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# Upper Sioux Agency State Park and Historic Site Land Transfer Report

Report to the 2024 Legislature

Submitted by the Minnesota Department of Natural Resources

In Cooperation with the Minnesota Historical Society

01/15/2024

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## Executive Summary

In 2023, the Minnesota State Legislature passed, and Governor Walz signed, legislation (Minnesota Laws 2023, Regular Session, Chapter 60 and Chapter 72) directing the Minnesota Department of Natural Resources (DNR) to convey all state lands within Upper Sioux Agency State Park (USASP) to the Upper Sioux Community (Pezihutazizi) and provided the Minnesota Historical Society (MNHS) the ability to transfer the Upper Sioux Agency Historic Site to the Upper Sioux Community, as well. The 2023 law also required DNR to coordinate with MNHS to complete a legislative report by January 15, 2024, that identifies barriers to this conveyance and recommendations to overcome those barriers, including any needed legislation. This report fulfills that reporting requirement.

The DNR and MNHS have determined that there are no barriers to conveying the land; rather, there are a series of steps that must take place for the transfer to be completed. This legislative report summarizes those key steps to complete the transfer.

**Recommended Legislation:** While there is no additional legislation required to eliminate any barriers to the land transfer, the DNR recommends that the authorization of Upper Sioux Agency State Park in Minn. Stat. §85.012, subd. 58 be repealed. The MNHS recommends the Upper Sioux Agency State Historic Site be removed from the listing of the State Historic Sites Network in Minn. Stat. §138.662, subd. 33, pending final approval of the transfer by its governing board. These actions will achieve technical consistency with the 2023 land transfer law. The DNR and MNHS both intend to bring forward proposed legislation in the 2024 Legislative Session.

## Background and Legislation

USASP was established in 1963 for two major reasons:

- The first was to preserve and interpret the historic Upper Sioux Agency site along the Minnesota River.
- The second was to provide recreational opportunities in the Minnesota River Valley.

The circumstances around the establishment and operation of USASP are singularly unique. The Upper Sioux Community has had a longstanding request to the State of Minnesota to return the land at Upper Sioux Agency State Park to the Community. This land was the site of starvation and death of Dakota people during the summer of 1862, when the U.S. Government did not provide food promised to the Dakota by treaty.

In recent years, the Minnesota DNR has also faced operational challenges at the park due to the collapse of a portion of Trunk Highway 67 in 2019, repeated flooding of the Yellow Medicine River and the adjacent campground, and park facilities that have reached the end of their useful life.

A significant reinvestment in infrastructure would be needed to continue to operate the land as a recreational site. Making such investments to operate the park was not appropriate, given its history and the Upper Sioux Community's request. There are other ways to meet the outdoor recreation needs in the Minnesota River Valley, and the DNR looks forward to returning this land to the Upper Sioux Community.

In light of the Upper Sioux Community's longstanding request, the profound and unique history of this land, and the challenges with access and operations of the park, the Minnesota Legislature adopted, and Governor Walz signed, legislation in 2023 (Minnesota Laws 2023, Regular Session, Chapter 60 and Chapter 72; referred to as the "land transfer law" in this report) directing the DNR to convey all state-owned land within the boundaries of USASP to the Upper Sioux Community.

### **MN Laws 2023, Regular Session, Chapter 60, Art. 4, Sec. 97.**

#### UPPER SIOUX AGENCY STATE PARK; LAND TRANSFER.

(a) The commissioner of natural resources must convey for no consideration all state-owned land within the boundaries of Upper Sioux Agency State Park to the Upper Sioux Community.

(b) Upon approval by the Minnesota Historical Society's Executive Council, the Minnesota Historical Society may convey for no consideration state-owned land and real property in the Upper Sioux Agency Historic Site, as defined in Minnesota Statutes, section 138.662, subdivision 33, to the Upper Sioux Community. In cooperation with the commissioner of natural resources, the Minnesota Historical Society must identify any funding restrictions or other legal barriers to conveying the land.

(c) By January 15, 2024, the commissioner, in cooperation with the Minnesota Historical Society, must submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over environment and natural resources that identifies all barriers to conveying land within Upper Sioux Agency State Park and recommendations for addressing those barriers, including any legislation needed to eliminate those barriers.

