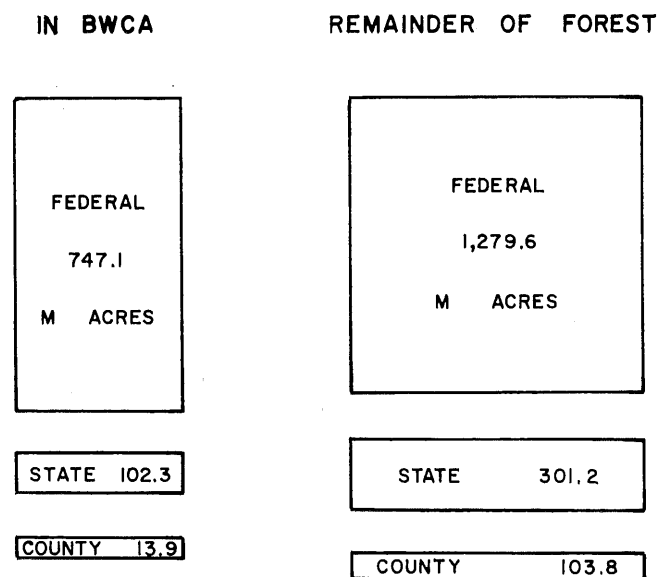


Figure 22: Proportionate division of public land within the Superior National Forest, 1968.

Outside national forest boundaries, the U. S. Forest Service owns 95,755 acres in the Kabetogama Purchase Unit (including 676 acres in Koochiching County), and 15,660 acres in the Grand Portage Unit. Some 25,400 acres of the Forest Service land in the Kabetogama Unit lie within the boundaries of the proposed Voyageurs National Park and are not presently available for trades with the State. The U. S. Forest Service also has some residual acreage in two areas pre-

The following discussion of objectives and suggestions for action are designed to encourage such local trades, and stimulate thinking on the final plan.

viously traded largely to the State; i.e., 12,600 acres in the "George Washington Overlap" and 2,800 acres in the "Finland Overlap". This adds up to close to 100,000 acres of readily available trading stock.

The State, for its part, has a somewhat larger acreage available for trade — approximately 140,000 acres. The remainder of its total, 403,563 acres, lies within feasible state management units or is tied up by mineral prospects (Figure 23, and Table II)

The available federal and state lands are not in bad balance, as between counties, as these figures indicate:

	Readily Available Trading Stock	
	Federal	State
St. Louis County.....	81,955	96,105
Lake County .....	2,800	18,680
Cook County .....	15,660	25,540
	100,415	140,325

Both agencies have additional acreages suitable for interior trade and consolidation.

### Exchange Activities to Date

Some 20 years ago, the U. S. Forest Service agreed to withdraw from the Kabetogama Purchase Unit, the George Washington Overlap, and the Finland Overlap, and to exchange its holding there for state lands scattered throughout the national forest. In 1961, it confirmed these arrangements and agreed also, to withdraw from the Grand Portage Area. (Figure 24.)

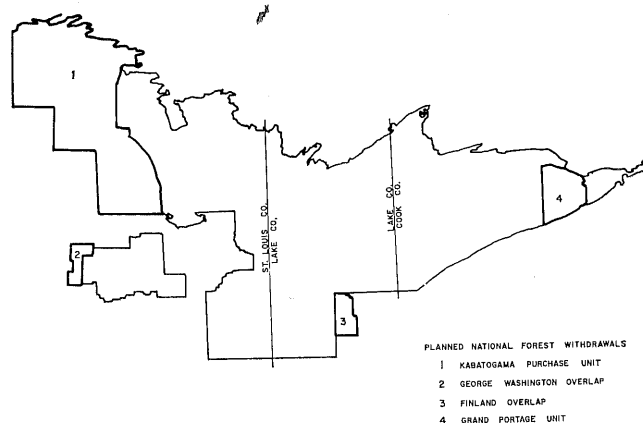


Figure 24: Principal locations from which the U. S. Forest Service agreed to withdraw and trade lands to State.

**TABLE I**  
**OWNERSHIP OF LAND WITHIN THE BOUNDARIES**  
**OF THE SUPERIOR NATIONAL FOREST, 1968**

COUNTY	Gross	National Forest	State	Tax-forfeited	Other
<b>Within Forest</b>					
Cook.....	789,459	619,210	96,784	8,360	65,105
Lake.....	1,050,661	737,813	138,331	36,045	138,472
St. Louis.....	1,170,689	669,622	168,448	73,320	259,299
Totals.....	<u>3,010,809</u>	<u>2,026,645</u>	<u>403,563</u>	<u>117,725</u>	<u>462,876</u>
<b>Within Boundary Waters Canoe Area</b>					
Cook.....	263,751	233,118	25,721	4,594	318
Lake.....	354,287	320,114	24,360	6,099	3,714
St. Louis.....	253,976	193,826	52,241	3,248	4,661
Totals.....	<u>872,014</u>	<u>747,058</u>	<u>102,322</u>	<u>13,941</u>	<u>8,693</u>
<b>Outside Boundary Waters Canoe Area</b>					
Cook.....	525,708	286,092	71,063	3,766	64,787
Lake.....	696,374	417,699	113,971	29,946	134,758
St. Louis.....	916,713	475,796	116,207	70,072	255,638
Totals.....	<u>2,138,795</u>	<u>1,279,587</u>	<u>301,241</u>	<u>103,784</u>	<u>454,183</u>

**TABLE II**  
**ACREAGE OF STATE AND TAX-FORFEITED LAND**  
**WITHIN SUPERIOR NATIONAL FOREST**  
**SUBDIVIDED TO INDICATE AVAILABILITY FOR EXCHANGE**

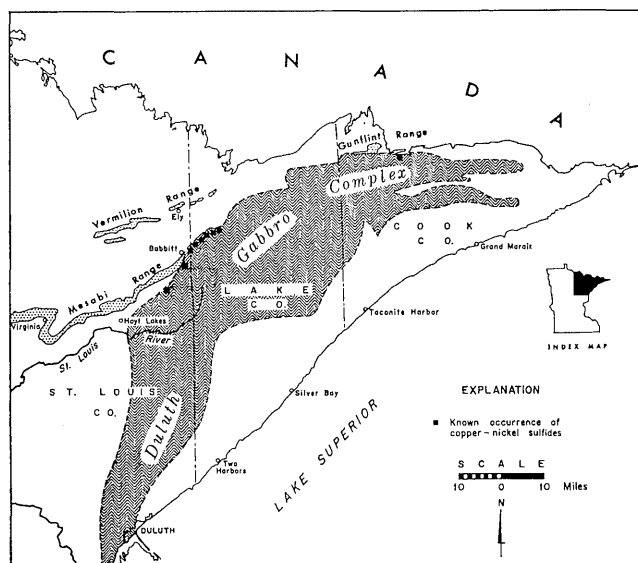
COUNTY	Total Ownership	In State Mgmt. Units*	In Mineral Zone	Not in State Units	
				Available For In BWCA	Exchange Outside BWCA
State Land					
Cook.....	96,784	41,440	29,804	5,460	20,080
Lake.....	138,331	55,500	64,151	7,340	11,340
St. Louis.....	168,448	44,343	28,000	51,241	44,864
Totals.....	<u>403,563</u>	<u>141,283</u>	<u>121,955</u>	<u>64,041</u>	<u>76,284</u>
Tax-Forfeited Land					
Cook.....	8,360	2,760	3,120	2,040	440
Lake.....	36,045	8,640	16,785	1,400	9,220
St. Louis.....	73,320	9,520	34,700	3,248	25,852
Totals.....	<u>117,725</u>	<u>20,920</u>	<u>54,605</u>	<u>6,688</u>	<u>35,512</u>

\*The units considered are Kabetogama "overlap", Sturgeon River "overlap", Burntside State Forest, Bear Island "overlap", Finland State Forest, Pat Bayle State Forests (parts), Bear Island Lake State Park, Ray Bergland State

Park, Cascade River State Park, Kondonce River State Park, and Judge C. R. Magney State Park; a total of 141,283 acres.

FIGURE 23

THE DULUTH GABBRO COMPLEX IN NORTHEASTERN MINNESOTA



Source: Minnesota Geological Survey, 1966

A series of land exchanges initiated in 1949 resulted in largely eliminating federal holdings in the George Washington and Finland overlaps. One

exchange involving a little more than 5,000 acres was effected in the Kabetogama area. (Table III) No exchanges have been made yet involving the land in the Grand Portage Unit.

The first two exchanges listed in Table III were not under the general agreement but were a special case in which the federal government purchased land which the State wanted for a park and exchanged it for state forest land in the Superior Forest.

The state lands traded to the U. S. in the larger trades, 24-3, 4, 5, and 6, were scattered holdings where administration was difficult and costly. In the appraisal for #6, they were described as "mainly cut-over tracts". Approximately 32 percent bore timber of merchantable size and 35 percent seedlings and saplings. The remainder, including brush, stagnant timber, rock outcrop, water, marsh, etc., was rated temporarily or permanently non-productive. Tracts were selected which were not restricted by recognized mineral potential, timber cutting permit, or valuable lake frontage.

State acquisitions in the George Washington and Finland cases brought about a good consoli-

TABLE III

### SUMMARY OF LAND EXCHANGES COMPLETED BETWEEN THE SUPERIOR NATIONAL FOREST AND THE STATE OF MINNESOTA

1950 to Date

Exchange Number	Name	Date Closed	County	State Lands Acres	Value	U. S. Forest Service Lands County	Acres	Value
24-0	Nerstrand Woods, #1	2- 6-50	Lake	5,651.29	\$ 13,440.53	Rice	242.77	\$ 14,225.84
24-1	Nerstrand Woods, #2	2- 8-50	Lake	3,526.56	8,274.98	Rice	217.27	8,250.56
24-2	—	9- 2-59	Lake	320.00	2,186.50	Lake St. Louis	40.00 119.50	2,057.04
24-2a	—	9- 2-59	Cook	40.00	220.00	Lake St. Louis	40.00 40.00	1,265.14
24-3	George Washington	6-30-59	Lake Cook	8,197.18 40.00	116,750.66	Lake	9,316.73	116,747.61
24-4	Finland	6-30-59	Cook Lake	5,428.98 2,660.54	72,669.65	Lake	7,991.20	72,340.68
24-5	Finland	6-30-59	Cook Lake	5,906.40 3,960.00	113,575.40	Lake	9,743.10	113,567.52
24-6	—	9- 4-59	Cook	80.00	610.75	Lake	83.69	605.96
24-6a	Kabetogama	11-18-64	Cook Lake St. Louis	280.00 2,145.93 2,680.00	58,970.86	Lake St. Louis	152.50 5,325.97	57,136.97
Totals				40,916.88	\$386,699.33		33,312.73	\$386,197.32

dation of state holdings there and improved the federal ownership pattern. They were thus mutually beneficial. As nearly as can be determined, they have not been harmful to the local economy. Timber sales have progressed on an ever-increasing scale. Recreation and other forest uses have expanded.

The long-range exchange plan negotiated in 1961 continued the earlier agreement and added several more federal withdrawal proposals in addition to the Grand Portage Unit. These were two townships of the Burntside State Forest, a block of land adjacent to Trout Lake (near Tower, Minnesota), and a block in the northeast corner of the Mesabi Unit.

The 1961 plan was somewhat less specific as to what areas the State should withdraw from but indicated that a total of 220,600 acres of state

land should be exchanged for an approximately equal area of federal land.

The State Land Exchange Commission approved the 1961 program on June 21, 1962, with a proviso, sponsored by forest industry men, that the exchanges be confined within counties. Federal officials in Washington did not approve the plan but gave tentative approval to the approach.

Five exchange cases were worked out concurrent with development of the 1961 plan. Both federal and state appraisers spent a great deal of time and effort selecting suitable lands, cruising merchantable timber, and agreeing on values. They reached agreement on exchange of 20,024 acres of state land, mostly in Cook, and Lake counties, for 17,599 acres of federal land in the Kabetogama Purchase Unit, St. Louis County. Values were estimated at \$211,200 on each side. Details appear in Table IV.

**TABLE IV**  
**LAND EXCHANGE CASES WORKED UP WITH THE SUPERIOR**  
**NATIONAL FOREST UNDER THE 1961 LONG-RANGE PLAN**

Exchange Case No.	Year Cruised	Year Approved*	County	State Lands Acres	Value	U. S. Forest Service Lands County	Acres	Value
7	1959	SLEC 1960 NFRC 1961	Cook..... Lake..... St. Louis....	1,348 5,373 724	\$ 58,712	St. Louis....	6,396	\$ 58,716
Total.....				7,445				
7a	1959	SLEC 1960 NFRC 1961	Cook.....	1,440	8,970	St. Louis....	1,030	8,969
8	1959 1960	SLEC 1961 NFRC-No	Cook..... Lake..... St. Louis....	117 1,161 8,619	129,168	St. Louis....	9,613	129,287
Total.....				9,897				
8a	1960	SLEC NFRC-No	Cook..... Lake.....	200 965	12,923	St. Louis....	440	12,904
Total.....				1,165				
8b	1960	SLEC 1961 NFRC-No	Cook..... Lake.....	40 37	1,433	St. Louis	120	1,361
Total.....				77				
Totals.....				20,024	\$211,206		17,599	\$211,237

\*SLEC—State Land Exchange Commission—State approving group.

NFRC—National Forest Reservation Commission, Washington, D. C.—Federal approving group.

Appraisers finished field work in 1960; state officials arranged public hearings. The State Land Exchange Commission (SLEC) gave initial approval. The National Forest Reservation Commission (NFRC) in Washington approved Case #7.

At this stage, the proposed exchanges ran into snags at both ends. The NFRC disapproved Case #8 because it provided for exchange of some federal land in the Shipsted-Newton area for state land outside. The State Land Exchange Commis-

sion, in agreeing to hold exchanges within county lines, removed an essential feature of the trades.

During the public hearings on the exchange cases and the long-range plan, representatives of forest industries raised objections to the trades, partially on points of detail but mostly on the thesis that consolidation of public ownership is disadvantageous to industries in that it deprives them of alternative sources of wood.

New mineral discoveries coinciding with public discussion of an expanded B.W.C.A. and tightened restriction on mining and logging, raised questions as to the timeliness of State withdrawal, especially from the Duluth-Gabbro area.

Collectively, these objections and special problems raised enough doubts that the 1965 Legislature enacted a "moratorium" on exchanges with the Superior National Forest. No further action has been taken on the cases since.

The state legislature in Chapter 909 MSA (1967) established a Land Exchange Review Board to advise the State Land Exchange Commission on exchanges.

## Objectives of the Federal and State Agencies

### Federal Objectives

Officials of the Superior National Forest are in process of reviewing objectives, organization, and management plans, including consideration of boundary adjustments, land acquisition, and land exchange. The following points are believed to reflect with reasonable accuracy the current thinking of the Forest Service on exchanges.

1. The current classification study will attempt to foresee public obligations to the year 2000. Using the predicted doubling of population, increased demand for timber stumpage, at least a three-fold increase in recreation demand, it is evident that all of the public land within the Forest will have to be fully and efficiently managed to meet future needs.
  2. Within the forest are many state, county, and private lands too widely scattered and too poorly located for independent management. The preferred solution is consolidation and, to a considerable extent, elimination of interior holdings by purchase or land exchange.
  3. The Forest would like to acquire interior lands in a reasonable order of priority regardless of location. In general, Priority I will be key tracts needed for the following purposes:
    - a. To meet access or other administrative needs. (Examples are 4-Mile Portage, Betty Portage, Gun Lake Portage, West Pike Lake Portage, and other key portages and camp sites.)
  - b. To protect National Forest against fire of trespass. (Unsupervised lake frontage which may be used by the traveling public often creates problems of sanitation and unsightliness.)
  - c. To prevent damage to National Forest lands. (Primarily related to private holdings.)
  - d. To solve important resource management problems. (Certain dam sites are important in maintenance of water levels).
  - e. To meet research needs and insure maintenance of natural areas and historic sites.
  - f. To make specific National Forest programs effective. (Reasonable control of access is important in areas such as the BWCA).
- Priority II tracts are those which will become key areas in foreseeable future and other tracts needed for consolidation.
- Priority III tracts are the remaining lands classified as desirable for national forest status.
4. The National Forest assumes that local people will favor most exchanges within the B.W.C.A. because of added revenue available to each county through Public Laws 733 and 607. The Forest Service would like to acquire the remaining private land in the B.W.C.A. by purchase or condemnation by 1972. It would like to purchase or acquire by trade the state and tax-forfeited land by 1980. Elsewhere it has set no target dates.
  5. The Chief of the Forest Service is authorized to enter into cooperative agreements for forest management with the State of Minnesota and the counties of Cook, Lake, and St. Louis.
  6. Within the several purchase units and "overlaps" where the U. S. Forest Service retains approximately 100,000 acres of trading stock, it is prepared to release the lands to the State in exchange for state lands within or outside the B.W.C.A. Since the bulk of these federal holdings lie in St. Louis County, the Forest Service would prefer to make at least some exchanges across county lines.
  7. Until the lands within the purchase units are utilized, the Forest Service feels that it is not justified in proposing further boundary retractions to provide trading stock for land exchanges.
  8. Regardless of whether or not exchange is restricted to individual counties, it is apparent

that there will not be enough national forest trading stock in the purchase units and overlaps discussed in this section to offset the state acreage the Forest desires to acquire. The Forest Service hopes to be able to supplement its part of the land adjustment program in two ways:

- a. Establishment of purchase units within state forests and state parks where lands may be acquired by the U. S. Forest Service, and later turned over to the State in exchange for land within the boundary of the Superior National Forest.
- b. Purchase of state and county land on a negotiated basis.

### State Objectives

Within or adjoining the Superior National Forest, the State has eight land groupings which require individual consideration (Figure 25).

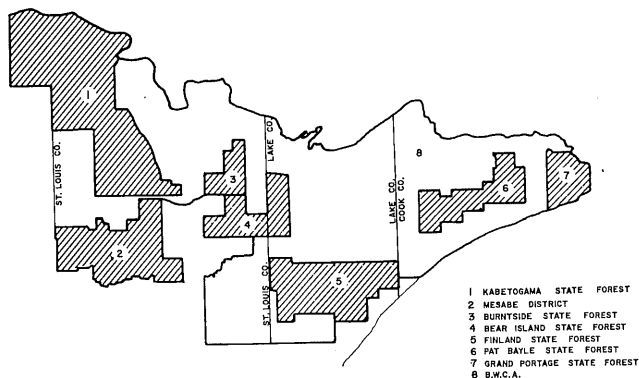


Figure 25. Areas of Special Interest to the State.

1. **Kabetogama State Forest** — The State owns 166,700 acres in this forest and can well utilize the intermingled federal land in the Purchase Unit. The proposed Voyageurs National Park, as now outlined, may remove 15 percent of the gross area of the State Forest, including 28,400 acres of state land and 25,400 acres of U. S. Forest Service land. It will still leave a good state management unit. The remaining 70,000 acres of federal land will be acceptable to the State in trades.
2. **Mesabi Area** — This includes the southern portion of the Sturgeon River State Forest and all of the Virginia Ranger District of the National Forest (Figure 26).

