

830630

LEGISLATIVE REFERENCE LIBRARY

HD243.M6 S36

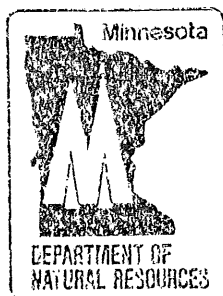
- School trust land management report



3 0307 00052 8953

# SCHOOL TRUST LAND MANAGEMENT REPORT

March 1983



Prepared by the  
Department of Natural Resources  
Office of Planning  
to Fulfill the Requirements  
of Laws of 1982 Chapter 548, Art. IV, Sec. 3

HD  
243  
.M6  
S36

Pursuant to 1982 Laws, ch. 548, Art. IV,  
Section 3

# SCHOOL TRUST LAND MANAGEMENT REPORT

## TABLE OF CONTENTS

	<u>PAGE</u>
Introduction	1
Chapter I. An Overview of Legal Authorities and Historical Administration	4
A. Congressional Enactments and State Constitutional Provisions Relating to School Trust Lands	4
B. The Swampland and Internal Improvement Grants and Constitutional Amendments Affecting the Management of School Trust Lands	7
C. Early Land Administration and Statutory Enactments	10
1. Early Land Policy of Quick Sale	
2. Policy Shift to Selective Retention for Management and Recent Statutory Authorities	
D. Permanent School Fund Management and School Trust Land Management	19
E. DNR Delegation Orders	20
F. Summary and 1972 Constitutional Study Commission Findings	21
G. DNR Goal for the Management of the School Trust Lands	22
Chapter II. Existing School Trust Lands	25
A. What Remains of the Original Grants	25
B. Geographic Distribution	26
C. Trust Lands and DNR Management Units	33
Chapter III. Administration and Management of School Trust Lands	35
A. Introduction	35
B. School Trust Land in DNR Management Units	36
1. School Trust Land in State Forests; Timber Sales	
2. School Trust Land in Wildlife Management Areas	
3. School Trust Land in State Parks and Waysides	
4. School Trust Land in Other DNR Units	

C.	Specific Resource Management Activities: Leases, Licenses, and Easements	59
1.	Mineral Leases	
2.	Peat Leases	
3.	Lakeshore Leases	
4.	Other Surface Leases	
5.	Utility Licenses	
6.	Easements	
D.	Revenues and Costs from School Trust Lands	80
1.	Revenues	
2.	Administration, Protection and Management Costs	
E.	Trust Land Sales and Exchanges	89
1.	Land Sales	
2.	Land Exchanges	
Chapter IV.	Current Planning Activities and School Trust Land Management	92
A.	Land Suitability Study	92
B.	Lakeshore Update Project	94
C.	Peatland Management Program	95
D.	Minnesota Forest Resources Plan (MFRP)	97
E.	Mineral Potential Evaluation Project	98
F.	Revenue Task Forces	99
Chapter V.	Major Issues, Actions, and Needs for Further Study	101

## INTRODUCTION

The Minnesota Department of Natural Resources (DNR) is currently responsible for managing approximately 2.5 million acres of federally-granted land for the benefit of the state's elementary and secondary public schools. In addition, the state has retained the mineral rights to almost one million acres of school trust land which were sold. These lands were granted to the state in the nineteenth century for a variety of reasons: In 1857, the Organic Act granted to the state sections 16 and 36 of each township for the support of the state's public schools; in 1860, 4.7 million acres were granted for drainage of swampland; and, in 1866 Minnesota received .5 million acres for internal improvements. These total acreages were not all immediately granted; rather, they represent the final granted acreages, transferred after several years of land grant administration and land selection.

The school, swampland, and internal improvement grants comprise the DNR-administered trust lands.<sup>1</sup> Currently, approximately 62% (1,560,000 acres) of the school trust land is from the swampland grant, 38% (954,000 acres) is from the school grant, and less than 1% (7,000 acres) is from the internal improvements grant. Although originally placed in separate trusts, eventually these lands were combined into the school trust. All of these lands will hereafter be referred to as "school trust lands".

---

<sup>1</sup> University trust lands are managed by the DNR but the trust is not related to the school trust.

Collectively, the school trust lands can be defined as lands granted to the state by the federal government and held or administered by the state in trust for the state's school districts. The lands may only be used or disposed of according to specific procedures or directions defined in law. The proceeds from the use or sale of these lands must be used for specific public purposes which are consistent with the fiduciary responsibility. The responsibility of the Commissioner of the DNR for managing these lands is authorized by statute (Minn. Stats. 84.027 subd. 2).

Revenues from the use or sale of the school trust lands are placed in a nonexpendable account called the Permanent School Fund (PSF). Article 11, Section 8 of the Minnesota Constitution defines this fund as consisting of the "proceeds" of the various categories of trust lands, rather than the lands themselves. The State Board of Investment (SBI) is responsible for investing these funds "to secure the maximum return thereon consistent with the maintenance of the perpetuity of the fund."<sup>2</sup> The PSF was created in 1862 and as of June 30, 1982, the PSF principal (equity) was \$331,483,000. An average (over the past five fiscal years) of \$19,619,200 has been distributed annually to school districts in proportion to the number of children aged 5-21 within that district.<sup>3</sup>

---

<sup>2</sup> Constitution of the State of Minnesota, Article XI, Section 8.

<sup>3</sup> Figures quoted over the phone by Tom Casey, Department of Finance on February 10, 1983, and were rounded to the nearest hundred by Finance.

Although all public land states were granted land for schools in the nineteenth century, the State of Minnesota has been one of the most provident managers of trust lands, recognizing at the time of the grants that a "perpetual and inviolate"<sup>4</sup> fund would offer the greatest long-term return for the state's schools. An early policy shift from quick sale to greater retention of these lands has increased the long-term return as land values rose. Many other states disposed of their lands quickly or spent the revenues directly, and therefore have little or no economic return today.

The following chapter describes the early administration and legislative enactments which to a large extent direct the DNR's current management policy for the school trust lands. Following this is a discussion of the specific policies concerning management of forestry, minerals, and other resources on the school trust lands, as well as the revenues and costs which result.

---

<sup>4</sup> Constitution of the State of Minnesota, Article XI, Section 8.

## I. AN OVERVIEW OF LEGAL AUTHORITIES AND HISTORICAL ADMINISTRATION

Fundamental to any inquiry relating to the management of school trust land by the Department of Natural Resources is the principle that the Commissioner of Natural Resources, as any other public official, possesses only those powers granted to him by the legislature and those necessarily implied from the grant of power. To understand the powers possessed by the Commissioner in regard to school trust land, it is necessary to understand the legal status of those lands, their historic origins, and legislative enactments relating to the lands. This body of law, in the last analysis, sets the policy for the management of these lands.

### A. Congressional Enactments and State Constitutional Provisions Relating to School Trust Lands

As early as the establishment of the Territorial Government of Minnesota, certain lands were granted to the people of the territory, on certain conditions. The Act of Congress dated March 3, 1849, establishing the Territory of Minnesota contained the following provision:

Sec. 18. And be it further enacted, That when the lands in said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be and the same are hereby reserved for the purpose of being applied to schools in said Territory, and in the state and territories hereafter to be erected out of the same (9 U.S. Stat. 403).

This provision of the 1849 territorial act was followed by similar, but more extensive and detailed provisions, of the act authorizing a state government. The Act of Congress dated February 26, 1857, authorizing the establishment of the State of Minnesota, contained the following provision relating to the school grant:

Sec. 5 And be it further enacted, That the following propositions be and the same are hereby offered to the said convention of the people of Minnesota for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory on the United States, and upon the said State of Minnesota, to-wit:

First--That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise been disposed of, other lands, equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools.

The people of the Territory of Minnesota accepted the terms of the above offer on October 13, 1857, when they voted to ratify and accept the terms of this enabling act and adopted a state Constitution containing the following provisions in Article II:<sup>1</sup>

Acceptance of propositions in enabling act. Sec. 3. The propositions contained in the act of Congress entitled, "An act to authorize the people of the Territory of Minnesota to form a constitution and state government, preparatory to their admission into the Union on equal footing with the original states," are hereby accepted, ratified and confirmed, and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title to said soil to bona fide purchasers thereof; and no tax shall be imposed on lands belonging to the United States and in no case shall non-resident proprietors be taxed higher than residents.

---

<sup>1</sup> The language of acceptance and ratification is now contained in Article II, Section 1, following the adoption of the restructured constitution by the people of Minnesota in 1974.



The constitution adopted by vote of the people on October 13, 1857, also contained in Article VIII the following significant provisions relating to lands granted to the state for school purposes:

Sec. 1. The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature to establish a general and uniform system of public school.

Sec. 2. The proceeds of such lands as are or hereafter may be granted by the United States for the use of schools within each township in this state, shall remain a perpetual school fund to the state, and not more than one-third (1-3) of said lands may be sold in two (2) years, one-third (1-3) in five (5) years, and one-third (1-3) in ten years; but the lands of the greatest valuation shall be sold first, provided that no portion of said lands shall be sold otherwise than at public sale. The principal of all funds arising from sales, or other disposition of lands, or other property, granted or entrusted to this state in each township for educational purposes, shall forever be preserved inviolate and undiminished, and the income arising from the lease or sale of said school lands shall be distributed to the different townships throughout the state, in proportion to the number of scholars in each township between the ages of five and twenty-one years, and shall be faithfully applied to the specific objects of the original grants or appropriations.

Following the adoption of this Constitution, Minnesota was admitted to the Union by the Act of Congress dated May 11, 1858 (11 U.S. Stat. 285).

Four principles established by vote of the people approving this Constitution in 1857 remain substantially unaltered today: (1) The acceptance by the citizens of Minnesota of the terms, or trust conditions of the federal grants; (2) the requirement that the lands be sold only at "public sale", that is auction; (3) the requirement that proceeds from sale are deposited in a constitutionally dedicated "perpetual school fund"; and (4) the requirement that income only, not principal (which remains "inviolable and undiminished"), is to be distributed on a per capita basis throughout the state for the education of "scholars ... between the ages of five and twenty-one years". Substantially the same

constitutional provisions are found in Minnesota's Constitution today in Article II, Section 1 (referred to earlier), and Article XI, Section 8.

B. The Swampland and Internal Improvement Grants and Constitutional Amendments Affecting the Management of School Trust Lands

As described above, the earliest school trust lands were composed of those lands granted to the state by the federal government for school purposes. However, two other nineteenth century grants of land were later made subject to the school trust by constitutional amendment.

The first of these was a grant of "swamp or over-flowed lands, which may be, or are found unfit for cultivation"<sup>2</sup> which was made in 1860. During the next fifty years, claims for over 4.7 million acres of land were approved and patented to the state under this act. This was by far the largest of the federal land grants to the state of Minnesota, with the proceeds being set aside at that time for the construction of levees and dams.

The state eventually granted 62% of this land to railroad companies to help finance the construction of railroads, and the state legislature diverted the lands for other purposes as well. The "swamplands" were

---

<sup>2</sup> 12 Statutes 3, Act of March 12, 1860, cited in S.T. Dana, J.H. Alison, and R.N. Cunningham, Minnesota Lands, (Washington D.C.: American Forestry Association, 1960), pp. 98 and 395.

required to be sold in the same manner as school lands pursuant to constitutional amendment adopted in 1881. The principal derived from the sale of "swamplands" was to be preserved inviolate, and the income or proceeds from the principal was to be apportioned half to the common school fund of the state, and half to educational and charitable institutions. By amendment adopted in 1962, all proceeds from investment of swampland funds were thereafter distributed the same as proceeds from the investment of school land funds.

In 1866, Minnesota recognized that an 1841 federal statute granting land for internal improvements (roads, bridges, and similar developments) applied to the state. Ultimately, 496,482 acres were conveyed. By State constitutional amendment adopted in 1872, federal lands granted to the state for internal improvement purposes were required to be sold in the same manner as school trust lands, but the proceeds were paid into the Internal Improvement Land Fund. Throughout the 1870's, the use of these lands for the construction of railroads was a hotly debated issue in the state legislature. Finally, severe fiscal problems in 1881 caused the state to allow these lands to be sold for the liquidation of railroad bonds. Over 99% of these lands had been sold by the turn of the century. A constitutional amendment adopted in 1898 directed that the income from the Internal Improvement Land Fund be paid into the newly created state road and bridge fund which was subsequently superseded by the County-State Aid Highway Fund. Not until the adoption of the restructured constitution in 1974 were cash and investments in the Internal Improvement Land Fund merged into the permanent school fund.

Thus, since 1974, school trust lands have consisted of lands granted to the state for school, swampland, and internal improvement purposes. The proceeds from the investment of the principal derived from the sale or other disposition of these lands has been distributed on a per capita basis to the public schools of the state. The current constitutional provisions relating to permanent school fund lands are found in Minnesota Constitution, Article XI, Section 8.