EFFECTIVE DATE. This section is effective the day following final enactment.

The 2023 Legislature also appropriated \$5 million from the General Fund to the DNR to facilitate this land transfer and provided funding to Minnesota Management and Budget to prepay and defease any outstanding state general obligation bonds used for improvements and betterments at USASP.

Most of the land within USASP is managed by three state entities, as follows:

- The DNR manages about 1,280 acres within the state park statutory boundary.
- The Upper Sioux Agency historic site, which is about 19 acres, is managed by the Minnesota Historical Society (MNHS).
- The right-of-way for Trunk Highway 67, which passes through USASP, is a mixture of state land managed by and easements held by the Minnesota Department of Transportation (MnDOT) and DNR.

There are also private in-holdings within the eastern statutory boundary of the state park. These private properties are not part of the legislated transfer, nor do they affect the transfer of state-owned land to the Upper Sioux Community.

DNR, MNHS and MnDOT are working together to implement the land transfer. While MnDOT is not named in the 2023 land transfer law, as the administrator of Trunk Highway 67 they are an important collaborator in this effort. As a part of this effort, DNR collaborated with MNHS and MnDOT to develop this report, which fulfills the requirement of MN Laws 2023, Regular Session, Chapter 60, Art. 4, Sec. 97 (c).

## Key Steps, Barriers, and Recommendations Regarding the Land Transfer

### A. Consultation and Coordination with the Upper Sioux Community

Tribal consultation and coordination are a fundamental part of the process to convey the state lands within USASP to the Upper Sioux Community. To date, consultation and coordination has focused on the steps involved in transferring the land, public engagement regarding new recreation opportunities within the Minnesota River Valley, and decisions around condition of the land upon transfer. Consultation and coordination is ongoing and will continue throughout the transfer process.

**Recommendation:** There are no barriers to the ongoing tribal consultation and coordination, and there is no need for additional legislation.

### B. Public Engagement

Public engagement is critical to informing interested and affected persons about the transfer and to identifying opportunities for new or enhanced outdoor recreation in the Upper Minnesota River Valley. DNR began a public engagement effort in summer 2023 and will continue this work through the land transfer process and beyond. An overview of the engagement process and summary of the public feedback received regarding outdoor recreation opportunities can be found on the DNR's engagement webpage at [Upper Sioux Agency State Park Recreation Alternatives | Engage with DNR | Minnesota Department of Natural Resources](#).

As noted above, the 2023 Legislature appropriated \$5 million to facilitate the transfer of USASP. The DNR anticipates allocating a large portion of this appropriation to new outdoor recreation investments in the Upper Minnesota River Valley. Investment opportunities involving parks, trails, and water recreation have been identified in Granite Falls, Renville County and Yellow Medicine County.

The DNR is also identifying other types of state grant funding opportunities that may help enhance outdoor recreation opportunities in the region. Ongoing discussions with local units of government, community organizations and other interested and involved stakeholders will be important to finalize plans for and implement investments in new or enhanced outdoor recreation experiences in the region. The DNR will continue to update the website linked above as this effort continues.

**Recommendation:** There are no barriers to public engagement, and no recommendations for new legislation.

### C. Federal Land and Water Conservation Fund (LWCF) Conversion

Federal LWCF funds were used for multiple acquisition and development projects at USASP. As a result, the land at USASP carries with it a federal encumbrance that must be addressed through what is known as a “LWCF conversion.” There are two major steps to this conversion process:

- 1) The federal LWCF encumbrance must be removed from the USASP lands; and
- 2) The LWCF encumbrance must be applied (i.e., re-designated) to other, newly acquired public lands. The new lands must be of equal or greater appraised value as the lands at USASP and must provide public outdoor recreation opportunities.

This conversion process also requires cultural and environmental reviews, as well as final approval from the National Park Service (NPS). The DNR is working closely with the NPS to advance the LWCF conversion process and has discussed this federal process during public engagement meetings. The DNR will submit the formal request to the NPS in early March 2024 to lift the federal LWCF encumbrance from the land at USASP, and the request to apply the LWCF encumbrance to new lands by the end of August 2024.