A number of exchange possibilities have been discussed but no new agreement exists. The State favors acquiring the small residual federal acreage in the "George Washington Overlap", while continuing study of other possibilities.

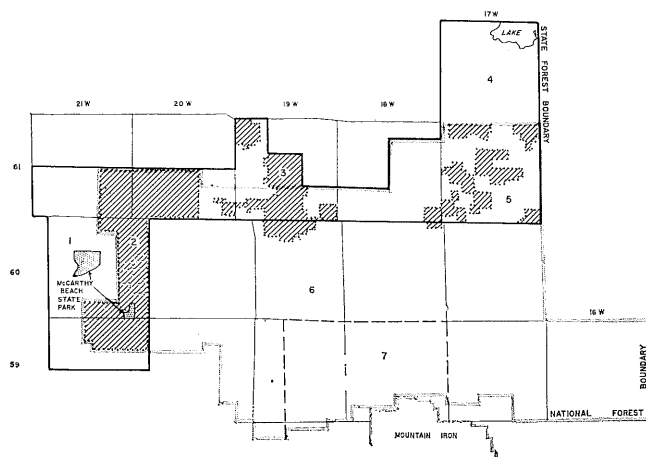


Figure 26: Mesabi Area Showing Concentration of State Lands and the relation of the Sturgeon River State Forest to the Virginia Ranger District of the Superior National Forest. Map numbers identify the following subdivisions:

- 1, 3, & 4, State Forest outside National Forest
- 2, George Washington "overlap"
- 5, Area discussed for trade to state (1961 Plan)
- 6, For interior trade (1961 Plan)
- 7, Possible disposal of both state and federal lands for mining use.
3. **Burntside State Forest** — The State recognizes that this area, which includes a portion of the B.W.C.A., is in many ways a natural part of the Superior National Forest and may eventually consider exchange (for instance for portions of the Mesabi Unit). Legal considerations and certain sentimental attachment after 60 years of management place such exchange in rather low order of priority.
4. **Bear Island State Forest** — The portion of this forest within the National Forest does not contain enough state land to make a good management unit. Logical consolidations are curtailed temporarily at least by mineral possibilities. Management under cooperative agreement should be considered (Figure 27).

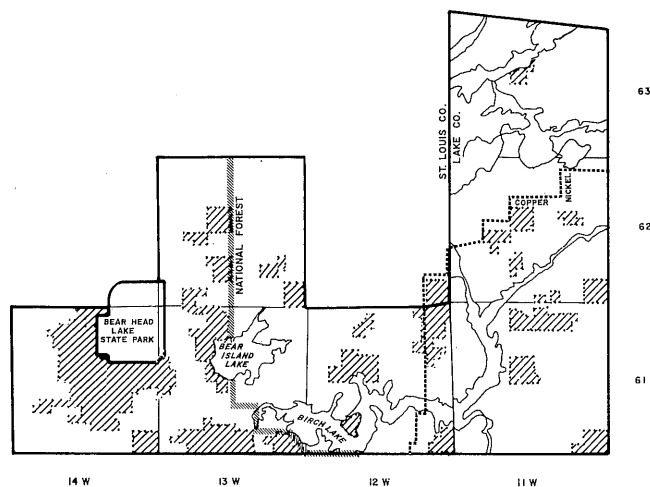


Figure 27: Bear Island State Forest showing Location of Principal Concentrations of State Land.

5. **Finland State Forest** — This Forest is too wide-spread and contains too many small scattered parcels of state land to make an efficient management unit. The two townships, 57N and 58N, Range 8W, called "Finland Overlap," (#1 on map) are well consolidated in state ownership as a result of earlier trades and form a natural nucleus for further consolidations west and north. Whether the clusters of state land farther west (numbers 2 and 3) should be traded out, or consolidated into blocks to be administered from Two Harbors, is a matter for further study. Mineral considerations will prevent radical adjustments in the near future.

The State favors acquiring the residual federal acreage in the "overlap" by small-scale, within-county trades. (Figure 28)

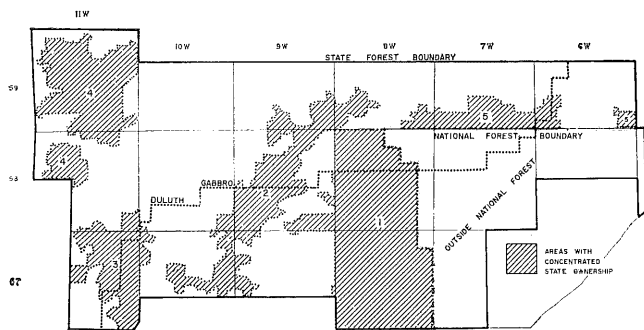


Figure 28: Finland State Forest, Showing Location of Concentrations of State Land, and Relationship to the Duluth-Gabbro Area. Map numbers refer to the following subdivisions:

1. "Finland Overlap"
2. DMI Group
3. Toimi Group
4. Sand Lake Group
5. North tier

6. **Pat Bayle State Forest** — Presently, this is not an effective management unit and the State is willing to make some extensive adjustments over the long run. The logical area for state concentration is within a 15-mile radius of Grand Marais. Temporarily, at least, the State plans to retain its lands around Grand Marais as well as in Township 62-4W and north half of 61-4W partly within the Duluth-Gabbro belt. It is agreeable to exchanging scattered lands in the central portion of the Pat Bayle which lie outside the mineral zone as well as some south of the State Forest which are tributary to Lutsen and Tofte (Figure 29).

7. **Grand Portage State Forest** — The U. S. Forest Service has approximately 15,660 acres within this unit. In the 1961 plan, it agreed to exchange out of this area except the N $\frac{1}{2}$  of Township 64-3E, "McFarland Lake, South"

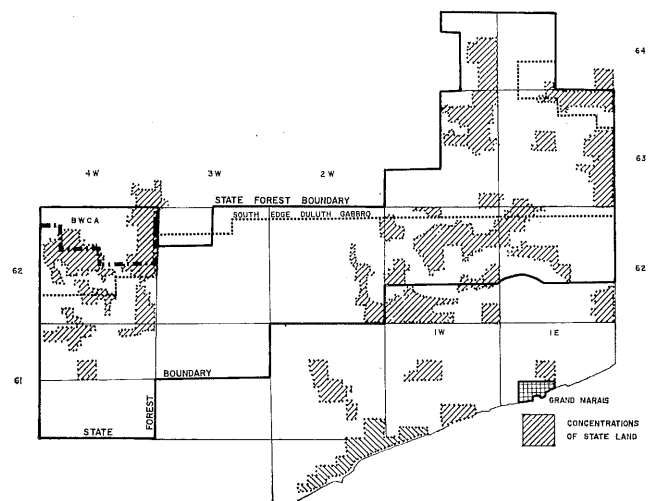


Figure 29: Pat Bayle State Forest, Showing Location of Concentrations of State Land and Relationship to the B.W.C.A. and Duluth-Gabbro Area.

where state and national forests overlap. The agreement regarding these lands was for internal exchanges only.

The State is willing to renew discussions on the basis of the 1961 plan, but several new factors will need to be considered. The mineral status of the northern part of Township 64 may stall the proposed interior exchanges and the State withdrawal from Township 65-3E. In Townships 62 and 63, private industry, has substantial holdings, is seeking consolidation that may involve exchanges with both the State and U. S. Forest Service. Further analysis and discussion will be needed.

8. **Boundary Waters Canoe Area (BWCA)** — It is virtually impossible at this time to express an overall State Conservation Department attitude toward land exchanges in this area.

The Division of Lands and Forestry, generally speaking, recognizes the impracticability of having separate agencies independently managing land and water in the BWCA and favors some plan for unifying administration, whether by land exchange, leasing arrangements, or cooperative management agreements.

The Minerals Section of the Division of Waters, Soils and Minerals, is reluctant to approve exchanges of state lands having possible mineral value.

The Waters Section has not raised objection to land exchanges but retains a serious interest in all matters pertaining to the lakes and streams in the B.W.C.A.

The Division of Game and Fish similarly retains an active interest in the fish and other wildlife.

Most of these interests can be covered by cooperative agreements, but some will need to be spelled out in considerable detail if the State relinquishes all of its land holdings and lake-shore frontage here.

These more or less conflicting views do not necessarily rule out the possibility of eventual complete transfer of state lands to the U. S. Forest Service. They do, however, make the 1980 date appear rather unrealistic barring some very significant policy adjustments between the two agencies. They also point to the need for some interim steps to improve administration. (See discussion which follows.)

### Reconciliation of Aims

It seems reasonable to expect that completion of the national forest program review, now well advanced, and the state-county land classification project, assuming the normal degree of consultation and joint effort, will erase many of the obstacles to effective public land management in the Superior National Forest area. It will also clear the way for mutually helpful land exchanges. Some high-level negotiations may be required, however, to reconcile certain matters of diverging if not conflicting public policy. These thoughts need elaboration.

The state and county land use planners see the forest management situation in St. Louis, Lake, and Cook counties much the same as the U. S. Forest Service. To meet expanding demands, they recognize the need for intensified timber management, provision for many more tourists, broadened game and fish management, pollution control, maintenance of water levels, safe-guarding scenic values on lakes, rivers and roadsides. They see need for a multiple-use approach to the complex situation in this area. Consequently, they are strongly in favor of close cooperation between agencies, both in land use planning and in carrying out of measures to meet the needs.

Apparently, all three agencies — federal, state, and county — see the badly fragmented ownership pattern as an obstacle to effective management for timber production, game management, and recreation (but not necessarily for custody of minerals). They recognize many opportunities for consolidation and solution of local problems by means of land exchanges.

Whether it is urgent for one agency to obtain complete ownership and control of a broad area such as the B.W.C.A. is another matter. This seems to imply that the agency has designs for administration which are out of harmony with the other parties and can be put into effect only

by eliminating physical evidence of other interests. This can explain reluctance of some state officials to favor state withdrawal. Also, it can account in part for the objections raised by mineral people to relinquishment of surface rights in the Gabbro area.

A wholesome approach to the policy questions involved in the B.W.C.A. and to a lesser extent in other parts of the forest would be a high-level conference, say between the Governor, the U. S. Secretary of Agriculture, and representatives of the counties to see how closely the agency aims can be reconciled and to set certain guidelines for local administrators to follow.

If a high-level conference is arranged, considerable advance effort should be put into outlining an agenda and preparing position statements. At this time, it appears that the following topics could well be included:

1. To what extent are the counties able and willing to apply zoning ordinances to the problems of waterfront preservation, maintenance of scenic corridors along roads, prevention of pollution, etc., within the National Forest area?
2. To what extent is the State prepared to commit itself to the objectives of the B.W.C.A. in legislation, land management, state-agency participation, appropriations? To what extent can the state participate in establishing policies?
3. Assuming favorable progress on above points, can a satisfactory program for B.W.C.A. be worked out, for the time being at least, without complete readjustment of ownership?
4. Does the State approve a system of land exchanges providing federal purchase of land in state forests and parks in southern Minnesota or elsewhere outside of the National Forest, to be used in exchange for state land inside the national forest? Does it favor sale of state land to the federal government at negotiated prices?
5. To what extent can surveys and mineral exploration be permitted in the B.W.C.A. in advance of a national emergency without seriously impairing scenic values? What will constitute a national emergency, and who will proclaim it?
6. What is the logical place for private industry in seeking solution of the resource problems facing this three-county area?

### Summary of Steps in Plan Development

To complete a long-range exchange plan and to provide for effective interim management of inter-

mingled lands within the Superior National Forest, the following steps appear logical:

1. The U. S. Forest Service to complete its land classification and adjustment study (1969). The State and counties complete their first phase land classification and outlining of management units by 1970. The three agencies to collaborate at appropriate points on features of mutual concern, including projection of needs to the year 2000.
2. The Governor, Secretary of Agriculture, and county representatives to seek a common
3. Local administrators to work out details of cooperation in management of intermingled lands covering period of ten years. Initiate negotiations on long-range exchange plan.
4. Carry out series of small non-controversial land exchanges of mutual value.
5. Submit a long-range plan to the Minnesota Land Exchange Commission and the National Forest Reservation Commission.

## CHIPPEWA NATIONAL FOREST

### The Statistical Picture

The Chippewa National Forest was established in 1908. It was greatly expanded in the mid thirties and now covers portions of three counties: Beltrami, 135,202 gross acres; Cass, 565,543 acres; Itasca, 622,761 acres. The total gross area in 1968 was 1,323,506 acres.

From the original three ranger districts — Cass Lake, Bena, and Cut Foot Sioux — the expanded Forest required additional districts centered at Walker, Remer, Marcell, Dora Lake\*, and Blackduck.

The following table shows present acreages by districts and ownerships:

TABLE V  
LANDS WITHIN THE BOUNDARY OF THE CHIPPEWA NATIONAL FOREST, 1968

Acreage by Ranger Districts						
Ranger District	National Forest	State	Ownership			Total
			County	Indian	Private	
Cass Lake.....	92,170	24,800	2,520	5,084	12,440	137,014
Bena.....	77,768	72,060	1,860	4,789	31,448	187,925
Cut Foot Sioux.....	94,345	49,400	7,300	3,400	39,577	194,022
Blackduck.....	99,382	59,500	18,600	1,600	65,674	244,756
Marcell.....	130,509	42,100	10,000	—	64,417	247,026
Remer.....	98,541	15,400	37,100	600	29,444	181,085
Walker.....	55,394	9,500	14,200	6,400	46,184	131,678
Totals.....	648,109	272,760	91,580	21,873	289,184	1,323,506

Acreage by Counties						
COUNTY	National Forest	State	County	Indian	Private	Total
Beltrami.....	61,492	20,371	10,010	3,714	39,615	135,202
Cass.....	286,962	103,880	54,440	11,980	108,281	565,543
Itasca.....	299,655	148,509	27,130	6,179	141,288	622,761
Totals.....	648,109	272,760	91,580	21,873	389,184	1,323,506
Percent.....	49.0	20.6	6.9	1.7	21.8	100.0

Approximately 208,736 acres of state land within the Chippewa National Forest are included in statutory state forests (Table VI) while 64,000 acres lie outside of the state forests. The state

and federal ownership is so intermingled in both situations that administration and management of the lands involved are unduly complex and costly.

\*A recent revision of the district boundaries eliminated the Dora Lake District and the acreage was divided between Blackduck, Cut Foot Sioux and Marcell.

**TABLE VI**  
**STATE FORESTS WHOLLY, OR IN PART, WITHIN**  
**THE CHIPPEWA NATIONAL FOREST**

State Forest	County	Gross Area	State Land	Tax-Forfeited	Federal Land	Private*
Bowstring.....	Itasca.....	224,017	57,048	5,320	136,369	25,280
	Cass.....	190,073	61,606	3,140	116,855	8,472
Battleground.....	Cass.....	12,868	9,311	820	1,757	980
Remer.....	Cass.....	12,774	2,440	800	9,334	200
Big Fork.....	Itasca.....	89,041	32,521	2,960	36,200	17,360
Blackduck.....	Itasca.....	86,518	32,192	8,960	26,246	19,120
	Beltrami.....	36,598	7,858	3,120	19,440	6,180
Welch Lake**.....	Cass.....	16,432	5,760	1,346	2,306	7,020
Totals.....		668,321	208,736	26,466	348,507	84,612

\*Industrial lands are included.

\*\*Only a very small portion of Welch Lake Forest lies within Chippewa boundaries.

Major problems are encountered in establishing survey or boundary lines, obtaining roads and trail rights-of-way, opening up timber sales on small portions of large timber tracts, and duplicating of services. Administrative problems increase as new programs are added involving water regulation, recreational development, and game management programs which require leases, special use permits, cooperative agreements, etc.

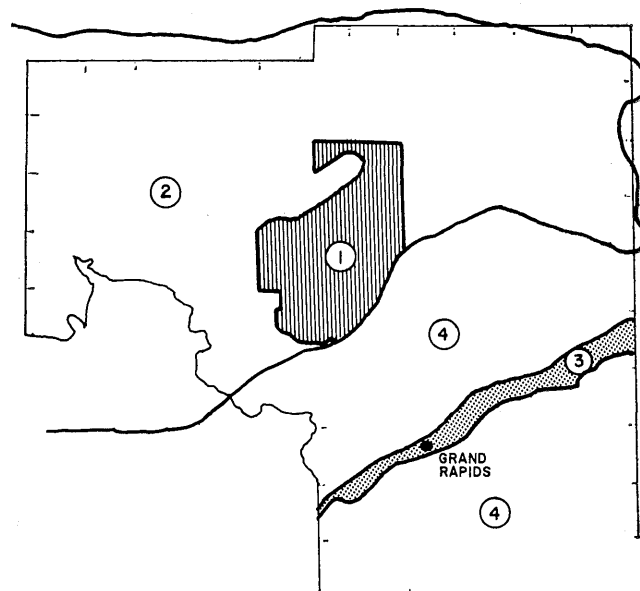
Recent studies of the Minnesota Geological Survey have indicated the possibility of valuable mineral deposits within the Chippewa National Forest, especially in northern Itasca County. On Fig. 30, Area 1, designated "Greenstone," has substantial mineral potential. Area 2 needs closer inspection. The other zones are believed to have lesser potential mineral value. The Iron Range, of course, has been rather thoroughly explored. Until the Geological Survey completes its work here, uncertainties as to mineral value will doubtless slow progress on exchanges in northern Itasca County.

### The 1961 Exchange Plan

After more than a year of intensive study, the Commissioner of Conservation and the U. S. Regional Forester from Milwaukee met on May 8, 1961, and agreed upon a long-range program of exchange for the Chippewa National Forest.

The following comment applies to the proposed exchange areas as numbered on the map (Fig. 31)

1. **Scenic State Park** — This area of 4,800 acres was proposed as an addition to Scenic State Park and the George Washington State Forest.



#### MINERAL BELTS

- 1 GREENSTONE AREAS OF CONSIDERABLE PROMISE
- 2 WITH SOME GREENSTONE NEEDING EXPLORATION
- 3 IRON RANGE
- 4 KNIFE LAKE SLATE & IGNEOUS ROCK — LITTLE PROMISE

Figure 30: Mineral Zones in Itasca County, 1968.

It contains two lakes adjacent to the park. The U. S. Forest Service agreed to relinquish 1,550 acres of federal land, thus giving the State title to about 3,250 acres in the block.