Two other constitutional amendments affect the management of school trust lands. The first of these, adopted in 1914, authorizes certain school trust lands to be included in school forests and state forests and to be managed on forestry principles. This amendment is presently found in Minn. Const. Article XI, Sec. 11, as follows:

Sec. 11. Timber lands set apart as state forests; disposition of revenue. School and other public lands of the state better adapted for the production of timber than for agriculture may be set apart as state school forests or other state forests as the legislature may provide. The legislature may also provide for their management of forestry principles. The net revenue therefrom shall be used for the purposes for which the lands were granted to the state.

The second amendment which affects management of school trust lands was adopted in 1938. This amendment authorizes the exchange of school trust and other state owned land for federal or private land, with the unanimous approval of the Governor, Attorney General, and State Auditor, who constitute the Land Exchange Board (see Minn. Stats. Secs. 94.341-94.348.).<sup>3</sup> This amendment is in Minn. Const. Article

---

<sup>3</sup> Transfers of title to land between the state and local units of government can be accomplished not under this constitutional provision but under statutory authority enacted in 1979, and coded Minn. Stats. Sec. 94.349.

XI, Section 10, as follows:

Sec. 10. Exchange of public lands; reservation of rights. As the legislature may provide, any of the public lands of the state, including lands held in trust for any purpose, may be exchanged for lands of the United States or privately held lands with the unanimous approval of the governor, the attorney general and the state auditor. Lands so acquired shall be subject to the trust, if any, to which the lands exchanged therefore were subject. The state shall reserve all mineral and water power rights in lands transferred by the state.

C. Early Land Administration and Statutory Enactments

1. Early Land Policy of Quick Sale

Initial state administration of the granted lands in Minnesota was based on the policy of conveying these lands into private ownership as rapidly as buyers could be found. This translated largely into aggressive land sales, often using cash for payment. The most valuable lands were sold first, as per Constitutional order. These were the agricultural lands located in the southern half of the state. The northern half of the state, largely forested and containing numerous bogs, was less desirable to the early settlers of the state.

Accounts of land administration during the late 1800's indicate numerous acts of fraud, bribery, and neglect in both the public and private sectors. The state's school lands in the north were

particularly susceptible to timber thefts, as described by one historian:

"The situation finally became so malodorous that in 1893 the legislature appointed a Pine Land Investigating Committee to inquire into any and all frauds that have been committed at any time in any part of the state by which the public lands owned by the state . . . have been despoiled of their timber by open robbery and undervaluation of their value, or by any other means".<sup>4</sup>

Loss to the public school fund due to lack of integrity, poor knowledge, and poor judgement in both legislation and administration was estimated to be in the millions of dollars.

Other land grants were linked to early land scandals. Between 1854-1865, the federal government granted 8 million acres to the state for railroad construction. The state granted these lands, as well as 2.9 million acres from the swampland grant to various railroad companies. In addition, the federal government granted 1.9 million acres directly to the Northern Pacific Railroad. Therefore, 12.8 million acres, or 25% of the state's land, was granted to railroad companies during the 1800's.

Unfortunately, the state was slow to adopt and enforce legal procedures for the disposal of the lands. By the time such procedures went into effect, much of the original acreage had been disposed of without adequate compensation to the state.

---

<sup>4</sup> S.T. Dana, J.H. Alison and R.N. Cunningham, Minnesota Lands. (Washington D.C.: American Forestry Association, 1960) pp. 134-135.

During the first fifty years of statehood, state lands were sold at prices ranging from an average of \$5-20 per acre.<sup>5</sup> The first school trust land was sold in 1862, when 38,247 acres were sold at an average price of \$6.35 per acre. This initiated the principal of the Permanent School Fund, although the fund had been established pursuant to provisions of the State Constitution ratified in 1857. By 1912, 70% of the lands conveyed to the state from the school, swamp, and internal improvements grants had been sold. Most of the remaining lands were from the swamp and school grants, and were located in the northern half of the state. The following chart summarizes the early disposal policies of the state for these lands:

<u>Purpose of Federal Grant</u>	<u>Orig. Acres</u>	<u>Acres in 1912</u>	<u>% Disposed by 1912</u>	<u>Avg. Price Per Acre</u>
Swampland	4,777,636	1,612,183	67	\$6.40
School	2,995,628	838,953	71	\$6.33
Internal Improvement	496,482	5,504	99	\$5.71
<u>Totals</u>	<u>8,269,746</u>	<u>2,456,640</u>	<u>70</u>	

## 2. Policy Shift to Selective Retention for Management and Recent Statutory Authorities

Toward the turn of the century, doubts began to arise regarding the soundness of the widespread sale of public lands. As stated by one historian of those policies:

---

<sup>5</sup> Matthias Nordberg Orfield, Federal Land Grants to the States with Special Reference to Minnesota. (Minneapolis, University of Minnesota, 1915) pp. 166-167.

"Depletion of forest and range land, increasing soil erosion, and more irregular stream flow raised serious question as to the ability of the country's supposedly inexhaustible natural resources to meet the future needs of a rapidly mounting population."<sup>6</sup>

In addition, reports such as that of the Pine Lands Investigating Committee indicated that much more alert management was needed to prevent land fraud. An awareness slowly emerged that public, rather than private, ownership best enabled management for the public interest in the long term. Consequently, a number of statutory restrictions were placed on the sale and use of these lands. These restrictions have been strengthened in recent years.

Although sale of school trust land at public auction is still authorized by law (Minn. Stats. Chapt. 92) and in fact takes place every year, early legislative limitations were placed on sale authority. For example, Laws of 1889, Chapter 22, authorized minerals to be reserved by the state in sales of state lands, including school trust lands, in Cook, Lake, and St. Louis Counties. This reservation was made mandatory and statewide pursuant to Laws 1901, Chapter 104, now coded as Minn. Stats. Secs. 93.01, 93.02, and 93.04.

Minnesota Statutes Chapter 92 still directs the DNR Commissioner to sell "such state lands as he considers in the public interest"; however, Laws 1923, Chapter 430 prohibited the sale of state-owned

---

<sup>6</sup> S.T. Dana, J.H. Alison and R.N. Cunningham, Minnesota Lands. (Washington D.C.: American Forestry Association, 1960) p. 206



lands bordering or adjacent to public waters and the live timber thereon (now coded as Minn. Stats. 92.45), and lands containing commercial deposits of peat were removed from sale pursuant to Laws 1935, Chapter 322 (now coded as Minn. Stats. 92.461 subd. 1).

Condemnation of school trust lands was ruled by the Minnesota Supreme Court as equivalent to "public sale" requirements of Minnesota's Constitution in the case of Independent School District of Virginia vs. State, 1914, 124 Minn. 271, 144 N.W. 960. There the Virginia school district wanted some school trust lands for public educational purposes. The court upheld the school district's authority to condemn the trust lands under the circumstances of that case, stating that the value of the trust land, as determined in the court supervised condemnation proceeding, is paid into and becomes part of the permanent school fund, "the income from which inures to the benefits of all school districts of the state". The result of which is that no special privilege is acquired or gained by this particular school district over other school districts." (Page 278, Minn. Rep.; emphasis added.)

A statutory illustration of the use of condemnation authority to free school trust lands for park use is Laws 1971, Chapter 852, coded as Minn. Stats. Chapt. 84B, which directed the condemnation of over 24,000 acres of trust fund land prior to its donation by the state to the federal government for Voyageurs National Park. The act withstood a constitutional challenge that it constituted a breach of

the trust agreement entered into between the state and federal government in regard to school trust land in the 1971 case of Essling vs. Brubacher.<sup>7</sup>

Itasca State Park, established by Laws 1891, Chapter 56, was perhaps the first reservation of a specific tract of public land for a specific purpose in Minnesota, and was an important sign of the policy shift from quick sale to selective retention. School trust lands were included within the park's legislatively-described boundary. The state received two other grants of land for parks and forestry purposes before 1910. 20,000 acres were granted for a forest reserve in 1904, which was to become Burntside State Forest, and one year later a wooded half-acre island was granted to the state.

Leasing of state owned minerals, including school trust minerals, as authorized by Laws 1889, Chapter 22, was ruled constitutional in 1906 in State vs. Evans.<sup>8</sup> Several statutes authorize leasing for the prospecting for and the mining of iron ore, copper-nickel, and other minerals (Minn. Stats. 93.14 through 93.354). All mineral leases must be approved by the State Executive Council. The Commissioner may also lease the surface of state lands for the removal of earth

---

7 U.S. Dist. Ct., Third Div. 55 F.R.D. 360; affirmed U.S. Ct. of Appeals, 8th Cir., June 8, 1972; cert. denied, 409 U.S. 950, 93 S. Ct. 273, 34 L. ED. 2d 221.

8 99 Minn. 220, 108 N.W. 958, 9 Ann. Cas. 520.

materials, the storage of waste materials from mining operations, the construction of roads and railroads, for commercial and agricultural purposes, as well as for any other uses not inconsistent with the interests of the state (Minn. Stats. 92.50). This statute also authorizes the Commissioner to lease state lands for the removal of peat. Approval by the State Executive Council is required for all peat leases.

A general law of more specific application which has limited the management practices that may be applied to state land including school trust land, is found in Minn. Stat. Sec. 84.523. That law prohibits leasing of state owned minerals or peat within the Boundary Waters Canoe Area of the Superior National Forest and forbids the issuance of state permits, licenses, and leases to use state owned natural resources in connection with mining or peat harvesting in the same area. Similarly, Minn. Stat. Sec. 84B.03, Subd. 1, prohibits the mining of state owned minerals, including school trust minerals, in Voyageurs National Park, so long as it continues as a national park.

For many years, the DNR Commissioner was authorized to issue lakeshore leases for cottage and camp purposes; however, since 1973 this type of leasing has been prohibited (Laws 1973 Chapter 479, coded as Minn. Stats. 92.46 subd. 1A). The Commissioner has also been granted the authority to issue utility leases (Minn. Stats. 94.415 subd. 1) and permanent or temporary easements to the United

States, the State of Minnesota, or any of its subdivisions (Minn. Stats. 94.63), on any state-owned lands under his jurisdiction, including school trust lands.

The sale of timber on school trust land was first authorized by Laws 1863, Chapter 12, which empowered the State Auditor, as Commissioner of the State Land Office, to sell pine stumpage at not less than a minimum price fixed by the Surveyor General of Logs and Lumber.<sup>9</sup>

The first state forest reserve (now state forest) was established in 1902, following the enactment of Laws 1899, Chapt. 214, which created a State Forestry Board to develop and manage for forestry purposes land so designated by the legislature, or granted to the state by the United States or private persons for such purposes.<sup>10</sup>

There is additional direction in the statutes pertaining to the establishment or adjustment of state forest boundaries. First, for lands which are deemed more valuable for timber production than agriculture, the Commissioner may establish these as state forests or adjust state forest boundaries to include them, subject to subsequent

---

9 Timber sale laws are today coded in Minn. Stats. Chapt. 90

10 State Forests are today designated by law pursuant to Minn. Stats. Chapt. 89. There are now 55 units so designated.

legislative approval (Minn. Stats. 89.01 subd. 6). Likewise, if state lands inside state forests are found to be more valuable for agricultural, industrial, or commercial purposes, those lands may be eliminated from state forests (the latter two purposes require unanimous approval from the Land Exchange Board, according to Minn. Stats. 89.01 subd. 5). Furthermore, in the Forest Resources Management Act of 1982, the Commissioner is directed to propose a realignment of state forest boundaries based on the long-term suitability of the lands for forestry (Minn. Stats. 89.015 subd. 1). Currently, 64% of the school trust land is inside state forests, and another 32% is forest land outside state forests.

There are also provisions in the statutes concerning the distribution of revenues from the school trust lands. First, the Commissioner of Finance and the State Treasurer are directed to keep a separate account of all receipts from school trust lands in state forests, which is known as the State Forest Suspense Account (Minn. Stats. 16A.125 subd. 5). The costs of protection, improvement, and administration of trust lands in state forests must be transferred to the State Forest Development Account. However, any costs over \$500,000 must be transferred to the Forest Management Fund (Minn. Stats. 16A.125 subd. 5). The costs transferred to the Forest Management Fund may be used only in accordance with the State Forest Resource Management Plan on state forest trust lands (Minn. Stats. 89.04 subd. 1). The money may be spent for the purposes of reforestation, forest road improvements, fire fighting equipment and

training, and forest pest control (Minn. Stats. 89.04, subd. 2).

After the deduction of administration costs, the balance in the State Forest Suspense Account is to be transferred to the Permanent School Fund (Minn. Stats. 16A.125 subd. 5).

Statutory authority enacted as Laws 1955, Chapter 714, now coded as Minn. Stat. 16A.126 subd. 6, authorizing the deduction of management costs and expenses from income arising from the leasing of school trust minerals, was ruled an unconstitutional diversion of principal or proceeds from the permanent school fund by Opinion of the Attorney General 454-E in 1955. For this reason, the State Lands and Minerals Suspense Account which was authorized by statute has never been established, and to date, no deductions from the permanent school fund for minerals management costs have been made.