**Recommendation:** There are no barriers related to the federal LWCF conversion process, and no recommendations for new legislation.

### D. State Park Land Decommissioning and Transfer

Prior to transferring the lands at USASP to the Upper Sioux Community, the DNR must cease state park operations and close the site to the public. USASP will close to public visitors on February 16, 2024. The park remains open for day-use activities through February 15, 2024. The DNR has communicated the upcoming closure of the state park via a news release, press conference, calls with state and community leaders, and on the DNR website.

The DNR expects to transfer the state land it administers at USASP to the Upper Sioux Community by mid-March 2024. No barriers to decommissioning the state park and completing the land transfer have been identified.

**Recommendation:** While no barriers to the land transfer have been identified, the DNR recommends that the legislature update Minnesota Statutes by repealing the authorization of the Upper Sioux Agency State Park in Minn. Stat. §85.012, subd. 58. The DNR intends to bring forward this legislation as an agency proposal, which would achieve technical consistency with the 2023 land transfer legislation, during the 2024 Legislative Session.

## E. Historic Site Land Transfer

In consultation with the DNR, MNHS has determined there are no funding restrictions or other legal barriers to conveying the land of the Upper Sioux Agency State Historic Site to the Upper Sioux Community. MNHS staff and leadership are currently working with the Minnesota Historical Society’s Executive Council to obtain formal approval of the conveyance. Information has been shared with Executive Council leadership; the conveyance will be addressed by a committee in mid-January and the full Executive Council in late January.

**Recommendation:** While no barriers to the Historic Site transfer have been identified, the MNHS recommends that the legislature remove the Upper Sioux Agency State Historic Site from the statutory listing in the Historic Sites Network in Minn. Stat. §138.662, subd. 33, pending final approval of the transfer by its governing board. This parallels the DNR’s recommendation to de-authorize the state park from its statutory listing. The MNHS intends to bring forward this legislation, which will achieve technical consistency with the 2023 legislation, during the 2024 Legislative Session.

## F. Trunk Highway 67

As noted in the Introduction to this report, MnDOT manages most of the state-owned lands within the Trunk Highway (TH) 67 right-of-way that runs through USASP. While MnDOT is not named in the 2023 land transfer law, as the administrator of Trunk Highway 67 they are an important collaborator in the effort to convey the land at USASP to the Upper Sioux Community. In spring 2019, MnDOT closed a portion of TH 67, including the portion that bisects USASP, due to movement of the earth beneath the roadway and resulting pavement failure. MnDOT decided to reroute TH 67 in a manner that does not bisect USASP; this is documented in a feasibility report that can be found at: [Hwy 67 - MnDOT \(state.mn.us\)](https://state.mn.us/hwy67).

There are several actions underway to implement the TH 67 reroute, which will include work in the existing right-of-way through USASP to remove existing infrastructure. MnDOT is engaged in ongoing consultation and coordination with the Upper Sioux Community, local units of government and involved state agencies and offices (e.g., DNR, the State Historic Preservation Office) on the steps needed to complete this effort. MnDOT will retain easements and underlying land ownership of the TH 67 right-of-way within USASP until this work is complete, at which time MnDOT will transfer that land to the Upper Sioux Community. This land transfer is anticipated to be completed in 2026.

**Recommendation:** There are no barriers to transferring the TH 67 right-of-way land within USASP (other than the time needed to address the existing infrastructure), and no recommendations for new legislation.



## Summary

DNR, MNHS, and other state and federal agencies have been proceeding through the steps to convey the state-owned and managed lands within the boundaries of the USASP to the Upper Sioux Community. No barriers have been identified to completing this transfer.

Two recommendations for legislation have been identified, as follows:

- Remove USASP from state statute (Minn. Stat. §85.012, subd. 58).
- Remove the Upper Sioux Agency Historic Site from the State Historic Sites Network in state statute (Minn. Stat. §138.662, subd. 33).

These statutory changes are not required to complete the land transfer but are recommended to achieve technical consistency with the 2023 transfer legislation. The DNR and MNHS intend to raise these recommendations during the 2024 Legislative Session.