2. **Deer River** — This large area surrounding Deer River contains 85,700 acres of which the State now owns 52 percent and the U. S. Forest Service 21 percent. The area is accessible

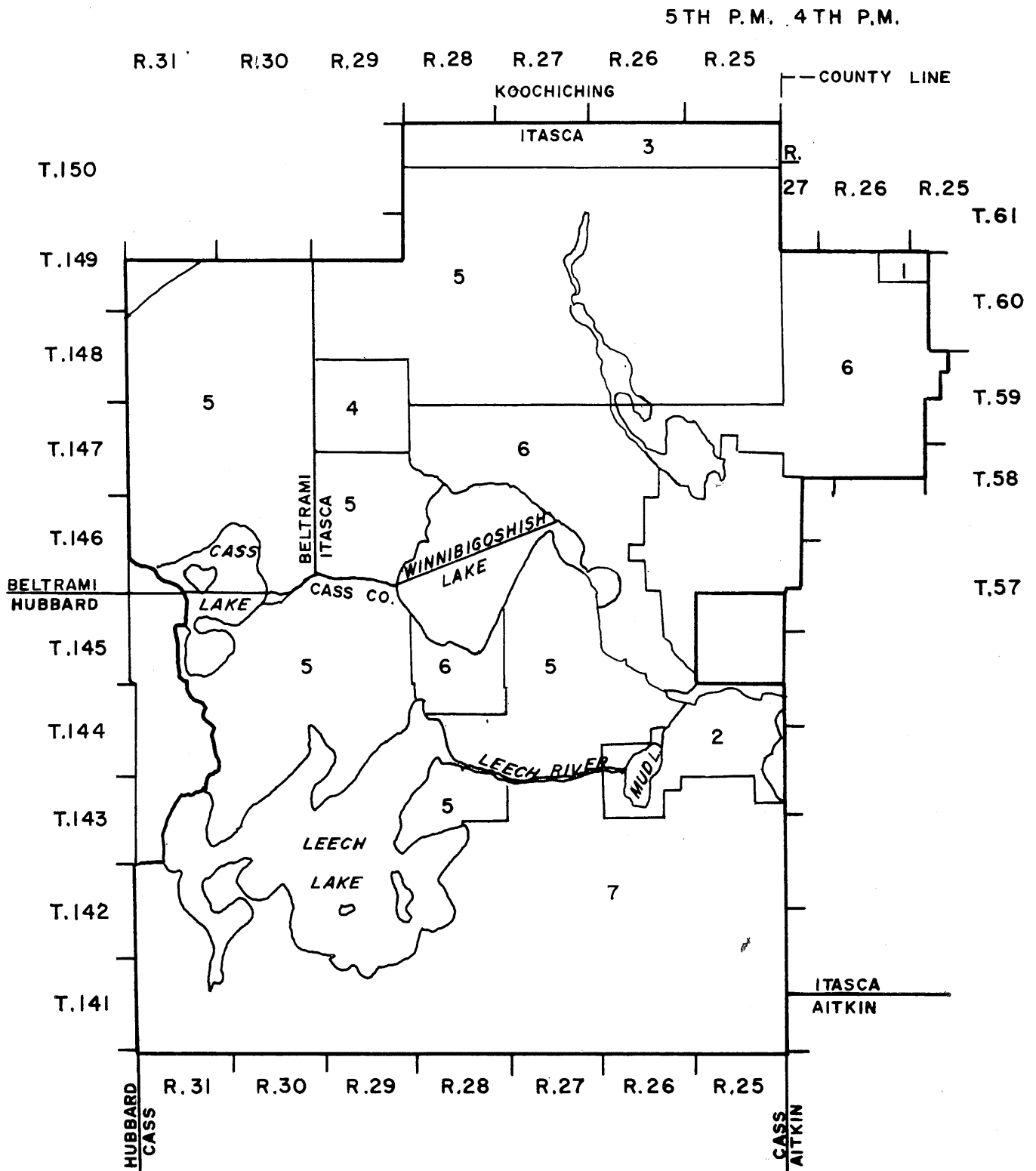


Figure 31: The 1961 Proposed Long-Range Plan of Land Exchange for the Chippewa National Forest.

to the state ranger headquarters at Deer River and contains the Mud-Goose Wildlife Area to the south. The State protects this area from fire at present under a cooperative agreement. The Forest Service agreed to trade about 17,800 acres to the State.

3. **North Boundary** — This strip of land 24 miles long by 3 miles wide is readily accessible from the state's Northome and Effie ranger stations. The State would acquire 33 percent ownership of this area through acquisition of 11,400 acres of federal land.
4. **Third River** — This area is part of a state forest and contains a preponderance of state ownership. The U. S. proposed to turn over 3,250 acres.
5. In the large interior area, the agencies proposed to retain the present balances of state and federal ownership, but to make exchanges designed to facilitate administration by consolidating larger blocks of state ownership within the areas.
6. State ownership within the areas marked "State Out" is either widely scattered or otherwise inconvenient for state supervision. The State offered to relinquish about 48,700 acres.
7. The State indicated willingness to eventually exchange out of this area, but, at present, the U. S. has no readily available land to offer in exchange.

Under the 1961 plan, the gross area of the National Forest would be decreased by some 211,000 acres, mainly in the area adjacent to Deer River and along the northernmost boundary. The U. S. would turn over 34,000 acres of federal land to the State, while the State would return 48,700 acres. To balance acreages, the Department of Conservation agreed to accept 14,700 acres of public domain lands in Koochiching County, which are largely muskeg comparable to some of the state lands in the Chippewa.

The State reserved the right to withhold valuable state-owned lakeshore property in the National Forest except where access and administrative problems make it advisable to trade, in which case lakeshore of equal usability and value would be obtained. Both parties agreed that individual exchange cases will involve lands of comparable forest cover and land value to the extent possible to keep acreages, as well as values, comparable.

A public hearing was held in Grand Rapids, Minnesota, on September 25, 1961, concerning the proposed long-range plan of exchange between the State and the Chippewa National Forest.

Some opposition to the exchange plan was voiced by forest industry representatives and others on

the grounds that consolidation of land in federal ownership would result in fewer timber sales to small operators residing in the area, and that the federal stumpage rate would be higher than that charged by the state. It was suggested by these men that exchanges should be confined to small ones between townships, and that no action should be taken until further study could be given to the entire exchange matter.

After the public hearings and some changes in details, the Minnesota Land Exchange Commission reserved judgment on national forest boundary adjustments but agreed to entertain exchange proposals in line with the plan.

### History of Exchange Cases

Federal and state land appraisers commenced land examination in 1961 and looked over some 12,550 acres of federal land and 16,360 acres of state land. From these, they selected 3,567 acres of state land and 4,312 acres of federal land of equal value — \$71,400. They spent much time and effort in making type maps; cruising timber; balancing values; excluding parcels with reservations, contracts, and leases; and agreeing on details. Finally, in early 1966, they submitted the case for approval (State Case #9, Federal Case #5324). At this point, it was discovered that some of the state lands involved included greenstone areas recognized by the Minnesota Geological Survey as having significant mineral potential. It seemed advisable to exclude the state lands in the Marcell Ranger District (Townships 58N-27W, 59N-26 & 27W, 60N-26 & 27W, 147N-25W) at least until the mineral possibilities could be more thoroughly explored.

To salvage the remainder of Case #9, the state appraisers put together a package made up of 944.13 acres of state land with an appraised value of \$24,755.70, for 1,949.44 acres of federal land worth \$24,785.87. This was referred to the National Forest but has not yet been acted upon.

### Outlook for Early Trades

In addition to uncertainty as to mineral potential, some questions as to final location of field headquarters of both federal and state agencies, and the uncompleted status of land-use studies, stand as obstacles to early agreement on a revised long-range plan or completion of large land trades in the near future.

Yet, some trades of mutual advantage can be made. It is still possible to salvage a worthwhile segment of Case #9. Additional lands in the White Oak and Bena areas can be considered. Interior exchanges around Third River and in Cass County are possibilities. Past experience would suggest

that individual trades should be on a small scale and not too widely separated geographically.

The State has not ruled out the possibility of accepting some unappropriated public domain land in Koochiching County in exchange for swamp land in the Chippewa. Preliminary examination of locations, however, suggests that a smaller acreage than the 14,700 acres originally considered can be incorporated effectively into state management units. Further study is being given to the possibility.

At present, the Department of Conservation is not able to deal with the National Forest in terms of trading interior state land for land which the federal government would purchase in state forests or parks elsewhere in the State. It can, however, consider this possibility in connection with the long-range plan. Establishment of federal purchase units for this purpose, of course, would have to be approved by the state legislature.

The feasibility and possible merits of a sale procedure as a supplement to land exchanges can be explored in the long-range planning.

The obstacles to rapid progress in land exchanges on the Chippewa National Forest suggest the need for the interim arrangements to improve administration for both parties.

#### Logical Next Steps

1. As noted above, feasible small-scale land exchanges can be worked up without waiting for a comprehensive long-range plan.
2. In preparation for closer cooperation in management, and to provide background for the long-range plan, the U. S. Forest Service, the Department of Conservation, and agents of the affected counties\* should collaborate in land-use planning within the National Forest. They can bring together features of the federal multiple-use plans, State management unit

plans, and county zoning procedures. The desired result would be a meeting of minds on the location of land-use zones, agreement on essential management needs, and some ideas on what each agency can contribute to improve public service.

3. With these joint plans as a basis, federal, state, and county land administrators should be able to develop cooperative arrangements dealing with such matters as protection, timber marketing, water control, recreational use, fish and game, etc., to serve until land exchanges can be affected, and even beyond,
4. A high-level state-county-federal conference has been proposed to deal with a number of difficult policy questions related to the B.W.C.A. and other sections of the Superior National Forest. There are questions of comparable importance in the Chippewa area, which could be posed at the same time or in a similar meeting. These points come to mind:
  - a. Logical exterior boundaries of the National Forest.
  - b. Willingness of State to accept public domain lands in exchange for swamp land in the Chippewa National Forest.
  - c. Attitude of both parties toward federal purchases in state forests and state parks to create trading stock.
  - d. Policies toward mineral exploration and development.
5. These steps, plus completion of organization plans of the agencies, can lead naturally into a development of good long-range exchange plan a few years hence.

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\*This chapter deals with land exchanges between the state and federal government. The authors recognize, however, that the counties have a large interest in the planning, both as land managers and as representatives of the local public. They should have a place in the proceedings throughout.

## CHAPTER IV

### PRIVATE AND MISCELLANEOUS FEDERAL EXCHANGES

#### Volume of Exchange

During the 26 year period 1942-68, the Department of Conservation processed 173 exchange cases in which the state and counties acquired 89,636.52 acres valued at \$1,382,909 while relinquishing 96,460.23 acres valued at \$1,358,290. The other landowners paid the state a total of \$25,119 in cash to equalize trades where the offered land was less valuable than the state land. (See Appendix IV)

Eight exchanges with the federal government accounted for 34,685 acres of state acquired land or 30 percent of the total. They accounted for \$432,938 in value received or 31 percent of the total. No exchanges with the U. S. Forest Service have been processed since 1963.

#### Exchanges with Private Landowners

Of special significance in recent years have been exchanges with **mining companies**. Nine such exchanges have been completed in which the State received 21,127 acres in return for 13,913 acres. In most cases the state land was needed as flowage in taconite mining.

A number of exchanges have been made with **forest industries**. Several exchanges have been completed with the Blandin Paper Co. to assist both the State and Company to consolidate holdings. In another case, the Mannila Brothers exchanged land with the State to obtain a mill storage area. The State traded timberland to the Boise Cascade Corp. for a small area within the city limits of International Falls which it needed as an administrative site. It made several exchanges with Maurice Salisbury and the Consolidated Water Power and Paper Company to consolidate holdings.

Exchanges have been made in a number of cases to acquire lands needed by the **Game and Fish Division** of Conservation Department and also to help the federal Fish and Wildlife Service consolidate ownership in management areas. In some cases, state land suitable for farm use was traded for land needed for flooding or for access to lakes and marshes. In one pending case state forest land is being offered for land to be used for pike spawning.

Forest land has been traded in a number of instances to acquire land within **State Parks** or to create a buffer zone surrounding parks.

A number of small exchanges of state and tax-forfeited land have been made to enable **isolated**

**settlers** to move closer to good roads and schools. One recent trade in the Memorial Hardwood Forest gave a farmer some adjoining pasture land in exchange for a somewhat larger tract of wooded bluff. Another trade in northern Minnesota gave a local resident a small tract on which to start a tree farm. Still another consisted of marshlands on which to cultivate wild rice.

Altogether, more than 150 exchanges have been completed with private companies and individuals.

#### Department of Interior — Fish and Wildlife Service

The U. S. Fish and Wildlife Service administers 228,604 acres of land in Minnesota\*. Sixty percent of the area is in five migratory bird refuges, four percent in small scattered wetland tracts, thirty-six percent, or 81,700 acres in the Beltrami Island Land Utilization Project.

The refuge and wetland program is being developed under a procedural agreement with the Commissioner of Conservation, and does not present serious problems of intermingled ownership or overlapping jurisdiction.

The Beltrami Island Project is a special situation. (see below)

#### Land Use Project (LUP) Lands

Originally, there were six land utilization projects in Minnesota, in which approximately 218,000 acres were acquired under the NIRA Act of June 16, 1933. A brief history of these projects is of interest here, because it indicates the possible means of disposition of the projects in which the State is interested.

**Rice Lake Project** — 7,786 acres and **Mud Lake Project** — 60,216 acres, were transferred to the Fish and Wildlife Service in 1935 and 1937 by Executive Order (E.O.) 7221 and E.O. 1783, and are now included in federal refuges.

**Pine Island Project** — 21,176 acres along with 1,313 acres in the Isolated Settler Project were placed under custody of the U. S. Forest Service in 1938, and leased to the state in 1940. These lands were then given to the state (Division of Forestry) October 11, 1954, under authority of Section 32 of the Bankhead-Jones Farm Tenant Act of 1937.

\*Most of the material relating to federal agencies in this chapter is the work of Mr. Waldemar R. Anderson, Bureau of Planning, Dept. of Conservation.

**The St. Croix Project** — 18,499 acres were placed under the National Park Service administration in 1936, by E.O. 7496. This land was transferred to the state (Division of Parks) in 1943 under authority of the Act of June 6, 1943.

**The Twin Lake and Flat Lake Projects** — 28,555 acres were placed under Bureau of Indian Affairs in 1938, by Executive Order 1868. The title has not been transferred to the tribe. Such action was provided for in H.R. 4385 introduced by Congressman Langen in 1963, entitled a bill "To donate to Minnesota Chippewa Tribe". The lands technically are not subject to the provisions of Title III of the Bankhead-Jones Farm Tenant Act of July 22, 1937, because they were transferred to the Department of Interior about two months before most of the submarginal land projects were placed under Title III. The Bureau of Land Management has implied that this interpretation may be subject to question.

**The Beltrami Island LUP Project** includes 81,700 acres (4,148 in Beltrami County; 49,430 in Lake of the Woods; 28,122 in Roseau). It was turned over to the Department of Conservation on a 50 year lease (renewable for 3 consecutive 15 year periods) in 1940. In 1942 E.O. 9091 designated the area as the Beltrami Wildlife Management Area, under the general custody of the Fish and Wildlife Service, but made no changes in lease arrangement with the State. In 1964 the Department of Interior offered to transfer this land to the Department of Agriculture, but this transfer was not consummated.

In a letter to Secretary of Agriculture Freeman April 18, 1967, the Commissioner of Conservation made a formal request for transfer of the Beltrami Island LUP lands, stating in part:

"The State of Minnesota Department of Conservation respectfully requests that the federal government grant to the State approximately 81,700 acres of Beltrami Island Development Project (LUP) lands presently under lease to the state by the U. S. Department of Interior. This request has precedent since 21,176 acres of Pine Island Development Project land was previously transferred to the State by the Secretary of Agriculture in 1954, under authority of Sec. 32 of the Bankhead-Jones Farm Tenant Act of 1937. The U. S. Bureau of Sport Fisheries and Wildlife has agreed to transfer the Beltrami Island Development Project land to the Secretary of Agriculture for transfer to the State."

In a November 21, 1967 reply, the Deputy Chief of the U. S. Forest Service noted: "After giving this proposal careful consideration, Secretary Freeman recently suggested to Governor Le-

Vander that exchange of such lands would have substantial advantages the State may wish to further consider."

There the matter rests.

Although outright ownership would simplify record keeping to some extent and might encourage the State to make larger capital investments in the land, the Department of Conservation is reasonably well satisfied with the lease arrangement. The lease agreement provides principally that the State shall maintain, develop and protect a) forest resources, b) wildlife, c) recreation, d) water. It shall assume all costs. It shall expend an amount equivalent to the income from the land either for maintenance or for acquisition of additional land. During the fiscal year ending June 30, 1967, the Department of Conservation expended \$77,589 (95 cents per acre) on the Beltrami Island land. Of this, \$21,477 was income from the land, \$17,775 was from Division of Forestry funds, and \$38,338 from Game and Fish Division funds.

#### **Department of Interior — Bureau of Land Management**

Approximately 43,000 acres of federal public domain (BLM) lands remain in Minnesota. This includes about 38,800 acres, mostly swamp, in Koochiching and Lake of the Wood counties; some few scattered tracts in other northern counties; and about 3,700 acres in unsurveyed islands.

Close to 20 percent of the BLM land in Koochiching and Lake of the Woods counties is within state forests and most of the remainder lies sufficiently close that it can be protected by the state forestry organization. Generally, the land is low and flat with some open marsh, some burned-over peat land, and a great deal of stunted spruce and tamarack forest. Roughly 10 percent has forest products of commercial value. A large share of this land lies within the former boundaries of the Red Lake Indian Reservation and the Indians still have a certain equity in it.

The unsurveyed islands, now being examined and appraised by the Bureau undoubtedly have potential value — some for private uses, some for public recreation and water access. The features which limit the value of these islands to the Department of Conservation are lack of General Land Office surveys and isolation of many of the tracts from existing supervisory organization.

In past years, the Department of Conservation has considered the possibility of taking some BLM lands in exchange for state lands in the Chippewa National Forest. The 1961 Exchange Agreement provided for taking 14,700 acres. The Department now believes that only 4,000 to 5,000 acres of forest, a few hundred acres of wildlife land and an

undetermined number of islands and lakeshore tracts would have any positive value to the State.

The BLM island appraisals are under study by the several divisions of the Conservation Department, and the swamp lands will be more carefully examined in connection with the general land classification. Following this, a logical plan of disposition can be worked out.

### Indian Lands

The Bureau of Indian Affairs, U. S. Department of Interior, with its local agency at Bemidji is trustee over 735,435 acres of Chippewa and Sioux Indian tribal lands in northern Minnesota. This Bureau also administers 28,700 acres of the Twin Lake and Flat Lake LUP land in Becker and Mahnomen counties.

The principal concentrations of Indian land are: — Red Lake Reservation (Beltrami, Koochiching, Roseau, and Lake of the Woods counties), White Earth Reservation (Mahnomen and Becker counties), Nett Lake (Koochiching and St. Louis), Leech Lake (Cass and Itasca), Fond du Lac (Carlton and St. Louis), Grand Portage (Cook County).

The main body of the Red Lake Reservation is a compact block of Indian land. However, the band also has scattered holdings within several state forests and the Red Lake Game Management Area. It would be advantageous to the state to consolidate through land exchanges. But the Indians place a high value on their special hunting rights which presumably they would lose in land exchanges. Thus, they have not been receptive to trade proposals.

The White Earth Indian lands and the LUP lands in Mahnomen and Becker counties are intermingled with state, county, and private lands in such a way that independent management is diffi-

cult. A Department of Conservation study group in 1959 recommended that the State should try to acquire 1,170 acres of Indian land within the White Earth State Forest, Mahnomen County by means of land exchange. The study group also recommended establishment of a state park on Little Elbow Lake. This would require acquisition of 948 acres of Indian lands. The Indian council has raised no objections to the park proposal but so far has not approved these trades.