D. Permanent School Fund Management and School Trust Land Management

The investment of permanent school trust fund money is now constitutionally (Article XI, Sec. 8) and statutorily (Minn. Stats., Sec. 11A.16) vested in the State Board of Investment, consisting of the Governor, State Auditor, State Treasurer, Secretary of State, and Attorney General. Within the limitations defined in law, the State Board of Investment is charged "to secure the maximum return thereon consistent with the maintenance of the perpetuity of the fund" (Minn. Constitution Article XI, Section 8). Management of the permanent school fund is statutorily vested in the Commissioner of Finance (Minn. Stats., Sec. 11A.16). Apportionment of the income from the fund to school districts is

statutorily vested in the State Board of Education (Minn. Stats., Secs. 124.08-.09). The investment, management, and apportionment of income from the permanent school fund is outside of the legislative mandate of this report and therefore will not be considered further in this report.

From 1862 until 1931 the State Auditor, as Commissioner of the State Land Office, was responsible for the sale and management of lands granted to the state by the federal government. The management of federally granted lands was eventually transferred by Laws of 1931, Chapter 186, from the State Auditor (primarily a disposal agent) to the Commissioner of the newly established Department of Conservation, which was an amalgamation of former Departments of Drainage and Waters, Game and Fish, and Forestry and Fire Prevention. Management of federally granted lands has remained with the Commissioner of the Department of Conservation, now called the Department of Natural Resources, ever since. The Constitution excludes the trust lands in its description of PSF assets. Furthermore, the separation of responsibilities for the trust lands and the trust fund indicates separate intentions for administration and management.

#### E. DNR Delegation Orders

In delegating to subordinates certain powers relating to the management of school trust lands, the Commissioner has emphasized the nature and importance of the department's trusteeship duties by including phrases such as the following: "[t]he Assistant Commissioner for Administrative Services shall be especially aware of statutes and state constitutional

provisions relating to trust fund lands and the Commissioner's ultimate responsibility for, and trusteeship of the lands".<sup>11</sup> Similar language is included in his delegation order to the administrator of the Bureau of Land.<sup>12</sup>

F. Summary and 1972 Constitutional Study Commission Findings

The above listing of congressional enactments, constitutional provisions, laws, and orders affecting the management of school trust lands is not exhaustive, but does illustrate the management directives which the legislature has given the Commissioner and his predecessor, the State Auditor, over the years as management of school trust land has shifted from primarily sale to retention and management for income purposes.

Recommendations were made to the Natural Resources Committee of the Minnesota Constitutional Study Commission in 1972 from outside interest groups to endorse an amendment to Minnesota's constitutional limitations on the use and disposition of school trust lands to authorize, for example, their use for strictly non-income producing purposes, such as inclusion in scientific or natural areas without prior condemnation of the trust interest. The suggestion was rejected by the Committee in its November, 1972, report to the Constitutional Study Commission. In this report the Natural Resources Committee, while noting that school trust

---

<sup>11</sup> Commissioner's Delegation Order No. 351.

<sup>12</sup> Delegation Order No. 413.



lands are included in state forests and thus are available for many recreational and scientific purposes, pointed out that "[s]ince the state committed itself, when accepting these lands, to use the proceeds for school purposes, the principal objective must be sound management for income consistent with overriding public concerns".<sup>13</sup>

G. DNR Goal for the Management of the School Trust Lands

Overall, the directions provided by congressional, constitutional, statutory, and judicial law have been used to set up the following goal for the DNR's management of the school trust lands:

GOAL: TO SECURE THE MAXIMUM LONG-TERM ECONOMIC RETURN FROM THE SCHOOL TRUST LANDS CONSISTENT WITH SOUND NATURAL RESOURCE CONSERVATION AND MANAGEMENT PRINCIPLES AND SPECIFIC POLICY GUIDANCE AS PROVIDED IN STATE LAW.

Each of the phrases of this statement will be explained in sequence, in order to foster a clear understanding of the DNR's goal:

- a. "to secure the maximum long-term economic return from the school trust lands": First, this is to be for long-term economic gain, not short term -- thus, actions which might

---

<sup>13</sup> "Report of the Natural Resources Committee to the Constitutional Study Commission", August, 1972, p.11.

offer a higher yield today may be passed up in anticipation of greater future yield. This obviously involves some risk; however, this policy is partly responsible for the large size of today's PSF equity. Second, the DNR is to maximize the economic return from these lands to the state, which involves direct revenue generation. Third, this maximization is to pertain to revenue from the lands, not from the permanent school fund. The DNR is not directed by law to maximize fiscal return for the school districts; rather, this is charged to the State Board of Investment in the Minnesota Constitution.

- b. "consistent with sound natural resource conservation and management principles": School trust lands serve the total public benefit by providing revenue to the PSF as well as recreational opportunities, wildlife habitat, environmental preservation, and other values which enhance the quality of life in Minnesota. In the last twenty years there has been a broad public recognition of the need for greater environmental protection in the state. This has engendered a more cautious development attitude and a varied approach to public land management than was conceived when the school lands were first granted. This policy change to meet the contemporary needs of the state has been clearly recognized by the legislature, and the DNR manages the lands accordingly, for the broader long-term public benefit.

- c. "[and consistent with] specific policy guidance as provided by state law":

In several cases, actions of the state legislature have affected the ability of the school trust lands to be managed solely for maximum fiscal return to the PSF. This includes the placement of school trust lands in units of the outdoor recreation system, and indicates a policy decision of the legislature that trust lands are to be managed for multiple purposes and broad public benefits.

As we have shown, some divisions of the DNR have been directed by statute to manage school trust lands for monetary return to the PSF. This includes the Division of Forestry, which administers over 2.4 million acres, or 96%, of the surface interests of school trust land, and the Division of Minerals, which administers over 3.5 million acres of school trust mineral rights. Other DNR divisions or units manage school trust land to preserve their unique characteristics and values, again at the direction of statute. These include Parks and Recreation, Fish and Wildlife, Trails and Waterways, and Rivers. The guidance provided through legislation has determined the DNR's goal and established the framework for the current management of the school trust lands.

## II. EXISTING SCHOOL TRUST LANDS

### A. What Remains of the Original Grants

The school trust lands currently total 2,520,303 acres, out of the more than eight million acres of lands originally given to the state under various grants which eventually were consolidated into the present school trust lands.

Because the best agricultural land is found in the southern and western parts of the state, these areas were settled first. In many southeastern counties this occurred before the trust lands were granted to the state, and as a result of these lands being pre-empted by homesteaders, "indemnity" trust lands were granted to the state on public domain land which remained in the northern counties. Trust lands that the state did receive in the more fertile agricultural areas were quickly sold since it was the state's early policy to sell off trust lands as rapidly as possible. Also, the state constitution required that the most valuable lands be sold first. Regarding the swampland grants, the majority of the lands were in the northern half of the state where vast boglands exist. The result is that the remaining school trust lands are predominantly located in northern Minnesota.

The quality of the present school trust lands reflects the "high-grade" disposal policies of the past, being in large part either poorly drained bogland or having shallow and rocky soil, but in either case being predominantly of low agricultural value.

However, recent trends in resource use and consumption have greatly changed the way the value of the remaining lands must be viewed. What was once considered worthless swampland is now being recognized as both a valuable ecological asset having many positive resource values and as an energy resource, because of its large peat reserves. Likewise, the continued exploration of the state's mineral resources has identified significantly greater opportunities for mineral development than was known to be the case previously with the limited information then available. It is estimated by the Division of Minerals for example, that one-quarter of the state's peat resource are on school trust lands, and one-third of the mineral rights managed by DNR are on school trust lands.

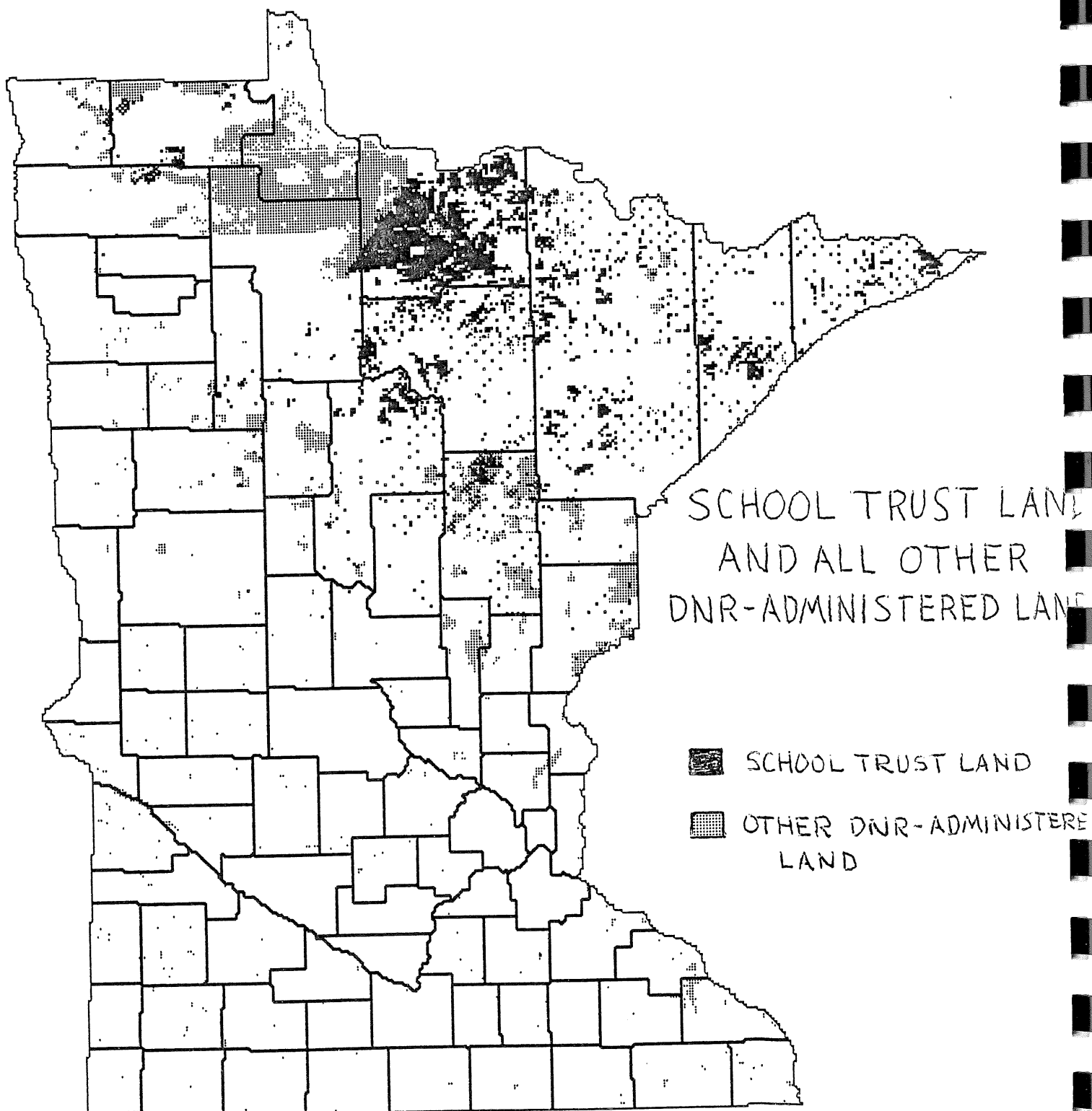
#### B. Geographic Distribution

More than 82 percent of the present school trust lands are in the seven northeastern Minnesota counties which comprise the Arrowhead Region. The remainder are more scattered, mostly in the adjoining regions of northern Minnesota. There are only small amounts of school trust land in the southern portion the state. For example, in the 16 counties south of the Minnesota River there are only 58 acres of school trust lands. Likewise, the lands where the state owns only the mineral rights are concentrated in the northern half of the state. However, the mineral rights-only ownership pattern is more scattered than the surface ownership for school trust lands. (These are lands on which the school trust originally owned both the surface and the mineral rights, but at some time in the past the state sold the surface rights to the land, while retaining the mineral rights.)