The Nett Lake Indian Reservation contains no state land but has both private and tax-forfeited land intermingled with Indian tribal land. The Department of Conservation has no record of any land exchange proposals.

Leech Lake Indian lands are diffused with rather small acreages within state forests. The State would be interested in 1,786 acres within the Welsh Lake State Forest (Cass County) but no exchange proposals have been made.

A few small exchanges are possible in the Fond du Lac and Grand Portage areas but have never been seriously discussed.

Land exchanges involving Indian land are legally possible but the process is cumbersome and frustrating. Only one exchange covering an insignificant acreage has been processed to date. In view of difficulties of exchange, primary attention probably should be given to improving administration of intermingled lands by joint planning and cooperative development programs.

### Ownership Map

The attached colored map shows the ownership pattern north of Red Lake. It covers portions of four counties — Beltrami, Koochiching, Lake of the Woods, and Roseau and it locates a large share of the public lands discussed in this chapter.

## NOTES RELATING TO FOUR-COUNTY OWNERSHIP MAP

### State Trust and Acquired Land

**Trust Fund** lands are lands received by the State by grant from the federal government, with requirement that receipts from the lands be used for certain specific purposes, mostly for schools. Generally, these are under control of the Division of Lands and Forestry.

**Acquired Lands** may consist of purchased areas or lands turned over by counties under MSA 89.034. In this locality, a large share are "Volstead Land" purchased from the federal government on January 1963. Receipts from these lands are put into the State Forest Fund.

### Conservation Area Land

Tax-forfeited land under control of State Department of Conservation without any trust in favor of local taxing units. Created as Red Lake Game Reserve by Chapter 258, Laws of 1929 (now MSA 84A.01). The land is under the control of the Game and Fish Division.

### State-Administered L.U.P. Land

Land originally acquired by the federal government under Title II of the National Industrial Recovery Act of June 16, 1933; for the purpose of relocating isolated settlers on better and more favorably situated land.

The **Beltrami Island Project** consisting of 81,700 acres in Beltrami and Lake of the Woods counties was leased to the Department of Conservation in 1940 for conservation purposes. The lease runs for 50 years with provision for three 15 year extensions. In 1942, Executive Order 9091 designated the area as the Beltrami Wildlife Management Area under the general custody of the federal Fish and Wildlife Service, but made no changes in lease arrangements with the State.

Disposition of L.U.P. land may be made under the following Acts and authorizations:

1. Bankhead-Jones Tenant Act of 1937 — (50 Stat. 522). This act provides for the control and disposition of L.U.P. lands under the jurisdiction of the Department of Agriculture. Under the Act, L.U.P. land may be sold or granted to states, providing the land is used for public purposes. The land is subject to reversion to the United States, if not used for public purposes.

It is assumed that the land in the Beltrami Island L.U.P. could be transferred by executive order to the Department of Agriculture, then sold or given to the State. There is precedent for this course of action.

2. The land may be exchanged for State land within existing federal project boundaries. The Department of Interior has suggested the "possible conveyance of the lands to the State of Minnesota for use by the Minnesota Department of Conservation, in exchange for certain State lands within the B.W.C.A., Superior National Forest". One advantage to the state, would be that the lands would not be subject to reversion to the United States.
3. The land may be continued under lease, as the Beltrami Island Project is now administered.

### **Federal Public Domain**

This is federal land not reserved, appropriated, or set aside for specific or designated purpose. The large portion of these lands lying within the former Red Lake Indian Reservation (referred to as Royce Area 706 land) has the proviso that proceeds from sales of land will be held in trust for the Chippewa Indians. This proviso presumably will have a bearing upon any plan for land exchange or grant of land to the State.

The disposition of public domain land may be affected under several acts, authorizations and procedures. Presently, the following may be used should disposition be desired.

1. Swampland grant-act of March 12, 1860 (12 Stat. 3)
2. Volstead Act of May 20, 1908 (35 Stat. 169) as amended May 1, 1958 (72 Stat. 99)

3. The Recreation Act of June 14, 1926 (44 Stat. 741) as revised by the Recreation and Public Purposes Act of 1954. (68 Stat. 173). This Act has been used in acquiring Public Domain by the State. While applying well to lands to be used for park and other recreation purposes, it permits the acquisition of only 6400 acres annually for such purposes involving not more than 3 sites. The Act does not permit acquisition of more than 640 acres annually for forestry and purposes other than recreation. On land acquired under this Act, the State is not only limited in administration and use, but in the authority to dispose of the land as well. Disposal of this land, can only be made to agencies eligible under the Act, and with federal approval.
4. The Bureau of Land Management considers land exchange a desirable method of disposal.
5. Special acts are a possibility. There is precedent for such action in an Act of August 22, 1912 (37 Stat. 324), Chapter 328, which granted unsurveyed islands to the state of Wisconsin. An amendment of June 29, 1938 (52 Stat. 774) authorized Wisconsin to dispose of any islands not needed for forestry purposes, into private ownership.
6. The state should preferably acquire the domain lands in fee only. This would permit the State to administer these lands, or dispose of them as has successfully been done with public domain previously granted to the State.

### **Indian Tribal Lands**

Lands held in trust by the United States for the tribes. They are administered by the Bureau of Indian Affairs, Department of Interior. Lands in tribal status cannot be sold unless Congress authorizes the transaction.

### **Tax-Forfeited Land**

Land which has forfeited for non-payment of taxes ordinarily is held by the State in trust for the taxing units. It is administered by the counties until sold or transferred. On most of the land in this four-county area the State has relieved the counties of outstanding indebtedness chargeable to the forfeited lands and has assumed full responsibility for their management. See "Conservation Area".

### **Private Land**

All privately owned land including Indian Allotments.

## CHAPTER V

### VOYAGEURS NATIONAL PARK

In recommending the Land Exchange study to the 1967 Legislature, the Minnesota Outdoor Recreation Resources Commission (MORRC) concluded that "A plan for land exchange in the proposed Voyageurs National Park area should be carefully developed in the light of problems which exist in national forest areas to protect the interests of the citizens of the State of Minnesota and to avoid as many pitfalls as possible in establishing the final ownerships in the proposed park." (MORRC Report #17)

At a Park Workshop meeting in Virginia, November 28, 1967, the Director of the Division of Lands and Forestry, outlined several ways in which land could be acquired for park purposes, including 1) purchase by the Department of the Interior, 2) condemnation, 3) donation, 4) leasing, 5) transfer between federal departments, and 6) land exchanges. Under land exchanges, he mentioned three propositions, each capable of variation: 1) Exchange of state land within the proposed park for federal land elsewhere; 2) exchanges between federal agencies and private land owners; and 3) two-step exchanges — State with private owners; then, State with federal agencies. He expressed no preference as to method.

In June, 1968, following further study of location and quality of land involved, the Division of Lands and Forestry prepared an amplified preliminary report to the Governor setting forth in more specific terms the acreages and relative values involved. It also pointed out ways in which an adequate timber supply could be provided the Boise Cascade Corporation to offset the latter's losses on the Peninsula. The report indicated preference for direct purchase by the National Park Service at least for valuable lakeshore lands.

At the present time, the U. S. Congress has not yet acted on the park proposal, and the National Park Service has expressed no attitude toward acquisition methods to be followed. It is difficult therefor for the land exchange study group to add any ideas on exchange techniques not already offered. Perhaps they should, however, comment briefly on the possible relation of the exchange proposals to other activities that are advocated.

#### Ownership of Land Within Proposed Park

Because of boundary adjustments under negotiation, the following acreages are only approximately accurate:

	Original Park Proposal	*Including Crane Lake Recreational Area
Boise Cascade Corporation....	48,200	48,200
Other Private Land.....	19,500	30,721
State Trust Fund & State Acquired.....	25,000	28,389
U. S. Forest Service.....	8,000	25,379
Koochiching County.....	2,470	2,470
St. Louis County.....	1,100	4,389
Totals.....	104,270	139,548

\*Addition of the Crane Lake Recreational Area (presently a part of the Superior National Forest) was recommended by Governor LeVander on March 9, 1968, in a letter to Mr. George B. Hartzog, Jr., Director, National Park Service.

#### Major Exchange Possibilities

Three principal exchange propositions need consideration:

1. Exchanges leading to state acquisition of non-federal land in the park area precedent to **donation** of land to the National Park Service. The Governor, in his March 9, 1968, letter to Director Hartzog, made it clear that "the State of Minnesota does not intend to acquire any private lands within the proposed park for donation to the Park Service." Exchange methods, therefore, need not be explored here.
2. Exchanges leading to state acquisition of all non-federal land in the park area for later exchange for federal land elsewhere. This requires consideration of three questions: (a) What land does the State have to offer? (b) Will the offered state lands fill the needs of forest industry for timber and other private owners for recreational land? (c) What federal lands are available for such two-way trades, and how do these exchanges fit into long-range state management plans?
3. Exchanges largely engineered by the federal agencies involved. The State would be primarily concerned with getting replacement acreage for the state and county land within the Park. The State and counties, however, would still want to collaborate with forest industries in finding adequate wood supplies.

#### Considerations in Two-way Trades

1. If the State offers to exchange state lands outside the Park for lands owned by Boise Cascade

and other private owners inside the Park, the first question concerns the suitability of available state land for the purpose. The State has approximately 195,000 acres of land within 30 miles of International Falls. This land lies outside state forests and theoretically is available for trade. It is mostly swamp land. About 40 percent is non-productive, or deforested, but, as timber land, most of it is equivalent to private land in the Park and is possibly better located. It does not have lake frontage to offset the approximate 106 miles on company lands, and 256 miles on other private lands. Thus, to exchange on an equal value basis might require as much as eight acres of state forest land to equate with one acre of mixed forest and recreational land held by private owners. Thus, the entire block might take care of only about 25,000 acres of private holdings.

2. Omitting the lake frontage land a trade might be possible, acre for acre, if the owners are willing. However, there is some doubt that the miscellaneous private owners would be interested in obtaining other land in a non-recreational area. The Boise Cascade Corporation has not expressed an opinion on the proposition. However, one may recall that in 1942 the Minnesota and Ontario Paper Company applied to exchange its 49,000 acres of cut-over and burned lands on the Peninsula for 5,600 acres of state-owned black spruce timber south of International Falls. The trade fell through, not because of any disagreement between the principals, but because of opposition raised by local loggers and other residents. It seems certain that the Boise Cascade Corporation, because of its general disapproval of the Park, would drive a harder bargain in any negotiations at this time.
3. The third consideration is: What federal lands are available to reimburse the State for its acquisitions in the Park? The November 28, 1967, outline listed six possibilities: Zone A, Kabetogama State Forest; Zone B, Townships 67N and 68N, Range 18W, in the Crane Lake District of the Superior National Forest; Zone C, the Virginia District of the Superior National Forest; Zone D, a six-mile by forty-mile strip off the southern part of the Superior National Forest; Zone E, the LUP lands in the Beltrami Island area; and Zone F, BLM lands in Koochiching and Lake of the Woods counties.

Concerning the Kabetogama Purchase Unit (within the Kabetogama State Forest), it may be well to recall the history of this area. The Purchase Unit, and two other small areas, were a part of the Superior National Forest until the late

1940's when the Commissioner of Conservation and Regional Forester reached a "gentlemen's agreement" that the U. S. Forest Service would pull back its boundaries and trade its holdings there for scattered state land in the BWCA and elsewhere within the Superior National Forest. Both parties have acted in good faith under this agreement. The Superior National Forest boundary was pulled back, and a number of mutually advantageous land exchanges were made. The agreement was continued under the 1961 land exchange plan and still remains one of the keystones to a long-range state-national forest land adjustment program. Under these circumstances, it will be awkward for the State to propose other disposition of the federal lands, not only causing tangible loss in its own forestry program, but also raising question of good faith.

Zones B, C, and D involve elimination of significant portions of the Superior National Forest and naturally will be opposed vigorously by the U. S. Forest Service. For the State to propose a trade involving these areas will put it in the unenviable position of middleman between reluctant private negotiators and an embattled public agency.

Zone E covers some 81,230 acres of Beltrami Island Land Utilization Project lands now leased to the State by the Fish and Wildlife Service, Department of the Interior. As pointed out earlier in this report, the State made application to the federal government in 1967 to have these lands transferred directly to the State, as were other Land Utilization Project lands in the Pine Island area previously. Because of distance from major markets, the 46 percent of area bearing the timber stands has somewhat less value than if near International Falls, but the lowlands, upland brush, and old fields have considerable value to the State for wildlife management. Early transfer of this land to the State would insure that the total acreage of federal land in Minnesota would not be increased through creation of a National Park.

Zone F covers 38,800 acres of unappropriated public domain in Koochiching and Lake of the Woods counties. Preliminary examination indicates that about ten percent of the land is reasonably productive and so located that it can be incorporated in existing state forests. The remainder is relatively inaccessible muskeg of no special commercial value. The State has previously indicated in willingness to accept a limited acreage (once stated 14,300 acres, but now figured smaller) in exchange for state swampland of comparable quality within the Chippewa National Forest. It would possibly accept custodianship of the total area to relieve the federal government of supervisory responsibility.

To summarize the prospects for two-way trades under state initiative: The State has lands available for trade that will balance the values in corporation and miscellaneous private lands and timber but not lakeshore property, which presumably will require direct purchase. The private owners have not indicated their attitude toward the method. Owners of small tracts probably will not be interested. None of the federal lands proposed to reimburse the State can be taken without doing substantial harm to the U. S. Forest Service or utilizing lands that otherwise would go to the State by other means. Moreover, land exchanges are notoriously slow and cumbersome, particularly two-way trades. Thus, negotiations would doubtless be extended over a long period of time. In short, the two-way trade does not appear to be an easy solution, nor does it appear likely to promote the "very close cooperation between the federal agencies, the State, the Boise Cascade Corporation, individual citizens, Congress, and the State Legislature" recommended in Mr. Buckman's November 28, 1967, analysis.

#### **Exchanges Between Federal Government and Other Owners**

The State will be affected only indirectly by straight one-way land exchanges that may be worked out between the government and Boise Cascade Corporation and other private owners and need not explore the possibilities. It will be concerned, however, with the terms by which state and tax-forfeited land will be transferred to the National Park Service.

The State of Minnesota has approximately 28,389 acres with 125 miles of lake frontage in the expanded park area.

The counties have a little less than 7,000 acres with seven miles of water frontage in the enlarged Park (Koochiching, 2,470 acres; St. Louis, 4,389 acres).

It is not clear where the federal government can find equivalent lake frontage or land of equivalent value to trade for either the State, county, or private lands. Without it, the federal government will have to offer up to eight acres for one.

#### **General Conclusion**

Land exchanges have some possible application to the land and timber values which represent about one-eighth of the total value of non-federal land in the proposed Park area. They do not appear to be a feasible method for acquiring lake frontage.

Two-way trades under State initiative will be a difficult and uncongenial undertaking for the State.

The State need take no position on possible direct federal exchanges with private owners. As regards exchanges for its own holdings and the tax-forfeited lands of the two counties, the Department would not favor accepting LUP lands nor upsetting any of its other long-standing agreements with federal agencies.

The procedure for accomplishing land transfers in the most expeditious manner would be direct purchase by the National Park Service. In the case of the Boise Cascade Corporation, the State could offer to sell timber land outside the park area in amounts comparable in acreage and timber value to the lands sold by the Company to the National Park Service. It could not, of course, replace the lake frontage.

## CHAPTER VI

### OBSTACLES TO LAND EXCHANGES

Land exchanges which, in theory, offer a direct and practical means for consolidating ownership and simplifying administration, have, in practice, encountered numerous frustrating obstructions. Some of the most serious are discussed in this chapter.

#### a. Procedural Bottlenecks

Some past land exchanges have taken inordinately long to complete (one extreme case took more than ten years.) A partial review of the steps involved leads to these conclusions:

1. The most time-consuming procedures have to do with clearing titles. In federal exchanges, the legal work on both sides has taken a great deal of time. No short-cuts should be attempted that would endanger protection of the public interest, but both agencies should try to keep cases moving.
2. Large exchanges present greater occasion for delay due to technical faults and are more likely to meet opposition of one kind or another.
3. Appraisal standards and methods of balancing values which caused difficulties in earlier exchanges have been improved over the years and need cause relatively little delay now.
4. Procedures in public hearings are complicated somewhat by the appointment of a Land Exchange Review Board. However, with proper attention to operational rules, it should be possible to prevent unnecessary duplication and delay.
5. The amount of administrative paper work required to plan, negotiate and complete a normal load of exchanges is too great to be absorbed as a side line by personnel of the Department.

The conclusions which may be drawn from the above are: (1) that individual exchanges should be kept relatively small; (2) a Land Exchange Coordinator should be added to the complement of the Division of Lands and Forestry and concentrated attention given to expediting the various steps required in land exchange; (3) the Land Exchange Review Board should outline procedures to minimize delays and avoid duplication in public hearings. A reasonable time limit for a typical exchange should be one year.

#### b. Poor Land Titles

The titles which the counties are able to give on tax-forfeited land are unacceptable to the state or federal government in land exchanges. They also interfere with the sale of lands to

private purchasers, as evidenced by the following resolution:

Resolution on Clearing of  
Tax-Forfeited Titles  
Land Commissioner's Meeting  
Walker, Minnesota  
October 3, 1968

WHEREAS the Northern Counties of Minnesota have collectively several million acres of tax-forfeited land within the county boundaries and WHEREAS the sale of a considerable amount of this tax-forfeited land is deemed to be to the public interest and

WHEREAS the title to this tax-forfeited land has been found to be defective and therefore leaves doubt in the mind of the purchaser and lending agencies associated with this land and

WHEREAS the value of this tax-forfeited land would appreciate approximately 17 million dollars if the title could be cleared and

WHEREAS there is presently in the Statutes of Minnesota a law providing for the clearing of tax-forfeited titles via adverse possession and

WHEREAS this law has been found to be unacceptable to the State Attorney General's Office when a tract of tax-forfeited land was presented to them for consideration for land exchange purposes.

THEREFORE, be it resolved that the Land Commissioner's Organization of the Northern Counties recommends to the County Auditor's Organization and to the Forest Region Rehabilitation Committee that the present law be amended to be acceptable to the Attorney General's Office and

BE IT FURTHER RESOLVED that these groups take the initiative in having acceptable legislation drawn up and presented to the legislature during the 1969 legislative session and

BE IT FURTHER RESOLVED that the County Auditor's Organization and the F.R.R.C. be requested to bring a test case of the amended legislation before the courts to establish the validity of this legislation and

BE IT FURTHER RESOLVED that the secretary of the Land Commissioner's Organization be directed to send copies of this resolution to the County Auditor's Group and to the Forest Region Rehabilitation Committee.

#### c. Industry Opposition

In commenting on certain tentative land exchange proposals for state and U. S. Forest Service lands, which were circulated as a part

of this study during the summer of 1968, industry representatives who had opposed previous exchanges, expressed similar reservation on current proposals. These commonly made the point that consolidation of public lands into one ownership leads to monopoly of timber supplies to the disadvantage of the timber buyer. Some advocate substantial disposal of public forest lands.

Because forest industries in Minnesota are heavily dependent upon public forest lands for wood supplies, they have an understandable interest in public land management and a legitimate reason for being heard on land exchanges, land sales and land purchases. They now have a good opportunity to present their views before the newly constituted Land Exchange Review Board and the Minnesota Land Exchange Commission. They also have an opportunity to participate in some local planning in the State and county land classification projects. It is to be hoped that they will utilize these opportunities in a constructive way with the aim of improving the quality of public service. Maintenance of present chaotic pattern of ownership and over-lapping jurisdictions cannot be advantageous to forest industries in the long run.

#### d. Mineral Values

At the time the 1961-62 Land Exchange Plan for the Superior National Forest was being prepared, a strip of land approximately six miles

wide and extending in an arc from Whiteface Reservoir, through Aurora, Babbitt, and Gunflint was recognized as containing high mineral potential and was excluded from the exchange plan.

Subsequent surveys and exploration, plus the rise in value of copper and nickel, have generated interest in a much wider area including the entire Duluth Gabbro and various greenstone areas west across St. Louis, Itasca, Koochiching and Beltrami counties. For the time being, the Mineral Section of the Division of Waters, Soils and Minerals, Department of Conservation, is reluctant to approve land exchanges in these areas.

In justification of its cautious approach to land exchanges, the Mineral Section points to the enormous difference in value between minerals and timber on lands where good ores have been discovered. In unexplored areas, the mineral men prefer a checkerboard pattern of land ownership to a concentrated one.

The extent of mineral classification in the Superior National Forest is shown in Table VII. The classification is most extensive in the eastern part of the B.W.C.A. where 79 percent of the State land in Cook County, and 70 percent in Lake County falls within the mineral zone.

Approximate division of State and tax-forfeited land between Mineral and Non-Mineral Zones within Superior National Forest

**TABLE VII**  
**APPROXIMATE DIVISION OF STATE AND TAX-FORFEITED LAND**  
**BETWEEN MINERAL AND NON-MINERAL ZONES**  
**WITHIN SUPERIOR NATIONAL FOREST**

In Entire Superior National Forest				
COUNTY	State Land		Tax-Forfeited Land	
	In Mineral Zone	Not in Mineral Zone	In Mineral Zone	Not in Mineral Zone
Cook.....	47,364	49,420	3,560	4,800
Lake.....	84,991	53,340	17,985	18,060
St. Louis.....	30,200	138,248	36,100	37,220
Total.....	162,555	241,008	57,645	60,080
Within B.W.C.A. Only				
Cook.....	20,261	5,460	2,554	2,040
Lake.....	17,020	7,340	4,699	1,400
St. Louis.....	1,000	51,241	0	3,248
Total.....	38,281	64,041	7,253	6,688

MORRC report #17 "Land Exchange in Minnesota" states in conclusion #9:

"The mineral rights reservations on lands exchanged with the federal government have not been proven adequate and may not prove to be in the best interests of the State. This matter should be investigated in detail to arrive at reservation that will protect the interests of the state before further exchanges are made."

Again among the recommendations:

"The Attorney General of the State of Minnesota should continue his investigation of the adequacy of present mineral rights reservations included in deeds for land exchanges or sale for exploration and recovery of minerals and carry on the necessary field work."

In making land exchanges with the federal government, the State of Minnesota invariably reserves minerals but the specific rights to enter the land and explore for minerals have not always been spelled out. The reservation clause on state deeds could well be made similar to the one used by the federal government in exchange case #6 which reads as follows:

"Reserving to the United States of America and its assigns all coal, oil, gas and other minerals not outstanding of record in third parties, together with the right of the United States through its authorized agents or representatives at anytime to **enter upon the land and prospect for, mine, and remove the same.**"

The Attorney General's office points out that a mineral reservation clause, however worded, does not give the subsurface owner the unqualified right to enter upon another's land and do as he pleases with the property. The surface owner is justified in making regulations for protection of the soil, water, and vegetation and may charge a mining operator a fee for use of the land and if necessary can collect damages for misuse. The U. S. Department of Agriculture has certain "Conditions, Rules, and Regulations to govern Exercise of Mineral Rights reserved in conveyances to the United States", dated April 30, 1963. The State of Minnesota has considered these rules reasonable for the areas within the national forests where there is no special indication of valuable minerals and the State and U. S. Forest Service have essentially the same policy toward discovery and exploration.

In areas of high mineral potential such as the copper-nickel belt in St. Louis and Lake Counties and the promising greenstone areas elsewhere, the State sees advantage in retaining both surface and subsurface rights. It can thus have better control of exploration and will receive all revenue from mining leases.

In intermediate zones including much of the Duluth Gabbro and unexplored greenstone areas, the state's inclination is to retain surface ownership until the mineral values can be more accurately determined by geological surveys and industrial exploration. This may take fifteen years or more.

The special conditions within the BWCA have been considered in Chapter III.

There does not appear to be any quick and easy solution to the problems related to minerals. A few things will help:

1. Small-scale land exchanges are possible now in areas of lesser mineral interest. The attorney general's office is continuing study of reservation provisions and may further improve the wording of state deeds.
2. Accelerated geological surveys and continued industry exploration will doubtless exclude other areas from the high potential rating and permit additional exchanges.
3. High-level conferences and local negotiations can clarify policy questions within the BWCA and other special situations. If not opening up exchanges immediately they should at least bring about more uniformity in state and federal mineral policies.
4. The Attorney General's office has clarified a number of points relative to rights of subsurface owners (See appendix VI) and is continuing investigation of this subject.

#### e. Administrative Restrictions

In approving the Superior National Forest exchange plan June 21, 1962, the Minnesota Land Exchange Commission, upon recommendation of forest industry representatives, adopted a provision that exchanges would be confined within counties. This reduced the exchange possibilities by approximately 50 percent inasmuch as the bulk of the Federal land offered was in St. Louis County, while state areas were largely in Cook and Lake counties.

It will be possible to execute small-scale exchanges for a few years under this limitation. If the broader aims of the state-federal exchange program are to be reached, however, there will need to be some relaxation of the restriction. The rule might provide that no exchange can be made across county lines without the approval of the county boards of affected counties.

State Law (MSA 94.342, Subd. 3) requires that

"No land bordering on or adjacent to any meandered or other public waters and withdrawn

from sale by law shall be given in exchange unless expressly authorized by the Legislature or unless through the same exchange the State acquires land on the same or other public waters in the same general vicinity affording at least equal opportunity for access to the waters and other riparian use by the public." It provides, however, "that any exchange with the United States or any agency thereof may be made free from this limitation upon condition that the state land given in exchange bordering on public waters shall be subject to reservations by the State for public travel along the shores as provided by Minnesota Statutes 1945, Section 92.45, and that there shall be reserved by the State such additional rights of public use upon suitable portions of such state land as the Commissioner of Conservation, with the approval of the Land Exchange Commission, may deem necessary or desirable for camping, hunting, fishing, access to the water, and other public uses."

In considering a long-range exchange plan with the U. S. Forest Service, it becomes evident that the latter greatly lacks sufficient water frontage on lands it wants to trade to offset that in state ownership.

If the State excludes lake areas to balance federal footage and value, the result would largely nullify the purpose of the exchange in that the state would still have a number of small isolated parcels of land difficult to protect and manage.

It is the apparent intention of the above legislation to exclude the federal government from the lakeshore limitation, thus permitting exchanges on a value for value basis. However, the reservation proviso is so broad that the state deed may not be acceptable to U. S. Attorneys.

The matter obviously needs additional study both from a legal and practical standpoint.

#### **f. Sportsmen's Interests**

Consolidations of state and county land holdings which simplify land management do not always coincide with the aims of those who seek a wide geographic spread of public areas to be used as game habitat and for camping, hunting, and fishing. This conflict of purpose fortunately does not occur to any great extent in the major forest areas of the northeast, but it has considerable significance in the main farming sections of the state.

The solution of these differences does not lie in any generalized policy decision but rather in a balanced analysis of each individual situation. In southern and western Minnesota, the aim of land exchanges should be to expand hunting,

camping, and fishing opportunities, as well as to create more efficient management blocks.

Whether some owners of woods and brushland in southern Minnesota will want to trade for recreational tracts in northern Minnesota is a question worth investigation.

#### **g. Payment in Lieu of Taxes**

Recommendation #7 in Report #17 of the Minnesota Outdoor Recreation Resources Commission reads as follows: "The question of payment in lieu of taxes to the counties cannot be ignored much longer. The Legislature and the state agencies must examine this problem as an important part of any long-range acquisition and exchange plans of the State."

The whole question of state aid to local taxing units goes considerably beyond the scope of this land exchange study and only a few aspects require comment.

The consultants report for the Public Land Law Review Commission\* pointed out that "Minnesota shares 20 percent of the inheritance tax, 25 percent of its sales tax, 30 percent of its alcoholic beverage tax, 80 percent of its vessel tonnage tax, all of its bank excise tax, mining excise tax, and grain handling tax with its local taxing units."

"Minnesota distributes 50 percent of the gross receipts from acquired state forest lands, 50 percent of the income from state conservation lands, 80 percent of the gross revenues from mineral leases on state lands, and 35 percent of the gross revenues on state fish and game lands to the county in which these revenues are produced."

The actual payments on state lands run about 6 cents per acre on conservation lands, two cents per acre on acquired state forest lands, and variable amounts on trust fund lands.\*\* On the other hand the counties receive from national forest land upwards of 19 cents per acre within the B.W.C.A., about 8 cents per acre within the Chippewa National Forest, and about 3 cents within the part of the Superior National Forest outside of the B.W.C.A. These differences are of concern to the counties and other local taxing units when land exchanges are made in their areas.

The state aids to counties for management of tax-forfeited land proposed in Chapter II of this report should not be considered a payment in lieu of taxes. They are rather direct investments for specified purposes.

\*"Revenue Sharing and Payments in Lieu of Taxes on the Public Land" prepared by E.B.S. Management Consultants, Inc., Washington, D. C.

\*\*Two laws apply to certain school districts in northern Minnesota:

MSA 124.30 (1959) provides that "in any district where 40 percent or more of the total land area is exempt from real property taxes, there is hereby appropriated annually for school maintenance purposes an amount equal to ten cents for each acre of non-taxable lands to be paid from the state income tax fund to the district within which such land is situated, except that no district shall receive hereunder in anyone year more than an amount in excess of \$25.00 per pupil unit in average daily attendance in kindergartens and grade one through twelve, nor in any event more than \$25,000. (Other limitations are attached.)

MSA 124.31 (1959) provides an annual appropriation of \$50,000 to be allocated "to those school districts which contain in excess of two sections of state trust fund lands which have never been sold. Each such district shall receive a fractional part of the appropriation equal to the part of the total unsold state trust fund land in all qualifying districts . . . however . . . no district shall receive an amount in excess of five cents per acre . . . (nor) . . . in excess of \$15.00 per pupil.

## General Conclusion

In view of the many obstacles to rapid progress in land exchanges, the study group believes that a major portion of the attention of the public agencies should be directed toward interim arrangements to improve the management of the intermingled lands.

Chapter II of this report suggests that the state and counties should be able to work together effectively without immediate widespread exchange of lands.

Chapter III includes suggestions for closer state-federal cooperation pending or in place of land exchange. Doubtless many other possibilities can be uncovered.

## APPENDICES

### APPENDIX I

#### MANAGEMENT UNIT (Definitions)

- Definition of Unit
- Intensity of Management
- Identifying Blocks Suitable for Management

#### CRITERIA FOR CLASSIFICATION (used in Pilot Studies)

- Residential Land
- Agricultural Land
- Industrial Areas
- Conservation Areas

#### LAND CLASSIFICATION

- Form (used in Pilot Studies)
- Code (used in Pilot Studies)

### APPENDIX II

Excerpts from 1963 Wisconsin County Forest Law

Table VIII — Tax-forfeited land acreages . . . 13 Northern Counties of Minnesota

Table IX — Employment, expenditures . . . 13 Northern Counties of Minnesota

### APPENDIX III

Table X — Land Ownership in Boundary Waters Canoe Area

Table XI — Area of Chippewa National Forest by counties and ownerships

Table XII — Chippewa National Forest Receipts apportioned to Counties 1960-1967

### APPENDIX IV

Legal Basis for State Exchanges

Principal Present Land Exchange Law Requirements

State Administrative Procedures

Table VII — Land Exchanges Completed to 1968.

### APPENDIX V

Memo of March 19, 1968 from Special Assistant Attorney General:

"Voyageurs National Park; Acquisition of State Lands by the Federal Government."

### APPENDIX VI

Memo of September 18, 1968 from Special Assistant Attorney General:

"Land Exchange with the Federal Government; reservation of minerals and water power rights by the State; Rules of the Secretary of Agriculture relating to the exercise of such rights."

## APPENDIX I

### MANAGEMENT UNIT (Definitions)

#### Definition of Unit

A MANAGEMENT UNIT is conceived as a block of public land (State and/or County) suitable for some form of conservation use such as a park, game management unit, or multiple-use forest area. Ordinarily, it will be confined to an area zoned by counties planning units as "Open Space" or "Waterfront Preserve." A management unit need not be too rigidly restricted as to size or shape but ordinarily will contain at least 50 percent state and county land, will lie within one-hour travel time from existing or planned administrative center, and will contain sufficient land and other resources to deserve individual attention.

A RECREATIONAL UNIT is an area set aside primarily for recreation and with rather strict limitations on commercial timber harvesting and some other uses. Examples are state parks, county parks, and such areas as the portion of the Burntside State Forest lying within the Boundary Waters Canoe Area.

A GAME MANAGEMENT UNIT is one on which game production is given precedence over other uses. Commonly it will consist primarily of wetlands or flowage areas. Certain state units, such as the Red Lake and White-water Game Management Units, are essentially multiple-use areas but are retained in this classification to be consistent with administrative jurisdictions.

A MINERAL UNIT is one where subsurface values outweigh other uses.

A MULTIPLE-USE FORESTRY UNIT is one given simultaneous use for timber, water, recreation, wildlife, etc. Certain portions may be set aside for restricted use, as for flowage, waterfront zone, roadside strip, campground, fish-spawning area, waterfowl nesting place, wild rice area, etc. Mineral prospecting may be permitted, but the unit as a whole is managed for efficient combination of uses.

County memorial forests, properly defined, form satisfactory MULTIPLE-USE UNITS. Overlapping state forests and county forests are not a hindrance to the proposed analysis if the two agencies are willing to work together on the planning.

Many State Forests make satisfactory units. However, some large state forests extend into two counties and two or more administrative districts and in these cases must be subdivided into several compartments to fit the present conception of MANAGEMENT UNITS. Again, some state forests, notably within national forests, contain widely scattered lands not meeting management unit specifications. State forest designation has certain legal and fiscal significance which should be maintained, but consideration should be given after classification to realigning boundaries to conform with management units and thus give them a better image before the public.

State forest Districts are administrative centers for groups of MANAGEMENT UNITS. Under year-long supervision of a District Forester, they define the limits of responsibility for fire protection, private forest cooperation, sales of timber from state land, and various other conservation activities. Each has a written management plan with timber cutting budgets for individual compartments. Northern districts, however, do not break on county lines, and lines of authority do not pull together within counties. Thus, cooperation with counties is hampered. Some redefining of district boundaries may be required after the land classification project is completed.

### Intensity of Management

Extensive management signifies minimal investment in resource development beyond protection from fire and trespass. It is applicable to land of low productivity or so located that its products and services have little prospective demand. It may also be applied to scattered tracts of better-grade land where future status is too indefinite to justify development expenditures.

Intensive management is a relative term signifying substantial investments to improve the land and increase future yields of products and services.

Factors to consider are:

1. Quality of land. Unproductive spruce and tamarack bogs, most lowland brush areas, many wet bottomlands, do not deserve intensive care.
2. Stability of ownership. Marginal areas which may be opened up later for agriculture or residences and tracts likely to be traded, should not be developed intensively.
3. Prospective demands. Remote areas where the foreseeable needs whether for forest products, hunting and fishing opportunities, general recreational facilities, are light, need only extensive management now.

### Identifying Blocks Suitable for Management

Strict specifications are not possible. The following are desirable features:

#### Normal situation

Minimum size 640 acres. Prefer 2,000 acres or more. Within one hour travel time from district headquarters.

Potentially productive land.

#### Unusual situations

Minimum size may be disregarded if other conditions are suitable for tracts to be put to such uses as:

Fish and game units  
Public campgrounds  
Public access to lakes and streams  
Demonstration forests

#### Within National Forest

In addition to the above, the relative accessibility to federal and state headquarters, and the feasibility of consolidation by means of land exchanges needs to be taken into consideration.

### CRITERIA FOR CLASSIFICATION

#### (used in Pilot Studies)

##### Residential Land

**Policy.** Judge on basis of recognized existing need—not theoretical future demand. It will be easier to remedy a too conservative classification than a too liberal one.

**Zoning Plan.** Tracts falling within residential zones will carry a presumption in favor of this class.

**Location.** Should be an all-season road—accessible to schools. (Favor lease rather than sale of remote home sites.) Distance from town and opportunities for employment will be a consideration.

**Soil and Topography.** Not a major consideration in most cases.

##### Agricultural Land

**Policy.** Conform with current land use plans of locality. (If local agricultural program calls for retirement of

marginal land, classification should be strict. If development plans are being pushed, classification should be more liberal.) Discuss with County Agent, A.S.C., S.C.S. and others.

**Zoning Plans.** When in effect, provide a good general guide.

**Location.** Tracts should be on or very close to existing all-weather roads and accessible to schools and other essential facilities. Tracts adjoining existing farms should be favored. Opportunities for supplemental income may be taken into consideration. (Possible exchanges to bring isolated settlers to better locations should be noted.)

**Soil and Topography.** Extremes of wetness, dryness, roughness, stoniness, etc., are easily recognized. Intermediate and mixed conditions must be evaluated in connection with climate and condition of nearby farms with similar features.

**History.** What has happened on the tract and adjacent areas in recent years often give a clue to its agricultural possibilities.

### Industrial Areas

**Policy.** The state and counties generally favor making land available for legitimate industries which promise increased payrolls and taxes. Do not favor highly speculative projects.

**Zoning Plans** offer guidelines.

**Location** is matter of judgment.

**Examples of legitimate use:** mill sites and mill ponds, log concentration and loading areas, mine dumps and settling ponds, warehouse sites.

### Conservation Areas

Commonly, these will be a residual after other "higher" uses, such as residential, agricultural and industrial, are discarded. Under certain circumstances, however, conservation use will be given predominant rating. Principal occasions will involve:

1. Public lands with mineral potential.
2. Lands adjoining water power sites (MSA 89.26).
3. State lands bordering on or adjacent to meandered lakes and other public waters (MSA 92.45).
4. State lands chiefly valuable by reason of deposits of peat in commercial quantities (MSA 92.461).
5. Lands providing public access to lakes and streams or to other areas of public importance.
6. Lands needed as flowage areas for important water control projects. Also, water impoundments in legally recognized fish and game propagation units.
7. Lands in localities where little public land remains, and where the tracts in question have high prospective value for "open space" uses.
8. Lands needed for special uses—administrative sites, gravel pits, school forests, youth camps, etc.
9. Land having historical interest and lands of special scenic or natural character such as key shoreline tracts, hillsides and overlooks adjoining major highways.