SCHOOL TRUST LAND ACREAGE  
RANKED BY COUNTY  
FOR COUNTIES WITH MORE THAN 10,000 ACRES

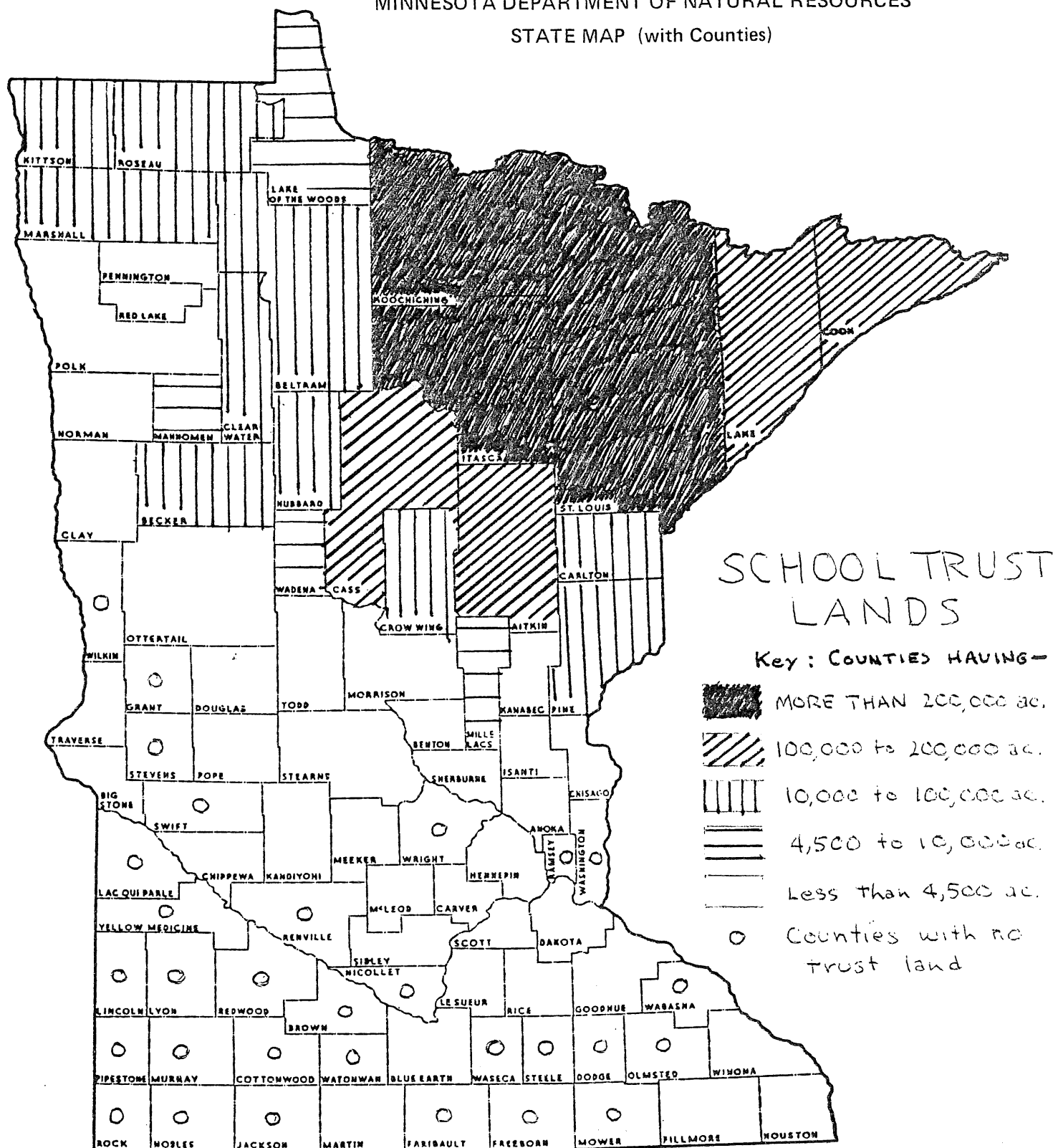
Rank	County	Acres	% of All Trust Land in State*	Cumulative Total %
1	Koochiching	854,652	33.4	33.4
2	St. Louis	483,018	19.2	52.6
3	Itasca	293,218	11.6	64.2
4	Lake	159,381	6.3	70.6
5	Cass	140,304	5.6	76.1
6	Aitkin	138,702	5.5	81.6
7	Cook	121,325	4.8	86.4
8	Beltrami	60,726	2.4	88.8
9	Roseau	50,375	2.0	90.8
10	Hubbard	29,433	1.2	92.0
11	Crow Wing	23,666	0.9	92.9
12	Pine	23,007	0.9	93.8
13	Clearwater	22,708	0.9	94.7
14	Marshall	22,403	0.9	95.6
15	Carlton	19,542	0.8	96.4
16	Becker	15,932	0.6	97.0
17	Kittson	14,763	0.6	97.6
	All other counties	47,538	1.9	100%
	State total	2,520,303		

\*This column does not total to 100% due to rounding



SOURCE: Land Management Information Center (DEPD)  
and the DNR 1982 Land Ownership Records

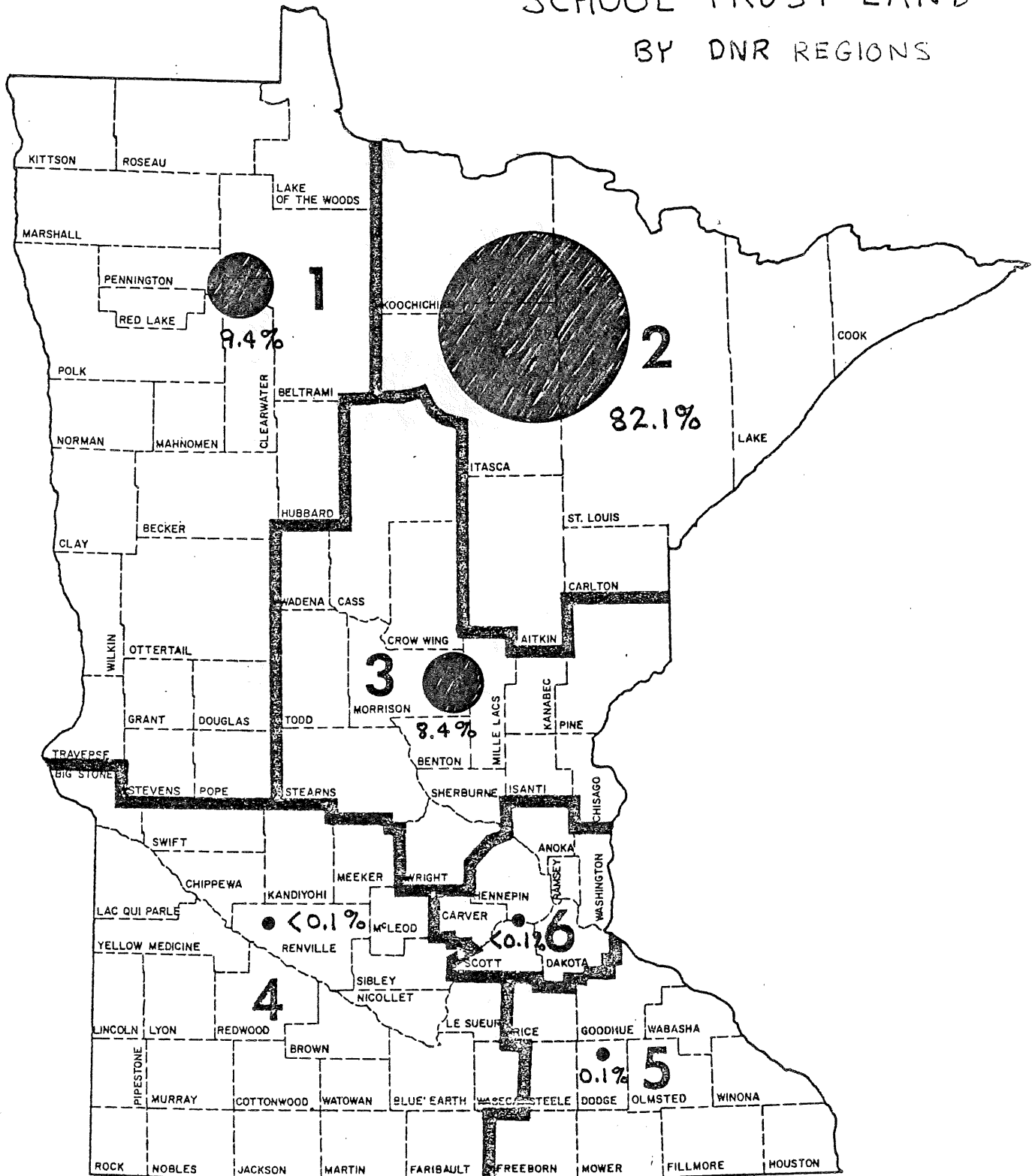
MINNESOTA DEPARTMENT OF NATURAL RESOURCES  
STATE MAP (with Counties)



SOURCE: DNR 1982 LAND OWNERSHIP RECORDS



# SCHOOL TRUST LAND BY DNR REGIONS

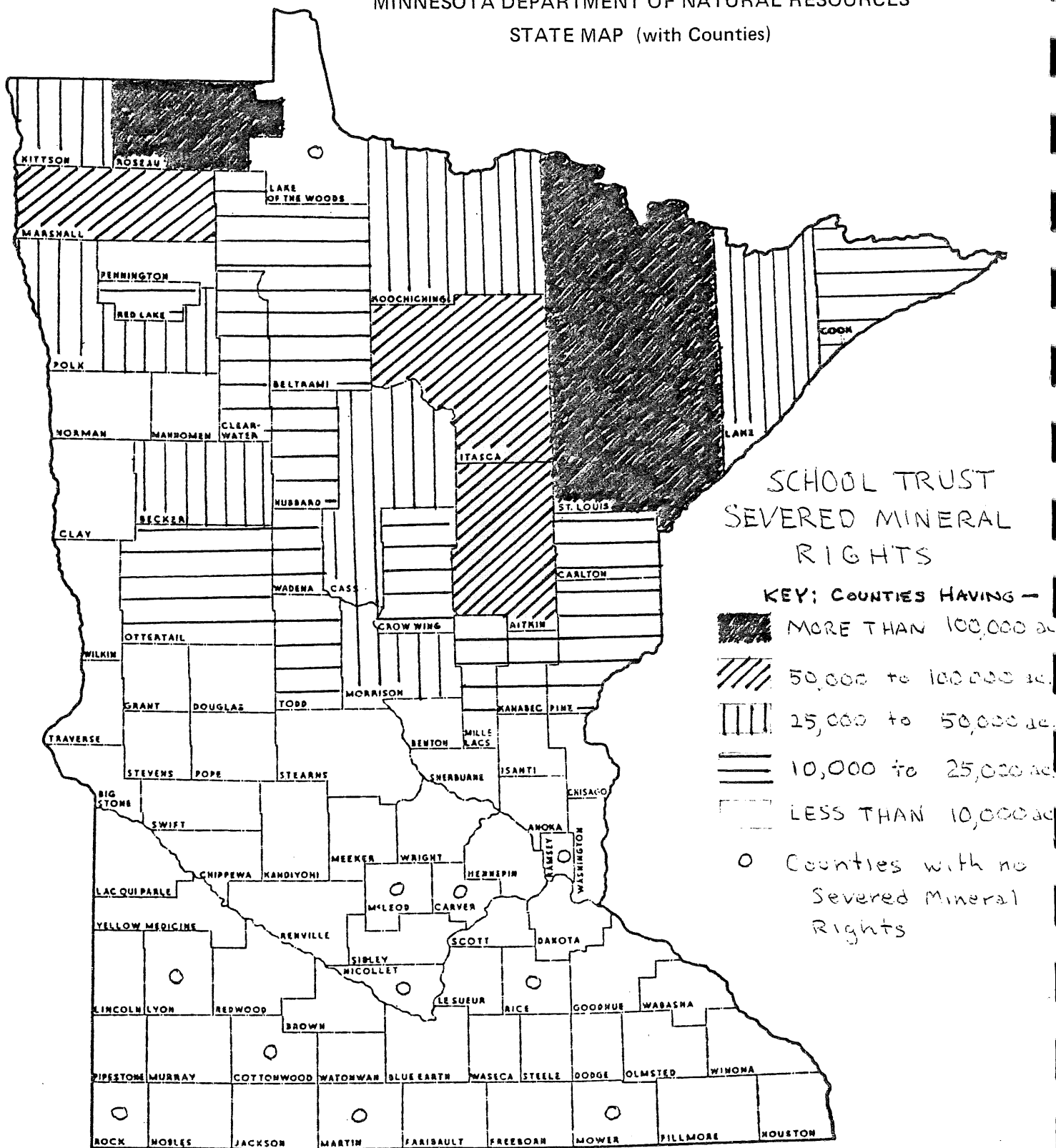


SCHOOL TRUST SEVERED MINERAL RIGHTS OWNERSHIP  
RANKED BY COUNTY FOR COUNTIES WITH MORE  
THAN 10,000 ACRES

Rank	County	Acres	% of All Trust Severed Mineral Rights*	Cumulative Total %
1	Roseau	164,882	16.6	16.6
2	St. Louis	107,352	10.8	27.4
3	Aitkin	66,593	6.7	34.1
4	Itasca	64,480	6.5	40.6
5	Marshall	61,723	6.2	46.8
6	Cass	41,041	4.1	50.9
7	Kittson	39,734	4.0	54.9
8	Lake	35,840	3.6	58.5
9	Koochiching	35,329	3.6	62.1
10	Becker	29,378	3.0	65.1
11	Polk	28,535	2.9	68.0
12	Morrison	27,125	2.7	70.7
13	Ottertail	24,459	2.5	73.2
14	Pine	22,626	2.3	75.5
15	Beltrami	20,294	2.1	77.6
16	Wadena	18,937	1.9	79.5
17	Crow Wing	18,363	1.9	81.4
18	Carlton	18,125	1.8	83.2
19	Cook	15,217	1.5	84.7
20	Mille Lacs	14,782	1.5	86.2
21	Clearwater	14,428	1.5	87.7
22	Hubbard	13,735	1.4	89.1
23	Todd	12,901	1.3	90.4
24	Kanabec	11,690	1.2	92.7
25	Red Lake	11,283	1.1	92.7
	All other counties	70,610	7.1	100 %
	State total	989,462		