## LAND CLASSIFICATION

COUNTY 1 2		TWP. 3 4 5			RANGE 6 7 8			SECTION 9 10		LOCATION 11	
ACREAGE 12 13 14 15 16 17 18						OWNERSHIP 19		ADMN. 20		ENCUMBR. 21	
STATE FOREST 22 23		COUNTY FOREST 24 25 26 27			GAME & FISH 28 29 30 31			PARKS 32 33 34 35			
MINERAL STATUS 36		ACCESSIBILITY 37		HIGHEST USE 38		DISPOSITION 39		SUITABILITY 40		MANAGEMENT INTENS. 41	
COUNTY ZONE 42		WATER SHED 43 44		LAKE NUMBER 45 46 47 48 49				LAKE SHORE FRONT 50 51 52 53 54			
TYPE 1 55 56 57 58 59		TYPE 2 60 61 62 63 64		TYPE 3 65 66 67 68 69		TYPE 4 70 71 72 73 74					
REMARKS											

Date

Initials

# LAND CLASSIFICATION CODE

(used in Pilot Studies)

- 1- 2 COUNTY
  - Numbers as in Land Records
- 3-10 TOWNSHIP — RANGE — SECTION Direct, as for example:
  - Twp. 60N — R. 8W — Sec. 16 is 060-08W-16
- 11 LOCATION
  - 1. Within B.W.C.A. (No-Cut)
  - 2. Within B.W.C.A. (Other)
  - 3. Within National Forest (Other)
  - 4. Within Voyageurs Park (Prop.)
  - 5. Within County Forests
  - 6. Within Company Forests
  - 7. Within State Forests
  - 8. Within Parks
  - 9. Within Game & Fish Units
- 12-18 ACREAGE (to nearest acre)
- 19 OWNERSHIP
  - 1. State Trust
  - 2. State Acquired
  - 3. Consolidated Conservation
  - 4. L.U.P. (leased)
  - 5. 50-50
  - 6. Tax-Forfeited
  - 7. Volstead
  - 8. Salt Spring
- 20 ADMINISTRATION
  - 1. Waters, Soils and Minerals
  - 2. Lands and Forestry
  - 3. Game
  - 4. Fish
  - 5. Parks
  - 6. County
  - 7. Other
- 21 ENCUMBRANCES
  - 1. Timber Permit
  - 2. Surface Lease
  - 3. Mineral Surface Lease
  - 4. Easement
  - 5. Mineral Lease
  - 6. Bordering Public Waters
  - 7. Commercial Deposits, Gravel, Peat or Marl
- 22-23 STATE FOREST
  - Numbers as in Land Records
- 24-27 COUNTY FOREST
  - Numbered according to county
- 28-31 GAME & FISH AREAS
  - Numbers as in Land Records
- 32-35 PARKS
  - Numbers as in Land Records
- 36 MINERAL STATUS
  - 1. Natural Iron Ore Lease
  - 2. Taconite Lease
  - 3. Other Mineral Leases
  - 4. Mineral Potential
- 37 ACCESSIBILITY
  - 1. On All-Weather Road
  - 2. Within 1½ Miles of All-Weather Road
  - 3. Within 1½-3 Miles of All-Weather Road  
Not readily reached by land but:
  - 4. On navigable water (no portage)
  - 5. On navigable water (portage)
  - 6. Not readily accessible
  - 7. Not accessible
- 38 ESTIMATED HIGHEST USE
  - 1. Residential
  - 2. Agricultural
  - 3. Agricultural (no year long occupancy)
  - 4. Commercial—Industrial—Mining
  - 5. Recreational or Aesthetic
  - 6. Multiple-use Forestry
  - 7. Game or Fish (include flowage)
  - 8. Commercial Peat
  - 9. Access to Lake or Other Land
- 39 RECOMMENDED DISPOSITION
  - 1. Retain Permanently
  - 2. Retain Provisionally
  - 3. Dispose
  - 4. Exchange
- 40 SUITABILITY FOR MANAGEMENT
  - 1. Part of Substantial Block (10,000 acres +)
  - 2. Smaller Tract (accessible and manageable)
  - 3. Small Tract (not readily managed)
- 41 INTENSITY OF MANAGEMENT JUSTIFIED
  - 1. Intensive
  - 2. Extensive
- 42 COUNTY ZONE
  - (adopt classes in local ordinance)
- 43-44 WATERSHED—(numbered 1 to 39 as per map)
- 45-49 LAKE NUMBER (as used by the Section of Waters)
- 50-54 LAKESHORE FOOTAGE—TOTAL
- 55-74 LAKESHORE FOOTAGE BY TYPES
  - Type 1 — Highly desirable
  - Type 2 — Useable
  - Type 3 — Unuseable highland
  - Type 4 — Swampy

## APPENDIX II

### EXCERPTS FROM 1963 WISCONSIN COUNTY FOREST LAW

#### 28.11 ADMINISTRATION OF COUNTY FORESTS.

1. **Purposes.** The purpose of this section is to provide the basis for a permanent program of county forests and to enable and encourage the planned development and management of the county forests for optimum production of forest products together with recreational opportunities, wildlife, watershed protection and stabilization of a stream flow, giving full recognition to the concept of multiple-use to assure maximum public benefits; to protect the public rights, interests and investments in such lands; and to compensate the counties for the public uses, benefits and privileges these lands provide; all in a manner which will provide a reasonable revenue to the towns in which such lands lie.
2. **Defined.** "County forests" include all county lands entered under and participating under ch. 77 on the effective date of this section (1963) and all county lands designated as county forests by the county board or the forestry committee and entered under the county forest law and designated as "county forest lands" or "county special-use lands" as hereinafter provided.
3. **Power of County Board.** The county board of any such county may:
  - (a) Enact an ordinance designating a committee to have charge of the county forests and specifying the powers, duties, procedures and functions of such committee. The members of such committee shall be appointed pursuant to s. 59.06 and may include well-qualified residents of the county who are not members of the county board.
  - (b) Establish regulations for the use of the county forests by the public and to provide penalties for their enforcement.
  - (c) Appropriate funds for the purchase, development, protection and maintenance of such forests and to exchange other county-owned lands for the purpose of consolidating and blocking county forest holdings.
  - (d) Enter into co-operative agreements with the conservation commission for protection of county forests from fire.
  - (e) Establish aesthetic management zones along roads and waters and enter into long-term co-operative leases and agreements with the conservation commission and other state agencies or federal agencies for the use of the county forest for natural resources research.
  - (f) Establish transplant nurseries for growing seedlings, from the state forest nurseries, to larger size for planting in county forests, but no ornamental or landscape stock shall be produced in such nurseries.
  - (g) Establish forest plantations and engage in silviculture, forest management and timber sales.
  - (h) Engage in other projects designed to achieve optimum development of the forest.
  - (i) Enter into agreements, for terms not exceeding 5 years, to prospect for ore or minerals upon any county forest lands. Such agreements shall con-

tain proper covenants to safeguard the public interests in the lands involved and to guard against trespass and waste. Proper security shall be taken that the prospector will fully inform the county of every discovery of ore or minerals and will restore the land surface to an acceptable condition and value if no discovery of valuable deposit is made or if said lands are not withdrawn from entry under this section. Before any such agreement shall be effective it shall first be submitted to the conservation commission for approval. If the conservation commission finds that the proposed agreement fully complies with the law and contains the proper safeguards it shall approve the same.

#### 4. Entry of County Forest Lands.

- (a) A county may file with the conservation commission an application for entry of county-owned land under this section. Such application shall include the description of the land and a statement of the purposes for which the lands are best suited. Upon the filing of such application the commission shall investigate the same and it may conduct a public hearing thereon if it deems it advisable to do so at such time and place as it sees fit.
- (b) If after such investigation the commission finds that the lands constitute a well-blocked county forest unit or that they block in with other established county forest lands and are otherwise suitable for the purposes of this section it shall make an order of entry designating such lands as county forest lands. All county lands entered under and participating under ch. 77 on the effective date of this section (1963) shall be designated "county forest lands" without furthering order of entry.
- (c) If the commission finds that the lands are not suited primarily for timber production and do not otherwise qualify for entry under par. (b) but that they are suitable for scenic, outdoor recreation, public hunting and fishing, water conservation and other multiple-use purposes it shall make an order of entry designating such lands as "county special-use lands".
- (d) A copy of the order of entry shall be filed with the county clerk, the register of deeds and with the county forestry committee. The register of deeds shall record the entry and withdrawal of all lands under this section without charge.
- (e) From and after the filing of such order of entry, the lands therein described shall be "county forest lands" or "county special-use lands", as the case may be, and shall so remain until withdrawn as hereinafter provided.
- (f) The conservation commission may construct and use forest fire lookout towers, telephone lines and fire lanes or other forest protection structures on any lands entered under this section and the county clerk of such county shall execute any easement on or over such lands which the conservation commission may require for forest protection. The general public shall enjoy the priv-

ilege of entering such lands for the purpose of hunting, fishing, trapping and other recreation pursuits subject to such regulation and restrictions as may be established by lawful authority.

#### 5. Management.

- (a) A comprehensive county forest land use plan shall be prepared for a 10-year period by the county forestry committee with the assistance of technical personnel from the conservation commission and other interested agencies, and shall be approved by the county board and the conservation commission. The plan shall include land use designations, land acquisition, forest protection, annual allowable timber harvests, recreational developments, fish and game management activities, roads, silvicultural operations and operating policies and procedures; it shall include a complete inventory of the county forest and shall be documented with maps, records and priorities showing in detail the various projects to be undertaken during the plan period. The initial plan shall be completed within 2 years from the effective date of this act and may be revised from time to time as changing conditions require and shall be revised upon expiration of the plan period.
- (b) An annual work plan and budget based upon the comprehensive plan shall be prepared by the county forestry committee with the assistance of a forester of the conservation commission. The plan shall include a schedule of compartments to be harvested and a listing by location of management projects for the forthcoming year. In addition the plan shall include other multiple-use projects where appropriate. A budget, listing estimated expenditures for work projects, administration and protection of the forest, shall accompany the annual plan both to be submitted to the county board for approval at the November meeting.

#### 8. State Contribution.

- (a) General Fund Account. As soon after April 20 of each year as feasible, the conservation commission shall pay to each town treasurer 15 cents per acre, based on the acreage of such lands as of the preceding June 30, as a grant out of the appropriation made by s. 20.280 (72) on each acre of county lands entered under this section. Payments so made shall be from the general fund transfer made by s. 20.551 (1e) and shall be known as the "general fund account".
- (b) Forestry Fund Account.
  - (1) Any county having established and maintaining a county forest under this section shall receive from the state out of the appropriation made by s. 20.280 (72) 10 cents for each acre entered and designated as "county forest land" as a noninterest bearing loan to be used for the purchase, develop-

ment, preservation and maintenance of such county forest lands and such payment shall be credited to a county account to be known as the county forestry aid fund. If any lands purchased from said fund are sold the county shall restore the purchase price to the county forestry aid fund. The conservation commission shall pay to such county the amount due to it on or before March 31 of each year, based on the acreage of such lands as of the preceding June 30.

- (2) Out of the appropriation made by s. 20.280 (72) the conservation commission may allot additional interest free forestry aid loans on a project basis to individual counties to permit such counties to undertake meritorious and economically productive forestry operations. These additional aids shall not be used for the construction of roads, recreational facilities or for fish and game management projects. Application shall be made in the manner and on forms prescribed by the commission and specify the purpose for which the additional aids will be used. The commission shall thereupon make such investigation as it deems necessary to satisfy itself that the project is feasible, desirable and consistent with the comprehensive plan. If the commission so finds it may make allotments in such amounts as it determines to be reasonable and proper and charge the same to the forestry fund account of the county. Such allotments shall be credited by the county to the county forestry aid fund.
- (3) All payments made under this paragraph shall be known as the "forestry fund account".

#### 9. County Forest Severance Share.

- (a) On timber cut from lands entered as "county forest lands" the county shall pay a severance share of not less than 20 percent of the actual stumpage sales value of such timber, except that a higher rate of payment may be applied when so agreed upon by the conservation commission and the county. When cutting is done by the county and timber is not sold as cut forest products the severance share thereon shall be 20 percent of the severance tax schedule in effect pursuant to s. 77.06 (2). Of the severance share paid by a county to the state the entire amount shall be restored to the appropriation made by s. 20.280 (72) and credited to the forestry fund account of the county.

#### 11. Withdrawal. Revised 1967.

- (a) The county board may by resolution adopted by not less than two-thirds of its membership make application to the conservation commission to withdraw lands entered under this section.

**TABLE VIII**  
**TAX-FORFEITED LAND ACREAGES, RECEIPTS, AND RECEIPTS**  
**PER ACRE IN 13 NORTHERN COUNTIES OF MINNESOTA, 1967**  
**(From Reports of County Land Commissioners and County Auditors)**

COUNTY	Tax-forfeited Land Acres			Land Sales	Receipts 1967			Receipts Per Acre	
	Memorial Forest	Non-Mem. Forest	Total		Timber Sales	Other Income	Total	Total	Land Sales
Aitkin.....	100,000	140,000	240,000	\$ 25,728	\$ 30,600	\$ 8,612	\$ 64,940	\$ .27	\$ .11
Becker.....	60,000	29,240	89,240	23,770	5,252	1,495	30,517	.34	.27
Beltrami.....	20,844	139,156	160,000	31,183	34,491	3,226	68,900	.43	.20
Carlton.....	1,640	100,629	102,269	11,381	4,899	6,803	23,083	.23	.11
Cass.....	138,627	130,627	269,254	76,923	16,301	7,564	100,788	.37	.29
Clearwater.....	900	114,385	115,285	10,130	25,544	1,546	37,220	.32	.09
Crow Wing....	5,093	97,907	103,000	36,000	15,500	4,015	55,515	.54	.35
Hubbard.....	24,935	120,065	145,000	20,900	32,100	2,000	55,000	.38	.14
Itasca.....	149,214	188,058	337,272	220,442	60,065	23,449	303,956	.90	.65
Koochiching...	—	290,000	290,000	20,592	74,050	1,446	96,088	.33	.07
Lake.....	28,993	115,805	144,798	—	15,634	815	16,449	.11	—
Pine.....	—	130,000	130,000	N. A.	N. A.	N. A.	N. A.	N. A.	N. A.
St. Louis.....	524,328	488,209	1,012,537	246,760	60,359	20,917	328,036	.32	.24
GROUP TOTALS....	1,054,574	2,084,081	3,138,655	\$723,809	\$374,795	\$81,888	\$1,180,492	\$ .38	\$ .23

N. A. means Not Available.

**TABLE IX**  
**EMPLOYMENT, MANAGEMENT EXPENDITURES, AND REPORTED**  
**VALUE OF COOPERATION RECEIVED IN MANAGEMENT OF**  
**TAX-FORFEITED LANDS IN 13 NORTHERN COUNTIES OF**  
**MINNESOTA, 1967**

(From Reports of County Land Commissioners and County Auditors)

COUNTY	No. Men (Man Years) Employed			No. Men Per 100,000 Acres	Management Expenditures			Reported Value of Cooperation Received		
	County	Coop.	Total		County Funds	Ratio To Income	Exp. Per Acre	I.R.R.R.	A.C.P.	Title IV
Aitkin.....	4	1	5	2.1	\$ 44,743	69%	\$.19	\$13,000	\$ 705	\$ 2,736
Becker.....	1	½	1½	1.7	11,355	37%	.13	2,453	2,140	—
Beltrami.....	2¼	1	3¼	2.0	16,636	24%	.10	9,000	2,499	—
Carlton.....	1	—	1	1.0	13,864	60%	.14	—	—	—
Cass.....	2	1	3	1.1	15,706	16%	.06	9,000	2,495	—
Clearwater.....	2	½	2½	2.2	14,035	38%	.12	3,601	715	1,012
Crow Wing.....	1	1	2	2.0	19,861	36%	.19	7,400	—	—
Hubbard.....	2	½	2½	1.7	N. A.			5,406	—	—
Itasca.....	3	2	5	1.5	46,349	15%	.14	17,052	—	8,550
Koochiching.....	6	1	7	2.4	61,949	65%	.21	11,101	1,164	3,078
Lake.....	—	1	1	.7	2,569	16%	.02	8,500	—	—
Pine.....	N. A.	N. A.	N. A.		N. A.			—	N. A.	—
St. Louis.....	16	1	17	1.7	114,582	35%	.11	8,664	2,500	16,660
GROUP TOTALS.....	40¼	10½	50¾	1.6	\$361,649	31%	\$.12	\$95,177	\$12,218	\$32,036

N. A. means Not Available.

# APPENDIX III

## TABLE X

### LAND OWNERSHIP IN BOUNDARY WATERS CANOE AREA — ACCORDING TO WILDERNESS BILL OF 1964 STATUS AS OF JUNE 1, 1968

OWNERSHIP	Interior Zone <sup>1</sup>	Portal Zone	Total
	(Acres)	(Acres)	(Acres)
St. Louis County			
U. S. Forest Service.....	78,543	115,283	193,826
State.....	14,007	38,234	52,241
Tax-Forfeited.....	1,548	1,700	3,248
Private.....	— <sup>2</sup>	— <sup>2</sup>	4,661
Total.....	94,098	155,217	253,976
Lake County			
U. S. Forest Service.....	174,866	145,248	320,114
State.....	14,916	9,444	24,360
Tax-Forfeited.....	3,234	2,865	6,099
Private.....	— <sup>2</sup>	— <sup>2</sup>	3,714
Total.....	193,016	157,557	354,287
Cook County			
U. S. Forest Service.....	119,224	113,894	233,118
State.....	17,765	7,956	25,721
Tax-Forfeited.....	3,482	1,112	4,594
Private.....	— <sup>2</sup>	— <sup>2</sup>	318
Total.....	140,471	122,962	263,751
Total Superior National Forest			
U. S. Forest Service.....			747,058
State.....			102,322
Tax-Forfeited.....			13,941
Private.....			8,693
Total Gross Area (Land).....			872,014
Water Acres GLO Surveyed—St. Louis County.....			42,896
Lake County.....			68,258
Cook County.....			46,090
Total Water Area.....			157,244
Total Gross Area (Land & Surveyed Water).....			1,029,258

<sup>1</sup>Includes extension to 1975.

<sup>2</sup>Not available by zones.