\*This column does not total to 100% due to rounding

MINNESOTA DEPARTMENT OF NATURAL RESOURCES  
STATE MAP (with Counties)



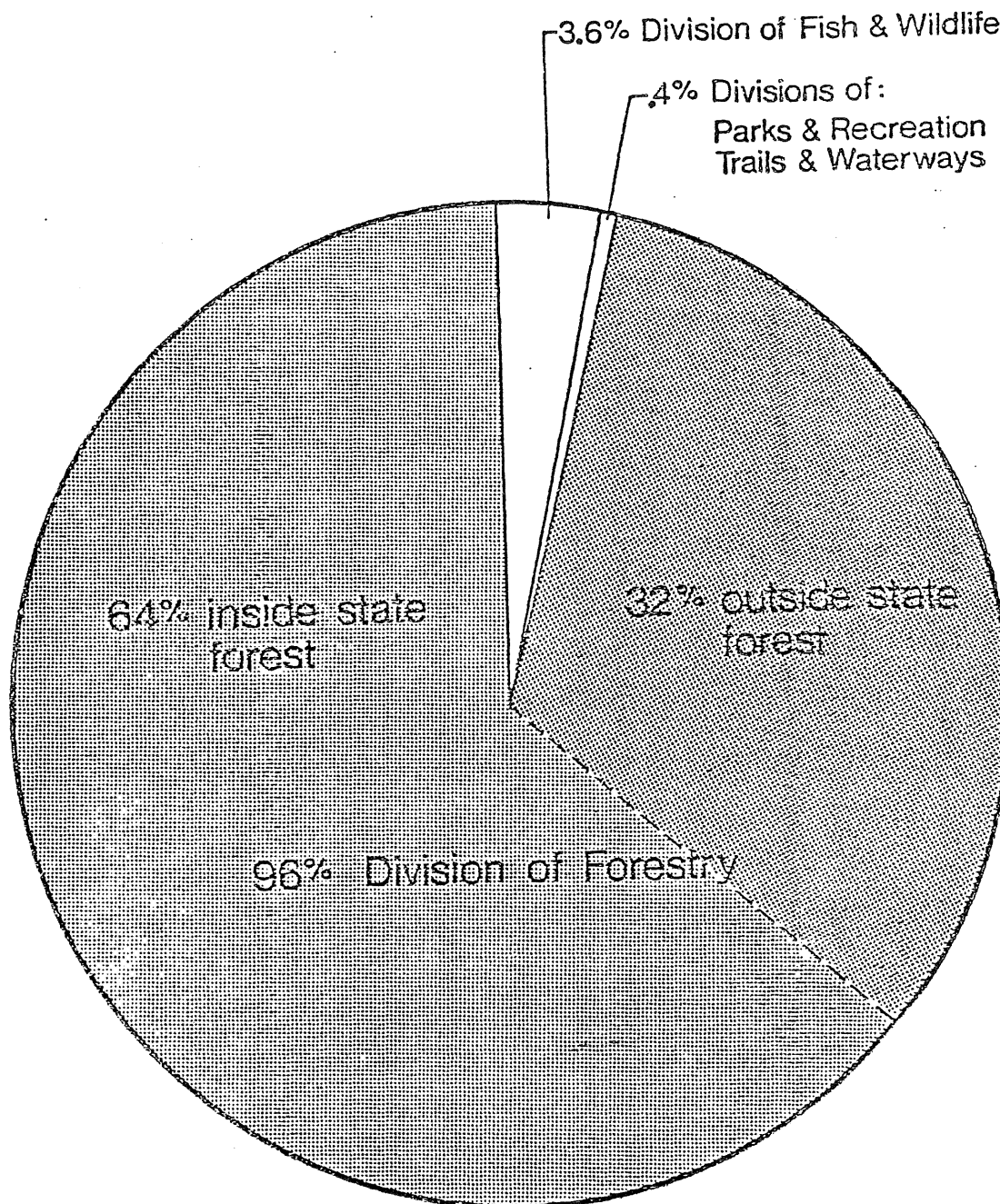
SOURCE: DNR 1982 LAND OWNERSHIP RECORDS

C. Trust Lands and DNR Management Units

Of the more than 2,520,000 acres of school trust lands currently administered by DNR, nearly 64 percent are within the boundaries of state forests, while another 32 percent are not part of any management unit but are administered as forest lands outside of state forests. Less than five percent of the school trust lands are in other types of units, with most being part of wildlife management units (4%). Less than half of one percent are in state parks and other recreational units (see table below).

DNR Administration of School Trust Lands

<u>Unit</u>	<u>Trust Land Acres</u>	<u>% of All Trust Land</u>	<u>% of Unit Class which is Trust Land</u>
State Forests	1,604,783	64%	53%
Wildlife Management Areas	96,377	4	18
State Parks	9,717	} < 1	5
Wild & Scenic Rivers	645		NA
State Waysides	640		NA
State Trails	238		NA
Public Access	204		NA
Total in DNR Units	1,712,657	68	
Total not in Units	807,646	32	
Total Surface	2,520,303	100%	
Total Severed Mineral Rights Only	989,462		



**Total School, Indemnity School, Swamp and  
Internal Improvement Trust Land as of Dec. 1982**

**2,520,303 Acres**

**SCHOOL TRUST LAND: WHO MANAGES  
THE SURFACE?**

### III. ADMINISTRATION AND MANAGEMENT OF SCHOOL TRUST LANDS

#### A. Introduction

The Department of Natural Resources has management responsibilities in the following areas: forestry, minerals, waters, parks and recreation, trails and waterways, fisheries, and wildlife. Each of these natural resources is represented by a division or unit in the Department's organization. For school trust lands, the Division of Forestry has the primary responsibility for land management while all school trust land minerals are managed by the Division of Minerals. Relatively small amounts of school trust land are managed by the Division of Fish and Wildlife, the Division of Parks and Recreation, and the Trails and Waterways Unit.

Most DNR administered lands are components of the State Outdoor Recreation System, which was established by the legislature in 1975 to increase Minnesota's recreation and education opportunities (M.S. 86A, the Outdoor Recreation Act). The Outdoor Recreation System consists of natural state parks; recreational state parks; state trails; state scientific and a natural areas; state wilderness areas; state forests; state wildlife management areas; state water access sites; state wild, scenic, and recreational rivers; state historic sites; and state rest areas.

Individual state parks, forests, etc. are called management "units" (also referred to as ORA units). Much of the land in these units, however, while included in the ORA system, is managed for other purposes as well as for recreation under the multiple use philosophy. State forests especially, and to a lesser degree wildlife management areas and some other units, are managed for timber production and are subject to mineral leasing, surface leasing, and other revenue producing activities.

The DNR Land Bureau provides the administrative support for the Department's acquisition, exchange, leases, and sales programs. The Land Bureau, the divisions, and the Office of Planning serve as staff to the Commissioner's Office on policy matters and exchange, lease, and sale decision recommendations on school trust lands. For exchange proposals, the final decision is made by the Land Exchange Board,<sup>1</sup> while the Commissioner of DNR makes the final decision on routine leases and sales.

The general responsibilities of the Commissioner of Natural Resources are set forth in M.S. Chapter 84. These include the charge and control of all public lands, parks, timber, waters, minerals, and wild animals of the state; authority for planning; and the authority to adopt rules and regulations. Other statutes specific to particular management disciplines will be discussed in the appropriate sections below.

B. School Trust Land in DNR Management Units

1. Trust Land in State Forests; Timber Sales

a. Background

DNR's Division of Forestry manages 1,604,783 acres of school trust land in state forests and another 807,646 acres of trust lands that are not within any DNR management unit. The trust

<sup>1</sup> The Land Exchange Board consists of the Governor, Attorney General and State Auditor.

lands within state forests represent 64 percent of all the trust lands in the state, while the trust lands outside of management units comprise 32 percent of the total. Trust lands within state forests make up 53 percent of all the state owned lands within state forest boundaries. The state forest trust lands are concentrated primarily in the northeastern part of the state, with more than 75 percent being located in DNR Region 2, which is comprised of the seven counties in the Arrowhead region.

Timber sales on all DNR lands are administered by the Division of Forestry. Revenue from timber sales on school trust lands has been an important source of income for the fund since its establishment. Over the past seven years, revenues credited to the trust fund from timber sales have averaged \$1,850,000 per year. In FY 1982 1,100 timber sales were made on school trust land involving about 13,800 acres.

b. Administrative and Management Directives

i. Constitutional Provisions

The Minnesota Constitution specifically provides that school trust lands and other public lands may be set aside as state forests (Article XI, Section 11). It also states that the legislature may provide for the management of these lands based on forestry principles. Significantly, it further provides that the net revenue will be used for



the purposes for which the lands were granted to the state (the trust), thus granting the authority to use trust land revenues for forestry management purposes.

ii. Legislative Provisions

A number of statutes provide authority and direction to the Commissioner for the management of state forest trust lands. All general statutory authorities are applied to trust lands unless specifically not allowed by the constitution or the articles of transfer of the various lands. Listed below are the statutes that pertain generally:

- M.S. 16A.125 -- Outlines the procedure to certify forest management costs for the trust lands, and establishes the mechanism to disburse trust land receipts into the state forest development account and the forest management fund to reimburse the Division of Forestry for these costs.
- M.S. 88.02 to 88.21 -- Provides broad authorities to the Commissioner for fire control.
- M.S. Chapter 89 -- This entire chapter applies to forest management and land use. It defines timber, state forest lands, forest resources, multiple use, sustained yield, reforestation, etc. This statute

establishes forest resource management policy, outlines general powers and duties, provides for forest planning, provides for creation of state forests and establishment of boundaries, creates the forest management fund, and provides authority for leasing of state forest lands. Unless specifically stated otherwise, these sections apply equally to trust and non-trust forest lands.

The 1982 Forest Resource Management Act amended Chapter 89 and made significant changes in forestry law. This law provided for expansion of the definition of forest lands under the authority of the Commissioner; establishment of several policy directives, including management for multiple use and sustained yield, reforestation and a forest road system policy; and directed a study of administrative boundary changes and state forest land designations. It also directs preparation of a comprehensive forest resource management plan by July 1, 1983 which is to be updated every 10 years. A forest resource data base is to be developed which is capable of being continuously updated and compatible with the Minnesota Land Management Information System. One significant provision of this law is the expansion of funding for management purposes.

- M.S. Chapter 90 -- This Chapter governs the sale of timber from state lands. Authority is given to have auction sales (90.101), limited auction sales (intermediate) (90.121), and negotiated timber sales (90.191). These sections are applied equally to trust and non-trust lands.

c. Management

i. Historical Changes in Management

Timber sales were initially the responsibility of the State Auditor. Acting in his role as the state land commissioner, the Auditor managed state timber lands, conducted timber auctions, and maintained financial accounts. In the 19th century, the heyday of Minnesota's logging industry, the state's virgin white pine forest was considered a resource to be exploited. The State Auditor was not a professional forester; he simply oversaw the harvest of timber to minimize conflicts among loggers and to protect the state's financial interest.

At the outset, the technical aspects of timber sales--timber appraising and post-harvest scaling--were handled by the Surveyor General of Logs and Lumber. In 1885, the appraisal function was turned over to the State Auditor, and in 1931, all aspects of the sale process, except scaling, were transferred to the newly created

Department of Conservation (now the Department of Natural Resources). Scaling by the Surveyor General was gradually phased out; the office was abolished in 1967.

Two significant trends characterize the changes in the state's forest management in Minnesota in the 20th century. First, forestry has become increasingly directed to management rather than liquidation of the resource. Professional forestry grew out of the realization that the state's forest resource was limited and had to be managed.

Second, the professionalization of forestry in Minnesota resulted in the gradual elimination of the inter-agency division of responsibilities that characterized the early timber sale program. For most of the history of Minnesota's timber sales, personnel in one agency (State Auditor or Forestry Division) set the rate per cord of timber to be sold while personnel in another agency (Surveyor General) determined the volume of timber which had been cut from a tract. But as forestry professionals in the Division of Forestry acquired increasing responsibilities for all aspects of the sale process, authority for timber sales were placed in this single unit of state government.

ii. Current Management

The Forest Management Program administered by the Division of Forestry provides for the protection and management of Minnesota's forest resources so that the social and economic benefits derived from those resources can be maintained for present and future generations. The major functions of the program are forest management, including forest inventory, reforestation, timber stand improvement, and harvesting; forest fire protection; insect and disease protection; and forest resource planning.

The Division of Forestry has recently embarked on a greatly expanded program of forest management intensification. A full time staff economist has been employed and the program plans have been developed using revenue generation and rates of return as planning criteria. Priorities are being established using assessments of potential productivity and the program has been designed to bring state owned forest land into production using the best possible economic approaches. Base stumpage rates have been increasing, particularly in the last five years. The Division has used market evidence in establishing these rates and has made great progress in generating a greater return from the sale of the state's timber.