**TABLE XI**  
**AREA OF CHIPPEWA NATIONAL FOREST BY COUNTIES AND OWNERSHIPS**

<b>Beltrami County</b>						
DISTRICT	National Forest	State	County	Indian	Private	Total
Blackduck.....	46,142	14,311	9,170	660	34,330	104,613
Cass Lake.....	15,350	6,060	840	3,054	5,285	30,589
Totals.....	61,492	20,371	10,010	3,714	39,615	135,202
<b>Itasca County</b>						
Bena.....	6,277	5,310	400	1,679	5,030	18,696
Blackduck.....	53,240	45,189	9,430	940	31,344	140,143
Cass Lake.....	15,284	6,510	—	160	920	22,874
Cut Foot Sioux.....	94,345	49,400	7,300	3,400	39,577	194,022
Marcell.....	130,509	42,100	10,000	—	64,417	247,026
Totals.....	299,655	148,509	27,130	6,179	141,288	622,761
<b>Cass County</b>						
Bena.....	71,491	66,750	1,460	3,110	26,418	169,229
Cass Lake.....	61,536	12,230	1,680	1,870	6,235	83,551
Remer.....	98,541	15,400	37,100	600	29,444	181,085
Walker.....	55,394	9,500	14,200	6,400	46,184	131,678
Totals.....	286,962	103,880	54,440	11,980	108,281	565,543
GRAND TOTAL.....	648,109	272,760	91,580	21,873	289,184	1,323,506

**TABLE XII**  
**CHIPPEWA NATIONAL FOREST RECEIPTS**  
**APPORTIONED TO COUNTIES**

<b>1960-1967</b>			
Year	Beltrami County	Cass County	Itasca County
1960.....	\$ 6,429.11	\$ 30,247.68	\$ 32,046.97
1961.....	5,194.81	24,452.68	25,883.17
1962.....	4,886.00	22,933.67	24,275.72
1963.....	5,452.24	25,469.01	26,972.12
1964.....	3,878.79	18,078.29	19,145.32
1965.....	4,127.87	19,224.90	20,367.44
1966.....	4,113.26	18,968.88	20,068.33
1967.....	5,210.71	24,019.41	25,392.18
Totals.....	39,292.79	183,394.52	194,151.25
Average annual.....	4,911.59	22,924.31	24,268.91
Acreage in each County.....	61,412	283,455	299,655
Average payment per acre.....	.0816	.0887	.0810

## APPENDIX IV

### LEGAL BASIS FOR STATE EXCHANGES

The laws of 1929, chapter 246, section 2, first authorized the **State Executive Council** to exchange land, "which may be acquired by the state by purchase for lands of the United States of the same general character—" however, no land exchanges were completed under this statute and it was soon considered to be unworkable. It was not until 1938 that an amendment to the state constitution provided a significant start toward the land exchange program in effect today. Article VIII, section 7, (previously article VIII, section 8) amended the constitution to establish the present Land Exchange Commission composed of the Governor, Attorney General, and State Auditor, and authorized the exchange of any public lands of the state for land of the United States or private land as the Legislature may provide. Laws of 1939, chapter 382, created the present Land Exchange Commission, and provided for the exchange of lands. The 1939 statute was amended to some degree during the legislative sessions of 1941, 1943, 1945 and 1957 and appears in the 1965 statutes as sections 94.341 through 94.348 (M.S.A. 92.31, M.S.A. 1.041, M.S.A. 94.50, M.S.A. 84.157 and Laws of 1965, chapter 553 also relate to land exchange to some degree.)

### PRINCIPLE PRESENT LAND EXCHANGE LAW REQUIREMENTS

1. Three classes of state land are established by statute for exchange purpose as follows:

**CLASS A**—Land owned by the state and **controlled or administered by the commissioner**. This class included school, swamp, internal improvement, and other land granted to the state by acts of congress, state forest land, tax-forfeited land held by the state free from any trust in favor of the taxing districts, and other land acquired by the state in any manner. Most of the land exchanges involve this type of land.

**CLASS B**—Land acquired by the state through tax forfeiture, held subject to a trust in favor of taxing districts, and under the control of county authorities for classification, appraisals and sale.

**\*CLASS C**—Land described as bordering on or adjacent to any meandered or other public water, or lands specifically designated as a state park. State lakeshore cannot be exchanged unless the state acquires similar land on the same or public waters in the same general vicinity affording at least equal opportunity for access to the water by the public. State park land cannot be exchanged unless expressly authorized by the Legislature.

2. Class A and C Exchanges

- (a) An appraisal deposit of \$25 to \$100 is required of the private applicant for land exchange, depending on the amount of land involved. This fee is refunded upon completion of the exchange or if the Commission does not accept the offer. (This fee is not required from public agencies, nor is it required of the other parties when the state pro-

poses the exchange with the approval of the Land Exchange Commission.)

- (b) All mineral and water power rights must be reserved by the state in addition to such other rights and easements as the commissioner, with the approval of the Land Exchange Commission, might direct.
- (c) State land **not** limited to public sale by the state constitution may be exchanged for land of less value provided the other party to the exchange shall pay the difference in value. (This cannot be done when trust fund land is involved because such land is limited to public sale by the state constitution.)
- (d) Before final approval is given to any exchange of Class A land, a public hearing must be held at the capital city or some other place in the general area where the lands involved are situated. A notice of such hearing signed by the State Auditor as Secretary of the Commission, together with a list of all the state lands proposed to be exchanged, must be posted in the office of the County Auditor of the county where the lands are situated at least two weeks before the hearing. The notice of hearing, referring to the list of lands posted in the County Auditor's office, must also be published at least two weeks before the hearing in a legal newspaper published in such county.
- (e) No exchange of Class A land shall be completed unless the Attorney General shall have given his opinion in writing that the title to the land proposed to be conveyed to the state is good and marketable and free from all liens and encumbrances except reservations authorized by law, (land may be received by the state in exchange subject to any mineral reservations or other reservations thereon, but all such reservations and conditions shall be taken into consideration in determining the value of the lands exchanged.)
- (f) Land received by the state in exchange for Class A land shall be subject to the same trust, if any, and shall otherwise have the same status as the state land given in exchange.
- (g) Except as otherwise provided by law, Class A land shall be exchanged only for land of at least substantially equal value to the state, as determined by the commissioner, with the approval of the Commission. Class A land may be exchanged, though devoted to a specific public use, if the use is discretionary and the authority in charge thereof shall approve the exchange, or if the commissioner, with the approval of the Commission, shall determine that the exchange will not materially curtail the activity or project for which the land is used; provided, that exchanges of land belonging to any state forest, game preserve, conservation area, or other territory designated by law for particular purposes shall be made so as to consolidate or fill out the state's holdings of land therein, and not materially to reduce the same. For the purposes of value determination, the commissioner shall cause the state land and the land proposed to be exchanged therefor to be examined and appraised by qualified state appraisers in a like manner as state land to be offered for sale; provided that in exchanges with the United States or any agency thereof, the examination and ap-

\*Class C land is considered to be a specific type of Class A land with special exchange limitations.

praisal may be made in such manner as the Land Exchange Commission may direct. These appraised values shall not be conclusive, but shall be taken into consideration by the commissioner and the Commission, together with such other matters as they deem material, in determining the values for the purposes of exchange.

- (h) The various commissioners of conservation have assumed responsibility for the formulation of general programs concerning land exchange to serve the best interest of the state in the acquisition development and use of lands for purposes within the province of the department. Such programs and plans are subject to the approval of the State Land Exchange Commission.
- 3. Class B—(Tax-Forfeited) Land Exchange Procedures
  - (a) The tax-forfeited land exchange procedure differs from the Class A and C procedure in that tax-forfeited land may be exchanged for privately owned lands or federal land (but not state land under the jurisdiction of the Conservation Commissioner)

## STATE ADMINISTRATIVE PROCEDURES — CLASS A AND C EXCHANGES

The Commissioner of Conservation investigates and processes land exchange proposals, and recommends action to the State Land Exchange Commission. The commissioner has delegated to the Division of Lands and Forestry the keeping of necessary land exchange records, investigations of land exchange proposals, completion of necessary field appraisal work, and other necessary land exchange administrative work. Recommendations are made to the Land Exchange Commission which makes the final determination on each proposed exchange in accordance with Minnesota statutes.

Although additional work is sometimes required, normal processing of land exchanges by the Division of Lands and Forestry includes the following:

1. Proposals of land exchange are received from private land owners, divisions of the Conservation Department, or from other public agencies. Private landowner applicants occasionally are not certain concerning what land they wish to receive from the state in exchange, and may make a number of contacts to arrive at a firm proposal. In the case of land exchange proposals involving other public agencies, such as the United States Forest Service, several consultations may be necessary to arrive at a proposal that appears to be of mutual benefit and in accordance with the statutes.
2. If the land exchange proposal appears to comply with the statutes, a letter is written to each division of the Conservation Department explaining the proposal and soliciting recommendations concerning further processing. Copies of this letter are also sent to other interested parties. The Commissioner of Conservation, the Attorney General's office, and the field personnel of the Division of Lands and Forestry are also kept informed and consulted for recommendations.
3. If no objections to the proposal are received, the **private land applicant** is billed for appraisal deposit fee in accordance with M.S.A. 94.348. (This fee is not required of public agency applicants under the statute.)
4. The other party to a land exchange is requested to submit an abstract of title continued to date with federal tax lien, judgment and tax certificates attached. This abstract of title is sent to the State Attorney Gen-

by resolution of the appropriate county board and with unanimous approval of the State Land Exchange Commission. Many of the limitations and requirements for Class B exchanges are similar to those previously indicated for Class A and C land under the jurisdiction of the Conservation Commissioner. Some of the pertinent differences in the processing of Class B exchanges are as follows:

No Class B land which is not classified for sale, and no Class B land, however classified, lying within any zone or district which is restricted against any use for which the land may be suitable shall be given in exchange for any privately owned land.

After approval of the county board, every proposal for the exchange of Class B land is transmitted to the Commissioner of Conservation with all pertinent documents to assure that all steps required by law (M.S.A. 94.344) have been complied with.

eral and later returned with a title opinion. At this time, a number of land exchanges are dropped if it is determined that the other landowner cannot furnish good and marketable title to the land they wish to exchange to the state.

5. In cases where state lands involved exceed 640 acres, the application is submitted to the Land Exchange Commission requesting authority for field examination, appraisal and authority to hold a public hearing. Under a resolution dated July 28, 1959, the State Land Exchange Commission authorized the Commissioner of Conservation to proceed with the field examination and appraisal of land and to hold public hearings when the state land involved does not exceed 640 acres.
6. The three state land exchange appraisers are then instructed to appraise the value of both state and other land involved in the proposal and submit an appraisal report to the St. Paul forestry office.
7. If the appraised values are found to be approximately equal, and no other complications are noted, a public hearing date is established following consultation with the Commissioner of Conservation. (If the values are not approximately equal, adjustment in the amount of land involved might be considered.)

The County Auditor of each county affected is sent a notice of the hearing signed by the State Auditor as Secretary of the Land Exchange Commission together with a list of all state lands proposed to be exchanged. The respective County Auditors are requested to post such notice together with a list of all the state lands proposed to be exchanged in their office at least two weeks before the hearing and to return to the Conservation Commissioner an affidavit certifying such posting. Public hearings may be held at St. Paul or at such other place the Commission may designate in the general area where the lands involved are situated. The Land Exchange Commission may direct such hearings to be held in its behalf by any of its members or by the commissioner or by a referee appointed by the Commission. (The Supervisor, State Land Planning and Forest Management Section, Division of Lands and Forestry, has been authorized to conduct hearings

by the Commission when directed to do so by the commissioner.)

8. If testimony at the public hearings indicate that a land exchange would be in the best interest of the state, a recommendation is made by the commissioner to the Land Exchange Commission that approval be granted, and a resolution approving the exchange is prepared for the Land Exchange Commission's consideration.
9. If the Land Exchange Commission after deliberation approves the land exchange recommended, a copy of the final resolution approving the exchange is sent to the attorneys assigned to the Conservation Department for preparation and transfer of deeds to

complete the exchange.

10. Upon the actual transfer of deeds, the commissioner determines the status of the new state land received and this is subsequently considered for approval by the Land Exchange Commission.
11. Finally, a copy of the resolution approving the exchange and a list of the lands involved is forwarded to the Supervisor of State Land Leases, Sales and Records Section assigned to keep land records. This list is also forwarded to the Division of Lands and Forestry field offices. The Supervisor of State Land Leases, Sales and Records Section then notifies the appropriate County Auditors concerning completion of land exchanges.

**TABLE VII**  
**LAND EXCHANGES COMPLETED TO 1968**  
**BY TWO-YEAR PERIODS**

Fiscal Years	No. Of Exchanges	Lands Acquired By State Acres	Value	Lands Released By State Acres	Value
State—Federal					
1943-44.....	1	460.04	\$ 21,982.59	9,117.85	\$ 21,879.62
1955-56.....	3	18,615.79	221,105.29	18,030.08	221,169.17
1957-58.....	1	9,826.79	114,186.07	9,946.40	114,170.80
1959-60.....	1	5,478.47	58,813.97	5,105.93	58,781.61
1965-68.....	2	304.30	16,849.85	506.44	16,546.80
Total.....	8	34,685.39	432,937.77	42,706.70	432,548.00
State Exchanges—Class “A” and “C”					
1947-48.....	3	127.85	4,013.70	14.12	2,560.63
1949-50.....	2	555.13	1,730.81	360.00	1,733.60
1951-52.....	10	1,662.70	10,016.84	935.87	9,343.20
1953-54.....	5	433.19	48,752.35	278.86	20,167.51
1955-56.....	7	612.00	8,462.55	420.03	9,761.65
1957-58.....	9	738.36	11,939.60	601.54	11,929.30
1959-60.....	10	726.53	12,560.29	478.46	15,218.63
1961-62.....	18	6,360.79	146,019.27	6,107.09	146,673.91
1963-64.....	24	10,684.76	155,214.74	9,686.32	153,692.79
1965-66.....	18	10,484.55	232,912.63	7,526.40	222,675.88
1967-68.....	22	8,262.95	153,700.35	6,798.81	155,963.43
Total.....	130	40,648.81	785,323.13	33,207.50	749,720.53
Tax-Forfeited (County) Exchanges—Class “B”					
1943-44.....	4	370.44	3,858.56	409.50	3,170.32
1945-46.....	2	67.35	625.40	92.73	762.76
1949-50.....	1	687.82	1,999.64	599.90	3,293.02
1950-52.....	2	230.40	1,076.60	160.00	833.60
1953-54.....	1	1,851.94	35,908.65	5,618.37	37,062.11
1955-56.....	5	4,160.92	31,863.19	3,256.36	28,031.59
1957-58.....	1	40.00	375.00	40.00	660.00
1959-60.....	2	80.00	874.00	80.00	1,230.00
1961-62.....	2	1,001.17	5,335.76	980.00	5,300.52
1963-64.....	8	5,184.98	75,551.04	8,336.45	80,597.19
1965-66.....	4	520.00	5,706.00	794.71	12,794.65
1967-68.....	3	107.25	1,474.25	178.00	2,285.95
Total.....	35	14,302.32	164,648.09	20,546.03	176,021.71
Grand Total...	173	89,636.52	\$1,382,908.99	96,460.23	\$1,358,290.24

## APPENDIX V

March 19, 1968

To:

Roger Williams, Coordinator, Governor's Interdepartmental Committee on Voyageur's National Park

From:

Philip J. Olfelt  
Spec. Asst. Attorney General—Conservation

Subject:

Voyageur's National Park; Acquisition of State Lands by the Federal Government C 398

### I. Acquisition of State Trust Fund Lands by the Federal Government; Possible Alternatives

A. Unless prohibited in the act of Congress creating Voyageur's National Park, the federal government can condemn state trust fund lands for this purpose;

1. With the consent of the state, given either by a majority of the state land exchange commission pursuant to Minnesota Statutes, Section 1.041, or pursuant to legislative enactment as was done in regard to Superior and Chippewa National Forests, pursuant to Minnesota Statutes, Section 1.045.
2. Without the consent of the state. (See *Oklahoma v. Atkinson*, 1941, 313 U.S. 508; *U.S. v. 4,450.72 Acres of Land, Clearwater County, State of Minnesota*, D.C. 1939, 27 F. Supp. 167, affirmed 125 F. 2d 636 on Feb. 11, 1942; *U.S. v. Gettysburg Electric Railway Co.*, 1896, 160 U.S. 668; and *Shoemaker v. U.S.*, 1893, 147 U.S. 282.) If the consent of the state is not given, the federal government's jurisdiction over the lands acquired is not as complete as if consent is given (See *Paul v. U.S.*, 1963, 371 U.S. 245)

In any condemnation proceeding these lands would be acquired for "just compensation" which courts have interpreted to mean "fair market value". Congressional appropriations are necessary to implement an authorization to condemn.

B. If Congress does not empower the federal government to acquire state trust fund lands by condemnation, the alternatives under existing Minnesota Constitutional and statutory provisions, including the Constitutional "public sale" requirement, as interpreted by the courts and the Attorney General are as follows:

1. Exchange of state trust fund lands located within the proposed park for federal or private lands outside the park, which lands would then be subject to the same trust to which the lands exchanged were subject. (See Minn. Const., Article 8, Section 7) However, legislation is necessary to remove these lands from the Kabetogama State Forest. (See Minnesota Statutes, Section 89.021, Subd. 27) Also, unanimous approval is required of the state land exchange commission. (Minn. Const., Art. 8, Sec. 7.) Pursuant to Minnesota Statutes, Section 94.342, Subd. 3, lakeshore trust fund lands may be exchanged for (1) federal lakeshore or nonlakeshore lands, (2) private lakeshore of essentially the same character in the same vicinity, or (3) other lands as authorized by the legislature. In any such exchange the state constitution requires the state to reserve

mineral and water power rights in the state lands given in exchange.

2. Condemnation of the trust fund lands by the state, in order to satisfy the state constitutional provision found in Minnesota Constitution, Art. 8, Sec. 4, coupled with a turnover of these lands to the federal government. Legislation would be necessary here as follows:

- (a) Removal of these lands from the Kabetogama State Forest;
  - (b) Authorization to condemn for this purpose plus an appropriation to pay condemnation awards; and
  - (c) The turnover of the lands to the federal government. Precedent for turning over park lands to another level of government is found in the turnback of the following state parks to local municipalities by Laws 1965, Chapter 810, Sec. 9 (85.188) and Extra Session Laws 1967, Chapter 48, Section 48, Subdivision 9, Clause g: Toqua Lakes, Pomme de Terre, Oronoco, Sleepy Eye, Monson Lake, and Pine Tree. See Opinion of the Attorney General, 700d-12, Nov. 22, 1934, in regard to precedent for the condemnation of state lands by the state for turnover to the then U.S. Biological Survey.
3. Leasing of trust fund lands. Under this alternative legislation may be desirable to remove these lands from the Kabetogama State Forest and to provide a longer lease term.
  4. Sale by the state of trust fund lands at public auction. For obvious reasons it is doubtful this procedure would be acceptable to the federal government.

### II. Acquisition of State Non Trust Fund Lands by the Federal Government; Possible Alternatives

A. Condemnation by the federal government, with or without consent of the state, in the same manner as outlined above for trust fund lands.

B. Exchange, as outlined above for trust fund lands, except that lands received in exchange would not be subject to any trust.

C. Sale by the state to the federal government. Majority approval of the land exchange commission is necessary to such a sale (Minnesota Statutes, Section 1.041). An alternative is legislative approval such as was given for land acquisitions in the Superior and Chippewa National Forests pursuant to Minnesota Statutes, Section 1.045. In both cases legislation also is necessary to release the lands from the Kabetogama State Forest. Statutory procedures set forth in Minnesota Statutes, Sections 94.09 to 94.16, which include supervision by the executive council, must be observed to the extent applicable, unless the legislature directs otherwise. The state is required to reserve minerals and water power rights pursuant to Minnesota Statutes, Section 94.14, and other applicable statutes. Also, legislation is necessary to authorize the sale of lakeshore lands, which is prohibited by Minnesota Statutes, Section 92.45.