Forest intensification program objectives for the 1984-85 biennium include the following: improve forest productivity; conduct an intensive forest inventory on 5.2 million acres of land; maintain productivity on high-value sites through capital investment; improve forest management by increasing growth through increased harvesting, reforestation, and production of genetically improved stock; maintain adequate accounting systems; and increase the investment in the forest resources of the state through use of the Forest Management Fund for reforestation and timber stand improvement. All of these measures will increase revenues to the PSF in the future.

d. Issues

i. Selling trust land vs. retaining and managing for revenue generation and resource utilization/protection

Past decisions by the legislature and the DNR have reduced the disposal of trust lands. The wisdom of this policy is now evident in light of dramatically increasing land and resource values. The present trend appears to reflect a leveling off of values; however, this may be a temporary phenomenon due to the current state of the economy. Capital growth for the lands and resources that have been retained in public ownership has been very significant for

the benefit of the PSF. Selling of trust lands would result in short term gains, but the long term effect would be a great reduction in the income-producing capital base (the lands), and consequently a significant net reduction in revenues for the PSF over the long run.

ii. Maximization of Revenue

Previous sections (c., i. & ii.) described efforts that have been made to improve management of forest lands which will result in increasing returns to the PSF. However, maximization of revenue can only be accomplished if all other considerations are ignored. While the trust lands managed for forestry purposes provide substantial revenues to the PSF, the 1982 Forest Resources Management Act directs management of forest lands according to multiple use and sustained yield principles. State forest trust lands serve the total public benefit by providing recreational opportunities, wildlife habitat, environmental protection, and other general benefits that enhance the quality of life in Minnesota.

iii. Non-revenue generating land uses

Approximately 60 campgrounds, 250 small campsites in the BWCA, 800 miles of trails, and several public accesses are located on trust land in state forests. These facilities, to a certain extent, reduce the potential of the land on

which they are located to generate revenue, and do not provide any direct payments to the trust fund. However, these facilities occupy an extremely small percentage of the total state forest trust land (much less than one percent). Furthermore, unlike state parks or other recreational areas, timber harvesting and other revenue producing uses are not nearly as severely restricted in state forest recreation areas. Timber cutting can occur in or adjacent to most of these facilities, except in the BWCAW; in cases such as grant-in-aid or other trails, these facilities can be moved relatively easily, when necessary, to accommodate revenue producing activities.

Other alternatives for compensating the trust could include leasing of the sites, paying a percentage of the revenues generated such a campground fees, or outright condemnation and purchase. Funds would have to be appropriated by the legislature as reimbursement for the lost maintenance funds or to cover acquisition costs.

## 2. School Trust Land In Wildlife Management Areas

### a. Background

A total of 96,377 acres of school trust land is located within wildlife management areas (WMAs) administered by the DNR Division of Fish and Wildlife. These trust lands comprise 3.8 percent of the total school trust lands in the state. Of all the state owned land in WMAs, 18.5 percent is school trust land.



The WMA school trust lands are scattered throughout the state, but more than half the total acreage is concentrated in six counties: Marshall, 17,252 acres; Roseau, 14,072 acres; Cass, 8,625 acres; Kittson, 7,716 acres; Aitkin, 6,576 acres; and Pennington, 2,601 acres.

b. Administrative and Management Directives

i. Legislation

The Commissioner of Natural Resources is authorized under M.S. 84.029 to "establish, develop, maintain and operate recreational areas ... on any state owned land under his jurisdiction". M.S. 86A.03 includes WMAs as a component of the state Outdoor Recreation System. In addition, M.S. 97.481 authorizes the Commissioner to acquire "from any state agency, itself included, lands now in state ownership ... which are suitable for wildlife purposes ..." The Commissioner is authorized by this statute to designate such lands as wildlife management areas and to develop them in the interest of wildlife.

ii. Policy

A DNR policy document on the designation and management of WMAs was recently adopted. The policy provides that school trust lands may only be designated as WMAs upon purchase or lease of the land by the Division of Fish and Wildlife. The

policy sets forth the goal for wildlife management areas as being to: "Protect, develop and manage lands and waters which can provide quality wildlife habitat for the production of wildlife and opportunities for public hunting, trapping, fishing, and other compatible outdoor recreational activities." An approved DNR policy on Wildlife/Forestry Coordination promotes cooperation between the Divisions of Forestry and Fish and Wildlife in achieving integrated forest and wildlife management on all state administered lands. Forestry/Wildlife Guidelines to Habitat Management have been developed to assist in achieving the goal stated above.

The Wildlife/Forestry Coordination Policy provides for meeting wildlife management objectives through forestry management practices to the extent possible. One of the key forestry management practices used is timber harvesting, which provides revenue for the PSF when it takes place on school trust land.

Leasing for mineral exploration and mining may be permitted on trust land in WMAs. The lessees are required to avoid or mitigate impacts to wildlife resources which may result from the mining activities.

To the extent that management activities limit or preclude income producing uses of school trust land, the PSF will be compensated. It is the policy of the Department to condemn and purchase from the trust any such lands within WMA

project boundaries. Included would be any lands where major developments occur, such as impoundments. In addition, the Department will eventually acquire by condemnation all remaining school trust land in WMAs as funding and acquisition priorities permit.

c. Management

WMAs are managed primarily for wildlife production, public hunting and trapping. School trust lands in these units are managed in accordance with the management plan for the unit. Management activities include wildlife habitat improvements, such as wetland enhancement and timber harvesting, and development of public use facilities such as access roads and parking lots.

d. Accomplishments and Issues

The Division of Fish and Wildlife has acquired 51 percent of the school trust lands which were within WMA unit boundaries at the time of their establishment. A total of 99,464 acres of school trust lands within WMAs have been condemned and paid for by the DNR, resulting in a gain to the school trust fund of \$1,515,099.

It is the current policy of the Division of Fish and Wildlife to condemn and purchase from the trust any trust lands within new project boundaries, and to likewise acquire trust lands within existing WMAs on which development, such as impoundments, is proposed.

e. Benefits to Trust Fund

In addition to the money generated for the trust fund from the condemnation of over half the trust lands in WMAs, approximately 30 percent (28,900 acres) of the trust land acres in WMAs are managed under cooperative agreements with the Division of Forestry for timber production and other benefits, and any revenue generated from this activity accrues to the PSF. In addition, all revenue generated from mineral leases is paid to the PSF.

Beyond these direct monetary returns to the fund, trust lands in WMAs serve the general public by providing recreational opportunities, wildlife habitat and propagation, and other benefits that enhance the quality of life in Minnesota.

3. School Trust Land in State Parks and Waysides

a. Background

There are 10,357 acres of school trust land within the statutory boundaries of state parks and waysides, administered by the Division of Parks and Recreation. These trust lands comprise 0.4 percent of the total school trust lands in the state, and 4.6 percent of the 225,056 total acres within state park and wayside boundaries.

Trust lands are located in 15 state parks and two waysides. Four parks account for two-thirds (7,031 acres) of the trust land in all state parks (the four parks are Savanna Portage, Itasca, Bear Head Lake and Scenic). Six other parks and one wayside each contain in excess of 100 acres of trust land.

b. Administrative and Management Directives

i. Legislation

State parks and their boundaries are established by the legislature, which included school trust land within several parks when they were established. In some cases the enabling legislation specifically dedicates school trust land as part of the park, as in the case of Schoolcraft State Park:

"All state owned lands now under the jurisdiction of the commissioner of conservation ... and all lands including trust fund lands now owned or hereinafter acquired by the State, ... are hereby withdrawn from sale and perpetually dedicated for state park purposes ..." (Laws of Minnesota 1959, Chap. 102; emphasis added).

In other cases, trust lands were placed in parks through land exchanges at the specific direction of the legislature, to replace private or federal lands within the park boundaries. Legislation relating to Nerstrand Woods State Park is illustrative:

"Upon receipt from the United States, pursuant to an agreement to exchange lands of the state heretofore approved by the Land Exchange Commission, of title to certain lands located in

Section 9 and 16, Township 110 North, Range 19 West, in Rice County, Minnesota, the same, together with any other lands in such sections now or hereafter forfeited to the state for non-payment of taxes, or otherwise acquired as herein provided, shall be and hereby are withdrawn from the sale, set apart, established and dedicated as a state park to be known as Nerstrand Woods State Park." (Session Laws, 1945).

(The lands referred to in Sections 9 and 16 were federal lands lying within the park boundary, which were exchanged for school trust lands outside the park, thus placing the trust lands within the park).

M.S. 85.011 states that the legislature has created state parks and waysides "for the purpose of conserving the scenery, natural and historic objects and wildlife and to provide for the enjoyment of same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

The Outdoor Recreation Act of 1975, M.S. 86A, further defines the purpose, administration and management of state parks.

ii. Policy

DNR policy documents for both natural state parks and recreational state parks have been approved by the Commissioner. These policies provide guidance for the classification (natural vs. recreational) and for the administration and management of state parks. The policies

do not differentiate between trust lands and other state lands in parks. The goal stated in the policy for natural state parks is to protect and perpetuate natural areas while providing for public use and recreation which won't impair the natural values, while the goal for recreational state parks is to provide lands which offer a broad range of recreational opportunities in a natural setting (paraphrased).

c. Management

Historically, lands in state parks have been managed for public recreation and education benefits while providing for the protection of the natural resources of the park. With the passage of the Outdoor Recreation Act in 1975 (M.S. 86A) direction was given and goals were set for the management of the renewable resources (vegetation) in natural state parks. The act specifies that state parks are to be managed to preserve a representation of the natural features that existed in the area of the park prior to settlement. The natural forces (such as fire) which shaped the original plant communities have been altered and man's activities have impacted the vegetation in all state parks. For these reasons, and because plant communities are constantly changing, active vegetative management is necessary to achieve the stated objectives. Modern management techniques are now being implemented to control plant communities. The most dominant natural force was fire. To simulate the impacts of fire in timber stands, they are logged

and the slash burned. Many of the timber stands identified for logging are on school trust lands. Revenue generated from these timber sales are placed in the PSF.

d. Accomplishments and Issues

i. Acquisition of Trust Land in Parks

The Division of Parks has condemned and paid the PSF for 14.8 percent (1,800 acres) of the school trust lands which were within park boundaries at the time of their establishment by the legislature. At DNR's request, the 1982-83 biennial land acquisition appropriation provides authority to use up to 20 percent of the money to acquire trust lands within existing park boundaries. Since the most serious threats to state park management are private land inholdings which may be put to uses incompatible with the purpose of the park, and since the DNR can only obtain these lands from willing sellers, these private lands are of highest priority for acquisition when they become available. Otherwise, the funding is used to condemn school trust land.

ii. Compensation of Trust

Currently, other than for the 1,800 acres of trust lands which have been acquired, and the revenue generated by a limited number of timber sales, the school trust land in



state parks is not contributing revenue to the trust fund. The DNR will continue in its attempts to compensate the trust for the small percentage of land which remains in non-income producing uses, including state parks. However, since the Department must utilize general fund or bonding monies to reimburse the PSF, the legislature has often been reluctant to appropriate funds for this purpose. Such appropriations do not increase the total public benefit, but instead increase the amount in a particular state-managed fund. In addition, many of these lands do not have resources which have a high economic value at the present time, and would not contribute much to the fund even if they weren't within the park boundaries.

Acquisition of all trust lands in parks would cost an estimated \$5,000,000, using an average cost of \$500 per acre. Other means of compensating the permanent school fund for trust lands in parks which have been suggested include leasing; payment of a percentage of the income (other than park permit sales) generated in the affected parks, in proportion to the amount of trust land in each park; payment of all or part of the revenues generated by facilities actually located on school trust lands in the parks; and payment of a percentage of the permit revenues equal to the percentage of school trust land in the park system. However, the costs and/or loss of revenues of any of these methods would have to be made up by additional appropriations if the same level of service were to be maintained in the parks.

Another solution would be to delete the school trust lands from the parks to the extent possible, by adjusting park boundaries. The feasibility of this approach would depend on the location of the trust lands in the park, whether development is present, and other factors. Boundary adjustment would require revision of plans for those parks for which the planning process is already complete. Savanna State Park is an example where considerable acreage of school trust land could be deleted from the boundaries. Much of the trust land there is bog and is not needed for park development.

The best approach to compensating the trust fund for trust lands in state parks may be to delete trust lands from the parks by boundary adjustments where possible, and seek specific funding from the legislature to condemn and acquire the remaining trust lands.

#### 4. School Trust Land in Other DNR Units

##### a. Background

Three other types of DNR recreational units contain small amounts of school trust land: wild and scenic rivers, 645 acres; state trails, 238 acres; public accesses, 204 acres. Together this acreage represents 0.04 percent of the school trust land in the state.