D. Turnover to the federal government without compensation to the state. Legislation is necessary to

remove lands from the Kabetogama State Forest and to turn the land over to the federal government. (See precedents cited above in regard to trust fund lands.)

To:

Donn D. Christensen  
Deputy Attorney General

From:

Philip J. Olfelt  
Spec. Asst. Attorney General

Subject:

Land Exchange with the Federal Government; Reservations of Minerals and Water Power Rights by the State; Rules of The Secretary of Agriculture Relating to the Exercise of Such Rights

A. Problems Associated with Reservations of Mineral Rights

1. **Constitutional and Statutory Authority to Reserve Minerals.** In any land exchange, mineral rights are reserved by the state in lands given in exchange pursuant to Minnesota Constitution, Article VIII, Section 7, and Minnesota Statutes, Sections 94.343 and 94.344.
2. **Administrative Procedures in Land Exchanges; Study and Report of Mineral Section of Conservation Department.** The Minerals Section of the Division of Waters, Soils and Minerals of the Conservation Department prepares its study and recommendation in regard to each land exchange to aid the Land Exchange Commission in determining whether it should exchange the surface. If there is mineral potential on the state land; the Minerals Section's report so notes and may recommend that no exchange be made of the surface of this state land. Through this system the Land Exchange Commission gets the benefit of the Minerals Section's knowledge for each exchange. The real problem is that knowledge of minerals is incomplete in Minnesota. (Note: Where mineral knowledge is incomplete, checkerboard mineral ownership is preferred over consolidated ownership and is sought in unexplored areas.)
3. **Minerals Discovered Under Land Exchanged with Federal Government; Rules of Secretary of Agriculture Regarding Mining.** If the state exchanges surface with the federal government, and subsequently minerals are discovered beneath surface given in exchange by the state to the federal government, and if the minerals are leased by the state, the lessee is required to operate within rules promulgated by the Secretary of Agriculture. Rules of the Secretary promulgated in 1947 were not found to be unreasonable in a 1962 opinion of the Attorney General written by Victor Michaelson (Op. Atty. Gen. 700-D-13, June 28, 1962; copy attached.) The opinion points out that the Secretary's rules do not prohibit mining but impose conditions upon mining activities which are not unlike those which the state imposes. The land involved in this exchange related to the Chippewa National Forest. The exchange was between Beltrami County and the United States Government. State deeds were given by the Commissioner of Taxation. The opinion was requested from the Attorney General by the Commissioner of Taxation. In this connection it should be noted that Minnesota Statutes, Section 270.09, provides that any written opinion requested by the commissioner of taxation from the attorney

general upon any matter within the scope of the functions of the department of taxation has the force and effect of law until overruled by a decision of the tax court or a court of competent jurisdiction.

4. **Comparison of Secretary's 1947 and 1963 Rules.**

The rules of the Secretary of Agriculture were revised in 1963. The principal change incorporated into the 1963 revision liberalized the rules to provide an exception to the rules in the case of a land exchange with a state, if, in the opinion of the Chief of the U. S. Forest Service, the state's laws, rules, and regulations satisfactorily protect the interests of the U. S. Forest Service. If the Chief of the U. S. Forest Service determines that a state's laws, rules, and regulations do satisfactorily protect the interests of the Forest Service, the provisions are required to be incorporated into and made a part of the deed of conveyance to the U. S.

The rules of the U. S. Forest Service both in 1947 and in 1963 require anyone seeking to exercise reserved mineral rights to obtain a permit from the Forest Service to enter Forest Service land to prospect for, mine, and remove minerals. Both the 1947 and 1963 rules require the permittee to pay a fee of \$2 per acre per year for a permit. Both the 1947 and 1963 rules require a permittee to compensate the Forest Service for surface damages, including damage to timber and surface improvements, and requires restoration of the surface to a condition "safe and reasonable for usual national forest purposes". Both the 1947 and 1963 rules require the posting of a bond to guarantee that the restoration will be accomplished. Both the 1947 and 1963 rules limit the Permittee's disposal of tailings, dumpage, and other deleterious substances resulting from the mining operation. As noted in Op. Atty. Gen. 700-D-13, June 28, 1962, previously cited, these rules impose conditions upon the exercise of a reserved mineral right but do not prohibit the exercise of the right. As further noted in this same opinion, these conditions are not unlike those imposed by the state in its mineral activities. (Note: The Secretary of Agriculture's authority to promulgate such rules is based upon 16 USCA, Sec. 518, enacted March 1, 1911.)

5. **Mineral Problems Associated With the Boundary Waters Canoe Area and Proposed Voyageur's National Park.**

(a) **Boundary Waters Canoe Area**

Rules of the Secretary of Agriculture adopted December 15, 1965, governing the administration of the Boundary Waters Canoe Area (36 Code of Federal Regulations, Section 251.85) prohibit roads, motor vehicles, and uses requiring permanent structures in the interior or "no cut" zone and restrict road construction and the use of motor vehicles in the "portal" zone where limited timber harvesting is permitted. Except for national emergencies, consent is withheld on all requests for permits to mine minerals owned by the federal government. The State of Minnesota, other persons, and their successors in interest owning land completely surrounded by National Forest Land shall be given such rights as may be necessary to assure adequate access to that land. (Note: In *Mackie v. U. S.*, 1961, 194 F. Supp. 306, Judge Donovan of the U. S. District Court for Minnesota held that the plaintiff was not en-

titled to a surface "way of necessity" across federal land in the roadless area to his resort cabins where he had another, although inconvenient, alternative mode of access.) Such rights may be recognized in stipulations entered into between Forest Service and the private owner or state. Such stipulations may prescribe the means and the routes of travel to and from the privately owned or state land which constitute adequate access and any other condition reasonably necessary for the preservation of the primitive conditions within the Boundary Waters Canoe Area.

The above regulations date back to a Forest Service "roadless policy" established in 1926. The Shipstead-Nolan Act of July 10, 1930 (16 USCA, Sec. 577, et seq.) withdrew from entry all public lands in certain described areas of the Superior National Forest, prohibited logging within certain distances of lakes, and forbade alteration of natural water levels in the area. Presidential limitations on air travel in the area have been upheld by the Federal courts in *Perko v. U. S.*, 1953, 204 F. 2d 446, cert. denied. Actions of the Secretary of Agriculture prohibiting motorized travel in the roadless area (predecessor to the Boundary Waters Canoe Area) have been upheld as reasonable in *U. S. v. Perko*, 1955, 133 F. Supp. 564. The people of the State of Minnesota have recognized the wilderness character of the area by the following legislative enactments: (1) The "little Shipstead-Nolan act" (Minnesota Statutes, Section 110.13, enacted in 1933) restricting dam construction in the area included within the Shipstead-Nolan act, previously cited. The "little Shipstead-Nolan Act" has been modified by the enactment of Laws 1967, Chapter 556, authorizing the use of water from Birch Lake and the South Kawishiwi River, a tributary of Birch Lake, for use in connection with copper-nickel mining; (2) the act consenting to land acquisition by the Federal Government in the Superior National Forest for purposes incident to the development and management of the forest (Minnesota Statutes, Section 1.045, enacted in 1943); and (3) the act restricting air travel in the area (Minnesota Statutes, Sections 84.43 to 84.521, enacted in 1949).

(b) **Proposed Voyageur's National Park**

With very few exceptions, mining is prohibited in National Parks. (Mining under the Federal mining law of 1872 and leasing under the Mineral Leasing Act of 1920 are barred in National Parks, except where authorized by Congress specifically in four parks.)

6. **Conclusions in Regard to Reservations of Mineral Rights in Land Exchanges with the Federal Government**

(a) **Generally**

At the present time, except for lands within the Boundary Waters Canoe Area, the rules of the Secretary of Agriculture do not prohibit the exercise of mineral rights reserved by the state in a land exchange. These rules, however, do impose conditions upon the exercise of mineral rights reserved by the state in a land exchange. These conditions have been held to be reason-

able by the Attorney General. (Opinion of the Attorney General 700-D-13, June 28, 1962.)

(b) **Boundary Waters Canoe Area**

In the Boundary Waters Canoe Area, both federal and state laws, rules, and regulations mitigate against the exercise of any mineral rights reserved by the state. In the future, should the Boundary Waters Canoe Area be expanded, it is doubtful that mineral rights reserved by the state in these new areas could be exercised if existing federal and state laws and regulations are continued in effect.

(c) **Proposed Voyageur's National Park**

If Voyageur's National Park is established by Congress, mining will not be permitted unless the enabling act so provides, which would require a reversal of existing Congressional policy. The best geologic knowledge presently available indicates little mineral potential in the proposed park area, except in certain peripheral areas.

(d) **Alternatives**

It should be noted that if the state refuses to enter into exchanges with the federal government for lands in the Boundary Waters Canoe Area or, if established, the Voyageur's National Park, the federal government has the power to condemn state lands, including minerals. The state, under Minnesota Statutes, Section 1.045, has consented to land acquisitions within the original boundaries of the Superior and Chippewa National Forests in any manner authorized by act of Congress. The U. S. Department of Agriculture has already condemned private lands in the Superior Forest. Should the federal government condemn state lands in the Superior Forest, including minerals, the state's valuable checkerboard pattern of mineral ownership could be seriously affected. (In case of national emergency or a change of administrative policy in the B.W.C.A., which would permit mining, this checkerboard ownership pattern may be of great value to the citizens of the state.)

The question of the federal government's authority to acquire state-owned lands and minerals without the state's consent was settled in the case of *Oklahoma ex rel. Phillips v. Guy F. Atkinson Co.* (1941), 313 U.S. 508, 85 L. Ed. 1487, 61 S. Ct. 1050. This case involved primarily the constitutionality of the Act of June 28, 1938 (52 Stat. 1215) insofar as it authorized the construction of the Denison Reservoir on Red River in Texas and Oklahoma. Oklahoma, by a bill in equity, sought to enjoin the construction of any dam across the Red River within the domain of Oklahoma so as to inundate lands and destroy boundaries, and further to restrain any proceedings to condemn lands for the purpose of the dam or reservoir.

Involved in this project were the following considerations: Inundation of 100,000 acres of Oklahoma land, 3,800 acres of which were state lands consisting of school lands, prison farm, highways, rights of way, and bridges. Land of 8,000 Oklahoma citizens was included. Much of the land was rich farm land. Much had large potential oil reserves. Some contained producing

oil wells. Exploration was being conducted elsewhere. At least 15,000 acres promised to be highly productive oil lands; 50,000 acres were underlaid with gas and oil. Thirty-nine school districts and four counties depended on ad valorem taxes totaling approximately \$40,000 annually from these lands. The state received oil and gas royalties from the natural resources produced from these lands. The "annual wealth production" to the citizens of Oklahoma from these lands was estimated at \$1,500,000.

The court in a unanimous opinion held that this flood control project was a valid Congressional exercise of the commerce power. Policy questions, not Constitutional questions, were involved. These, the court held, were questions for Congress, not the courts.

On pages 534 and 535 of 313 U.S. Reports the court stated:

"The Tenth Amendment does not deprive 'the national government of authority to resort to all means for the exercise of a granted power which are appropriate and plainly adapted to the permitted end.' *United States v. Darby*, supra, p. 124, and cases cited. Since the construction of this dam and reservoir is a valid exercise by Congress of its commerce power, there is no interference with the sovereignty of the state. *U.S. v. Appalachian Power Co.*, supra, p. 428. The government concedes that there will be no loss of political jurisdiction over the lands taken except with the consent of the state. Art. 1, Sec. 8, Clause 17 of the Constitution. The fact that land is owned by a state is no barrier to its condemnation by the United States. *Wayne County v. U.S.*, 53 Ct. Cls. 417, aff'd 252 U.S. 574. There is no complaint that any property owner will not receive just compensation for the land taken. The possible adverse effect on the tax revenues of Oklahoma as a result of the exercise by the Federal Government of its power of eminent domain is no barrier to the exercise of that power. 'Whenever the constitutional powers of the federal government and those of the state come into conflict, the latter must yield.'

*Florida v. Mellon*, 273 U.S. 12, 17. Nor can a state call a halt to the exercise of the eminent domain power of the federal government because the subsequent flooding of the land taken will obliterate its boundary. And the suggestion that this project interferes with the state's own program for water development and conservation is likewise of no avail. That program must bow before the 'superior power' of Congress. *United States v. Rio Grande Dam and Irrigation Co.*, supra, p. 703; *New Jersey v. Sargent*, 269 U.S. 328, 337; *Arizona v. California*, 298 U.S. 558, 569; *U.S. v. Appalachian Power Co.*, supra."

Subsequent to the Oklahoma decision, the following decision was rendered by the Eighth Circuit Court of Appeals in regard to a question arising in Minnesota: *U.S. v. 4,450.72 Acres of Land, Clearwater County, State of Minnesota*, D.C. 1939, 27 F. Supp. 167, affirmed 125 F. 2d 636. (Feb. 11, 1942). (V. J. Michaelson, Spec. Asst. Attorney General, appeared for Minnesota; J. A. A. Burnquist, Attorney

General, Chester Wilson, Deputy Attorney General, and Mandt Torrison, Spec. Asst. Attorney General, assisted on the brief.)

By Congressional Act the Secretary of the Interior was authorized to acquire by condemnation or otherwise, some 4,500 acres of land in Clearwater County, Minnesota, to conserve wild rice beds for the exclusive use and benefit of Chippewa Indians of Minnesota. Included in these lands were state owned lands previously acquired for reforestation, game propagation and protection and public hunting purposes, subject to the exclusive right granted by the state to the Chippewa Indians to harvest wild rice on Rice Lake.

The state objected to the proceedings on grounds which included the following: (1) The condemnation was not in furtherance of any constitutional power delegated to the United States and that the taking was not for a public use and not for a superior public use, and (2) that it would interfere with the sovereign rights of the state.

Judge Sanborn, for the Eighth Circuit Court of Appeals, in affirming Judge Gunnar Nordbye's lower court opinion, held as follows at pages 639 and 640 of 125 Federal Reporter (2d):

"Whether the use of the area by the State for a conservation project, game refuge, and public shooting ground, with the right reserved to the Chippewa Indians to harvest wild rice, would be more advantageous to the public than the use to which the United States proposes to put the area, we think is a legislative question and not a judicial one. See and compare *State of Oklahoma v. Guy F. Atkinson Co.*, 313 U.S. 508, 527, 61 S. Ct. 1050, 85 L. Ed. 1487. It was for Congress to say whether this project was justified in the national interest.

"Neither the fact that the State owns the land nor the fact that the taking of them will interfere with the State's program for the use and development of the area can prevent the United States from acquiring the lands. *State of Oklahoma v. Guy F. Atkinson Co.*, supra. There is no interference with the state's sovereignty by the United States if the taking of the lands represents a valid exercise of Congressional power. *United States v. Appalachian Electric Co.*, 311 U.S. 377, 428, 61 S. Ct. 291, 85 L. Ed. 243; *State of Oklahoma v. Guy F. Atkinson Co.*, supra.

"Whether the power of Congress to legislate with respect to the Indians is derived from its constitutional authority 'to regulate commerce with foreign nations, and among the several states, and with the Indian Tribes' (Art. 1, Sec. 8, Clause 3), or from other powers delegated to the United States by the Constitution, or whether the universal recognition of the existence of the power resulted from necessity, is unimportant. That the power exists is not to be denied." (Emphasis supplied.)

At page 641 the court concluded:

"While it is regrettable that the plan of the United States for the utilization of the

area involved in this proceeding has come into conflict with the plan of the State, the State's program 'must bow before the superior power of Congress'. *State of Oklahoma v. Guy F. Atkinson Co., supra.*"

(e) **Summary**

It should be emphasized again that by refusing to enter into exchanges with the federal government in regard to state lands within the Boundary Waters Canoe Area, so as to precipitate condemnation by the federal government, the state may lose the valuable checkerboard pattern of mineral ownership it now has in the B.W.C.A. Such a result would be unfortunate if, in the future, mining is permitted either because of a national emergency or a change in B.W.C.A. management policy. The state stands to lose little, under the present circumstances, by exchanging the surface of its lands in the B.W.C.A. with the Forest Service and may, indeed, gain through consolidation of its surface holdings outside the B.W.C.A. It stands to lose a great deal more by refusing to exchange such lands and thus invite condemnation of not only the surface but also the minerals.

**B. Problems Associated with Reservations of Water Power Rights**

**1. Constitutional and Statutory Authority to Reserve Water Power Rights**

In any land exchange, water power rights are reserved by the state in lands given in exchange pursuant to Minnesota Constitution Article VIII, Section 7, and Minnesota Statutes, Sections 94.342 and 94.344.

**2. Administrative Procedures**

No study and report is made of water power potential in regard to any given land exchange.

**3. Treaties and Laws Affecting Water Power Rights**

The Webster-Ashburton Treaty (proclaimed November 10, 1842) guarantees free use of international boundary water communications and portages to residents of the U.S. and Canada. The International Joint Commission, established pursuant to treaty (36 Stat. 2448), controls water levels on boundary waters. Subject to the latter treaty and an agreement relating to regulation of water levels on Lake of the Woods, the Shipstead-Nolan Act, 16 U.S.C.A. 577b (enacted July 10, 1930) and the "little Shipstead-Nolan" act, Minnesota Statutes,

Section 110.13 (enacted 1933), prohibit the alteration of water levels in certain described areas of the Counties of Cook, Lake, and St. Louis without specific congressional and legislative authority. Exceptions are existing uses, logging ponds, and dams related to recreational uses. The purpose of both acts is to preserve natural features of shorelines, rapids, beaches, and waterfalls in an unmodified state. The permit law, Minnesota Statutes, Chapter 105, provides authority for the regulation of power dam construction throughout the state.

**4. Reasonableness of the Secretary of Agriculture's Rules**

These rules were promulgated by the Secretary in 1938 under authority of 16 U.S.C.A., Section 518, (enacted March 1, 1911). To my knowledge no Attorney General's opinions have been issued in regard to the reasonableness of the Secretary's rules relating to the exercise of water power rights.

These rules do not appear to be any more restrictive than the statutes or policies of the state in regard to management of its land and water. State forestry laws are intended not only to prevent forest fires by eliminating potential fire sources such as slash but also to control fires once started. Permits are required for the construction of dams. Permit conditions may include a requirement to clear timber in flowage and reservoir areas. Acquisition of public access to water is a continuing state program, and maximum use of waters for fishing by the public is a long standing objective of the state.

Rules of the Secretary of Agriculture relating to the Boundary Waters Canoe Area, which is substantially the area included within the boundaries of the Shipstead-Nolan Act as amended, provide that no effort will be made to interfere with the disintegration through natural processes of dams existing on December 15, 1965, or to build new dams, except where necessary to maintain water levels adequate for canoe travel or to preserve existing shorelines.

**5. Conclusion Relating to Effect of Secretary's Rules on the Exercise of Reserved Water Power Rights**

Under existing treaties, statutory law, and rules and regulations, it does not appear that any of the Secretary's rules of August, 1938, relating to the exercise of water power rights is unreasonable or substantially different than what the state requires or is doing itself, on lands and waters under its jurisdiction.