The trust lands on wild and scenic rivers are located primarily along the Rum and Kettle Rivers. The trust lands within state trail rights-of-way are located primarily on three trails: The North Shore, the Taconite, and the Minnesota-Wisconsin Boundary Trails. The trust lands involved with public accesses are located on about 168 accesses out of the total of 1,100 accesses in the state.

b. Administrative and Management Directives

i. Wild and Scenic Rivers

M.S. 104.31 to 104.40, the Minnesota Wild and Scenic River Act, governs the designation and management of components of the system. M.S. 86.05, the Outdoor Recreation Act, further defines the system. Rivers may be designated by the Commissioner of DNR as part of the system upon completion of a plan and after public and agency review. The law provides that "Land owned by the state, its agencies and subdivisions shall be administered in accordance with the management plan ..." (M.S. 104.38) This is interpreted to include school trust lands within the land use district of a designated river. An approved DNR policy on river management provides guidance for the management of components of the wild and scenic river system as well as other river resources.

ii. State Trails

State trails are authorized by law under M.S. 85.015. State trails may also be established by the Commissioner of DNR on any state lands or on rights-of-way acquired by other legal means, such as abandoned railroads (M.S. 84.029). This has been interpreted to permit the establishment of trails on school trust lands. The Outdoor Recreation Act (M.S. 86A.05) further defines the purpose, resource qualifications, administration and designation of state trails . An approved DNR policy on state trails provides administrative guidance for the management of state trails.

iii. Public Accesses

The Commissioner of DNR is authorized to acquire and establish accesses to public waters under M.S. 97.48, subd. 15, and under M.S. 84.029, M.S. 104.37, subd. 2, and M.S. 85.32, subd. 2. M.S. 86A.05, the Outdoor Recreation Act, further defines the purpose, resource qualifications and administration of public accesses. In regard to school trust land, M.S. 84.029 authorizes the Commissioner of DNR to establish recreational areas on any state owned land under his jurisdiction; this would include school trust land.

c. Management

School trust lands in wild and scenic riverway land use districts, state trail rights-of-way and public accesses are managed in the same manner as other state lands in these units--to achieve the purposes for which the units were established. Commercial uses such as timber harvesting or mineral extraction are permitted in these areas in accordance with unit management plans.

d. Issues

Lands in these units generate revenues to the PSF through timber sales, mineral leases, surface leases and other uses. Some sites within these units are developed with facilities such as small campsites or accesses. However, these facilities do not necessarily preclude revenue generation. The developed sites are usually small and can, for example, be selectively logged as in the case of a campsite, or can easily be moved to accommodate commercial uses, as in the case of a trail. In cases where developed sites cannot accommodate revenue generating uses, these sites will be obtained either through lease, easement or purchase from the PSF to fulfill the trust obligation. To date, easements have been obtained on one state trail. The 1981 legislature authorized expenditure of up to 20 percent of public access land acquisition funds for purchase of school trust lands.

C. Specific Resource Management Activities: Leases, Easements and Licenses

1. Minerals Leases

a. Background

The DNR Division of Minerals administers 3,509,765 acres of school trust mineral rights, including 989,462 acres of "severed minerals" where the state no longer owns the surface interest. School trust mineral rights represent 33 percent of the more than ten million acre total of state owned mineral rights. DNR administers exploration, leasing and development of these mineral rights to provide equitable rental and royalty income for the PSF.

Currently, 12,612 acres of state mineral rights are under lease for iron ore and taconite; approximately half of this acreage consists of permanent school fund mineral rights. Copper-nickel leases of school trust mineral rights total 62,452 acres, about 34 percent of the total acreage of copper-nickel leases in the state.

Approximately 83 percent of the money in the PSF, or \$239,924,466 has been generated from mineral activity--46 percent from rents and royalties from the leasing of school trust mineral rights and 37 percent from the iron ore occupation tax. Over the last seven years, mineral revenues to the PSF

have averaged more than \$1,700,000 per year, and have exceeded \$2 million each of the past four years.

b. Administrative and Management Directives

Article XI of the Minnesota Constitution governs the administration, sale and transfer of school trust lands and the investment of revenues generated by these activities. Section 10 of Article XI specifically requires the reservation of mineral rights on trust lands exchanged with the federal government or private parties.

The Minnesota legislature began addressing the development of the state's mineral resources shortly after the state was admitted to the Union. A substantive body of law is in existence today to guide the development of mining in the state.

Authorization to issue permits for prospecting for minerals, and to issue leases for mining is given in M.S. Chapter 93. It is important to note that the legislation authorizing all these mineral activities specifically applies, in virtually all references in the law, to "any state-owned lands" or "all lands now or hereafter owned by the state," thus including school trust lands.

State-owned or administered lands in the Boundary Waters Canoe Area are excluded from mineral exploration or mining and peat harvesting, except in the case of a national emergency declared

by Congress (involving essential minerals), and if the Commissioner of DNR determines there is no reasonable alternative and the legislature grants its approval (M.S. 84.523).

Governor Quie issued Executive Order (#82-1) in January of 1982 recognizing the importance of mining in Minnesota and directing state agencies to encourage the development of mining in the state, with due concern for the effects on the environment.

c. Management

i. History of Mineral Leasing

Commencing with the first iron ore mining laws in 1889, the state has been issuing mineral leases covering school trust lands. The legislature in 1941 made major revisions of the state's mining laws and the iron ore/taconite lease form, including the lease rates, term of leases, and lease approvals. The legislation provided for the issuance of 50-year leases, with the approval of the State Executive Council, at a base royalty rate for state owned taconite of approximately 15¢ per ton of concentrates or pellets. The University of Minnesota had advised the legislature that the base rate should not exceed 10¢ per ton; the Department argued that it should be much higher. No provisions for escalation of the royalty rates due to changes in the economy were provided until the lease form was amended by



the legislature in 1951. Accordingly, a large amount of the state taconite resource was leased during the 1940's as authorized by the 1941 legislature and many companies secured 50-year leases without any escalation clause on the royalty rate. These early leases will remain at low royalty rates until the 1990's.

In 1957, based on arguments by the mining industry that the development of taconite processing technology had used up a significant portion of the 50-year state taconite lease term, the legislature enacted a law providing for a 25 year extension of these leases. The extension law would have continued the 15¢ base royalties for the extended period. However, the Department convinced certain legislators to amend the proposed bill on the floor of the legislature to authorize the Department, with the approval of the Executive Council, to renegotiate the royalty rates for the extended period. As a result, extended taconite leases have a royalty rate in the \$2.20-\$2.40 range per ton of concentrates, in 1980 dollars, subject to further escalation due to inflation. The PSF and other funds will, therefore, receive a 15 fold increase in royalty yield during the extended period. These increases will start becoming effective in 1991.

Throughout the 1940's and 1950's, the state held public sales of iron ore prospecting permits; 247 of those permits were converted to iron ore or taconite iron ore mining

leases. Six copper-nickel lease sales were held from 1966 to 1973. In total, 2,143,923 acres of state administered mineral rights were offered for copper-nickel leasing; this resulted in the issuance of 1,044 leases covering 425,313 acres. A large percentage of these lands offered for leasing were school trust lands.

The State held its seventh sale of copper-nickel leases in November, 1982. The lands offered for lease covered 1,730,450 acres in the counties of Beltrami, Itasca, Koochiching, Lake of the Woods, Marshall, Roseau and St. Louis. The State received 499 bids from 12 companies and one individual covering 419 mining units. 387 mining units were approved by the Executive Council for lease as a result of this sale on December 14, 1982. Leases for the remaining 32 mining units were approved on March 9, 1983.

ii. Present Management

The Division of Minerals is responsible for implementing and regulating the exploration and leasing of state-owned lands; field inspection, ore production and royalty accounting for state-owned lands; economic and environmental review; mineral land use planning; environmental monitoring; metallurgical research and testing; cartography; chemical laboratory support; and handling of public inquiries on mineral resources. Through lease sales, revenue is generated to the trust funds and

local taxing districts and exploration monies are spent in the lease sale areas by the state lessees.

During the past ten years, the Division of Minerals has established and subsequently expanded a unit specifically for the evaluation of mineral potential. This unit provides better input in land management decisions (including trust lands) and promotes exploration and mining development of these lands.

The Mineral Potential Section of the Minerals Division conducts geological, geophysical and geochemical surveys on state lands, lakes and streams. This data is analyzed using sophisticated computerized statistical routines to evaluate the mineral potential of an area.

In its evaluation the Mineral Division also makes considerable use of data from the aeromagnetic survey being done by the Minnesota Geological Survey. A cooperative DNR-MGS-Mn/DOT drilling program is used to help correlate geologic interpretations with the actual geologic formations that occur beneath the earth's surface. In addition, drill core data is received from any exploration done on state mineral leases and, since the passage of the Exploratory Borings Law in 1980, the DNR has received drilling data from exploration on private leases. The department was instrumental in the preparation of this bill.

Through the work of the Mineral Potential Section, the department can evaluate where the geology might be favorable for mineral deposits. This information is made public, and generally results in increased interest by private exploration companies and greater competition for state mineral leases.

d. Accomplishments and Issues

i. Maximization of Revenues

As mentioned previously, the 1957 law which authorized the extension of taconite leases also authorized negotiations with mining companies on new lease terms to be effective during the extended lease period. The Executive Council, after extensive evaluation and review, approved the terms of these lease extensions. Of interest is the fact that in one instance the Executive Council chose to hire a consulting economist to review and evaluate the DNR recommendation and he subsequently concurred in the DNR recommendation without change. All of these extensions provide for substantially increased royalty rates, special advance royalty payments, favorable escalator clauses, guaranteed performance requirements, etc. These lease extensions, which begin becoming effective in 1991, will significantly increase income to the PSF.

To illustrate the significance of these previous actions, the following two examples are provided. Extensions to the Erie Mining Company leases were approved by the Executive Council in 1968; during the extended leases, it is estimated that the state will earn over \$245,000,000 (based upon 1981 dollars, which will be escalated). Twenty-eight percent of the land involved is school trust. The Ontario Iron Company leases were extended in 1973; during the extended term of these leases, it is estimated that the state will earn over \$260,000,000. Ninety-two percent of this land is school trust. Thus, through these two actions, the school trust fund is expected to earn in excess of \$300 million. This figure is almost as large as the total amount in the school fund from all sources up through the end of F.Y. 1982.

In addition to the increased income from taconite leases, significant income potential exists from copper-nickel and associated base metals. The copper-nickel reserve in the Duluth Gabbro Complex in northeastern Minnesota would generate a large royalty income for the school trust fund from existing state mineral leases if mining were to occur. If economics permit the development of a mine such as proposed by AMAX, the income from these state leases could be expected to yield approximately \$250,000,000 (1979 dollars) during the remaining term of these leases.

The Division of Minerals is continually reviewing the state's leasing system and royalty rates and comparing them with those of other base metal mining states and foreign countries, and with the royalty rates of private leases, in an attempt to insure that the state is achieving a fair return from its mineral resources.

ii. Management Costs

The Department does not receive any of its operations or management costs from the permanent school fund for the administration of the mineral rights on the school lands. One-third of the acreage of mineral rights managed by the Department is school trust land.

It is estimated that DNR's cost for administration, protection and management of mineral resources on school trust lands has totalled \$3,359,000 for the period 1976-1982, an average of about \$480,000 per year. Costs have exceeded half a million dollars a year each of the last four years. During this seven year period mineral activities have generated \$11.9 million for the school trust fund.

iii. Retention of Surface Rights

Proposals have occasionally been made that the state should dispose of all scattered tracts of school trust lands,

since the mineral rights would be reserved to the state. From a minerals management perspective, however, this would be unwise. The knowledge of the mineral potential of most of Minnesota's lands is speculative at best, since most of Minnesota is covered by thick glacial drift. In order to gain better geologic information in these glaciated areas, the state must encourage exploration in these areas.

The statutes specify that the holder of a state mineral lease has the right to prospect on the land leased. However, the surface owner must give permission to the explorer and be compensated for all damages that might occur. Problems can arise to limit the lessee's ability to explore on these severed minerals. The surface may have undergone significant development where compensation for damages would be very costly or the owner of the surface may refuse to grant access to the property. This latter situation has never been tested by a Minnesota court. Faced with this situation, a lessee might drop his exploration lease rather than become involved in an expensive court battle. (This has happened with a state copper-nickel lessee in Beltrami County.) In the situation where the state owns the surface, however, there are fewer problems in gaining access to the minerals.

## 2. Peat Leases

### a. Background

It is estimated by the DNR Division of Minerals that there are more than 1,057,960 acres of school trust peatlands in the state that have commercial development potential. Twenty-eight percent of all state-owned peatland is school trust land.

Currently there is one active peat lease on school trust land involving 629 acres in St. Louis County. Another school trust peatland involving 2,875 acres in St. Louis County was offered for lease in November of 1982, but as yet a lease has not been awarded.

Two leases for 160 acres each have been negotiated and will be presented to the Executive Council. These include trust fund land.

### b. Administrative and Management Directives

Peat leasing is authorized under M.S. 92.50. Leases are limited to 25 years and must be approved by the Executive Council. State lands having commercial quantities of peat are withdrawn from sale by M.S. 92.461.

In response to a directive from the legislature, the DNR presented policy recommendations for the management of



Minnesota's peatlands to the legislature during the 1981 session. The recommendations were based on research conducted by the department since 1976. The policies are designed to guide the development of peat extraction for a variety of uses including energy. The policies set a maximum lease size, provide for monitoring and mitigation of environmental impacts, and recommend reclamation of all mined peatlands. In addition, the policies provide for the protection of other peatland values such as forest resources, wildlife habitat, and significant natural areas. The policies also deal with revenue and leasing procedure matters.

c. Management

Present peat management activities involve completing the peat inventory begun in 1976; identification of peatlands which are available for leasing; and initiating the sale of peat leases in accordance with the policy recommendations presented to the legislature. To date one million acres of land have been identified in an eight-county area which have the potential for peat development.

d. Issues

Several peat energy development options could be available if found to be economically feasible, and could lead to significant future revenues for the school trust fund. However, the socio-economic and environmental impacts that may result from

large-scale peat extraction, combustion, gasification or liquification are somewhat uncertain at this time. Although sound background research has been done, questions on the effects on groundwater, surface runoff, water quality and reclamation remain. Further investigation into these matters, as well as proper planning and site selection, will be required before peat development achieves a major role as a income-producing use on school trust lands.

### 3. Lakeshore Leases

#### a. Background

Leasing of state owned lakeshore for seasonal homesites dates back to 1917 on Lake Vermillion. More lots were platted over the years, usually when federal work projects assistance was available, until the Commissioner of Conservation stopped platting areas in 1964. At that time, there were over 1,900 active leases.

Currently, there are 1,785 active lakeshore leases on 90 lakes in 11 counties. Of these, 1,602 are on school trust land. These leases occupy approximately 45 miles of lakeshore of which about 40 miles is school trust lakeshore. The leased lots occupy 2.5% of the approximately 1,500 miles of school trust lakeshore statewide. The land area involved in these lots on school trust lakeshore can be estimated assuming an average lot size of .5 acre, at 800 acres (or about 3/100 of one percent of the total school trust land in the state).

Revenues generated from these leases on school trust land in 1982 averaged about \$136 per lease or over \$218,000 per year. Management costs, which involve billing, accounting, inspections, enforcement, periodic appraisals, policy planning and legal services have been roughly estimated at almost \$68,000 per year from the general fund for the leases on school trust lands or approximately one-third of the annual revenue generated from the leases.

b. Administration and Management Directives

The original legislation providing for the leasing of state lands was passed in 1913. Minnesota Statutes 1913 Section 65 authorized the state auditor to dispose of or lease state lands. The authority to sell state lands on public waters was revoked by law in 1923. The same law (Laws of 1923, Chapter 430) also permitted the leasing of said lands under the state auditor for a term of no longer than ten years with the privilege to renew for additional ten year periods.

When the Department of Conservation (now DNR) was established in 1931, the authority for leasing state lands was transferred from the office of the state auditor to the department. The lakeshore leasing program was well underway at that time with approximately 14 platted and leased areas. Leases on land outside of state forest boundaries was under the administration of the Division of Lands and Minerals. Leases on land inside of

state forest boundaries was under the administration of the Division of Forestry. There were some minor differences in the terms, rates and conditions of the leases.

In 1973, legislation prohibited new lakeshore leases and required lessees to comply with applicable county shoreland ordinances under threat of cancellation of the lease.

c. Management

Under a department re-organization in 1967, the Lands and Forestry Division became a single division and administered all lakeshore leases. In 1974, the Division of Lands and Forestry became separated into the Bureau of Lands and the Division of Forestry. The Bureau of Lands continued to administer the lease program (Commissioner's Delegation Order #199) but with no Bureau of Land field staff, the Division of Forestry continued to provide annual site inspections for lease compliance, and other field management duties.

The lakeshore leases have continued to be managed, in general, along the terms and conditions originally set forth at the beginning of the program with the annual fees being the major exception. The management of these leases revolves around the conditions specified in the current lease. The basic conditions are summarized as follows:

- leases are for a period of ten years with a re-adjustment of rental rates at the end of the fifth year (1986).

- not more than one residence shall be constructed on the site.
- an easement for public travel across a strip 33 feet wide along the shoreline is reserved to the state.
- the state is not responsible for construction or maintenance of any road to the site.
- construction or remodeling shall not begin without the approval and permits required from all units of government including the state.
- exterior walls and roof shall be of "normal" materials (as specified) and of earthtone colors.
- no timber cut without permission.
- subject to periodic inspections.
- lessee pays all taxes.
- no subletting without permission.

d. Issues

Lease rates have changed dramatically over the years. When the leasing of state owned lakeshore began in 1917, a token rate of

\$10.00 per year was standard. The lease rates were raised to \$25.00 per year in 1957 and demand was still light for northern Minnesota lakeshore. In 1975, after all lots were appraised, the lease rates were based on 5% of the market value of the lot.

These new rates were phased in the with new rates becoming effective when the leases were renewed. In the past ten years, annual lease receipts have increased from approximately \$50,000 to \$218,000. Recent appraisals of over 200 lots completed in preparation for the 1986 rate adjustment show market value increases ranging from 200 to 600 percent. Appraisals on all lots are scheduled for completion by 1985.

#### 4. Other Surface Leases

##### a. Background

The DNR issues surface leases for purposes other than lakeshore. These include:

- Agricultural leases for hay, pasture and cultivation.
- Commercial leases for resorts, microwave towers, mining facilities, wild rice and other commercial ventures.
- Earth materials leases for gravel, sand, rock and fill material.

- Governmental leases for trails, parks, landfills and other related purposes.
- Hunting cabin leases where small building sites were leased for seasonal cabins.
- Miscellaneous leases for road access, sugar bush, moorage sites and other related purposes.
- Squatter leases where residences were built on state land near mining operations.

The following gives the total number of leases and acres leased by lease type as of February 1983. The revenues generated by lease type are for 1982.

Type	Number	Acres	FY 1982 Revenues
Agriculture	143	5,221	32,242
Commerical	135	5,196	56,974
Earth materials	81	746	60,812
Governmental	91	1,997	13,024
Hunting Cabin	53	25	3,560
Miscellaneous	119	1,001	5,786
Squatter	<u>58</u>	<u>36</u>	<u>2,900</u>
	680	14,222	\$175,298

b. Administration and Management Directives

The above types of leases are allowed under various Minnesota Statutes including 84.153, 89.17 and 92.50. While some terms such as maximum length and cancellation notice are cited in the

statutes, the leases are issued under the terms and conditions prescribed by the Commissioner of Natural Resources and as delegated to the Land Administrator.

c. Management

All of these types of leases are administered by the Bureau of Land under Commissioner's Order #199, but the Bureau of Land has no field staff and thus the various divisions and sections provide the staff necessary for field appraisal, inspections and enforcement of lease terms. Each lease is somewhat different, but generally all of these leases contain the following conditions:

- leases are for a period not to exceed ten years with lease rate adjustments if the term exceeds five years.
- no timber can be cut without permission.
- lessee pays all taxes.
- no modifications or new construction without the approval and permits from all appropriate local units of government including the state.

d. Issues

Lease rates have increased for all uses of DNR land. The use of appraisals, economic analyses, and market studies have increased



the lease rates for some uses dramatically. The DNR plans on the continued and expanded use of these information sources to maintain a revenue return to the state that is based on market conditions and is fair to all lessees and the taxpayers of Minnesota.

5. Utility Licenses

a. Background

Prior to 1974 all utility licenses issued under M.S. 84.415 were annual licenses for \$1 per forty description crossed. As required by Laws of Minnesota 1973, Chapter 479, Section 1, the Commissioner established rules and regulations NR5100 which states provisions, fee schedules, environmental, design and maintenance standards.

In January 1983 there were 133 utility licenses covering 2929 acres of school trust lands. The revenues for FY82 from utility licenses was \$32,260.

b. Administration and Management

Since 1974 all licenses have been issued as per NR5100 which includes rate tables for the licenses. In 1982 a conversion of all pre-1974 annual licenses were started with the assistance of LCMR Funding. This will be completed by June 30, 1983 with a total revenue return of approximately \$450,000, the major part of which will go to the PSF.

c. Issues

NR5100 was adopted nearly 10 years ago and some of the provisions, fees, and requirements are in need of revision. These revisions will take place in the 1984-85 biennium and will require action according to the Administrative Procedures Act (M.S. Chapter 14).

6. Easements

a. Background

Easements are issued to allow access across DNR-administered lands, including school trust lands. In accordance with M.S. 84.63, easements can only be granted to federal and state agencies and political subdivisions. The easements may be permanent and payment is based on the full market value of the land at the time of appraisal. They may be recorded on the deed. Easements are transferred if the land is sold. Temporary access can also be granted across DNR administered land through road right-of-way leases.

1,971 acres of school trust land were covered by temporary leases and permanent easements for access over the last seven years. During that time \$76,621 was generated for the permanent school fund, with \$15,501 coming in fiscal year 1982.

b. Administration and Management

On-site appraisals of the land and timber are conducted. Clerical and legal staff time are also involved in easement work. Approval of both the appraisal and the granting of the easement is also required by the managing discipline in DNR, which is usually the Division of Forestry.

D. Revenues and Costs from School Trust Lands

1. Revenues

A table showing PSF revenues by source is found following this section. The table lists first revenues from land rental and sale of renewable resources. These revenues are an annual source of income which does not diminish the land or resource base of the PSF.

The second group of revenues are from permanent sale or transfer of land title or sale of non-renewable resources. These revenues represent one time only payments for the loss of the land or resource base to the PSF.

The two largest revenue sources have always been mineral leasing and timber sales. Rents and royalties from mineral exploration and development of school trust land and iron ore occupation taxes have contributed about 83% of the accumulated value of the Permanent School Fund. Over the past several years, revenues have annually averaged \$1,850,000 for timber sales and \$1,700,000 for mineral leases. Revenues from mineral leases will increase dramatically in

the 1990's when a fifteen fold increase in the average taconite royalty rate becomes effective. Revenues from timber sales are also expected to increase substantially in the 1990's and on into the 21st Century as a result of forest management intensification.

The level of investment made to increase the economic return on mineral lands has traditionally been lower than the investment on forest lands. Leasing of taconite and iron ore provided a high rate of return with the major costs being administrative (i.e., leasing, engineering, surveying, and weighing). As known mineral resources are depleted or become uneconomical to mine, efforts to identify other potential mineral areas in the state become all the more important.

Mineral leases for copper-nickel exploration were awarded as a result of the November, 1982 sale. Over 187,000 acres are under lease as a result of this sale and 60,605 acres are school trust land. The 1982 mineral lease revenues in the table represent 84 iron-ore leases on 6,398 acres and 13 copper-nickel leases on 3,610 acres of school trust land. Current economic conditions have depressed the demand for steel, thus taconite, so mining royalties have declined and may continue to do so. More specific information on mineral leasing is found in Chapter III., B.

Forestry lands require a high level of investment since an extensive continual management effort is required for the production of the resource, such as planting, thinning, fire protection, insect and disease control, roads, etc. More specific information on timber sales is found in Chapter III., C.

Various types of leases which have contributed the third largest portion of revenue in current years include lakeshore, earth materials, commercial, agricultural, governmental, squatter, peat, billboard, hunting cabin, and other miscellaneous leases. The revenues from these leases have averaged \$360,000 per year over the last several years.

Leasing and licensing on state lands for agricultural earth removal, utility crossings, commercial, governmental and miscellaneous purposes are initiated on request basis where the individual or entity requests the use of the land for a specific purpose. Upon approval by the administering division, an appraisal is made and a lease issued. Lease rates are based on a percentage of land value, and as such the dollar returns per acre increase as land values increase. Lakeshore lease rates are also based on percentage of land value. New lakeshore leases have been prohibited by law since 1974 but existing lease rates will rise significantly in 1986, so revenues will increase at that time. More specific information on leasing is found in Chapter III., C.

The level of funding needed to provide optimum revenue on state lands from surface leasing has not been determined but opportunities do exist for additional leasing especially in the areas of agricultural, peat, earth materials and commercial leasing.

School trust land sales, condemnations (purchase of school trust land by a governmental agency) and easements, are permanent transfers of ownership or control of the land and make up the remainder of the

PERMANENT SCHOOL FUND REVENUE BY SOURCE

SOURCE	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82	TOTAL
Leases:	Dollars							
Agricultural	11,652	11,489	12,449	14,660	15,606	18,023	32,242	116,121
Commercial	14,620	11,887	15,969	18,939	17,937	43,844	56,974	180,170
Governmental	1,138	1,475	2,476	2,578	2,249	5,597	13,024	28,537
Hunting Cabin	685	805	685	650	2,995	3,630	3,560	13,010
Lakeshore	64,735	96,025	146,913	190,172	206,783	216,496	218,398	1,139,522
Miscellaneous	9,032	8,265	7,836	5,069	5,211	4,129	5,786	45,328
Squatter	1,600	1,625	1,610	1,560	465	4,935	2,900	14,695
Billboard	0	0	0	86	0	0	0	86
Utility Licenses	97,320	23,865	57,247	135,339	51,817	31,728	32,260	429,576
Timber Sales *								
(Total T.F.)	1,317,381	1,633,100	1,545,813	2,040,645	2,161,055	2,148,689	2,117,011	12,963,694
Miscellaneous non-lease	342	106	452	820	1,960	0	2,439	6,119
SUBTOTAL *	1,518,505	1,788,642	1,791,450	2,410,518	2,466,078	2,477,071	2,484,594	14,936,858
Leases:								
Earth Materials	41,189	60,045	104,409	87,859	119,035	81,505	60,812	554,854
Peat	738	738	738	1,276	320	440	1,753	6,003
Mineral Leases	1,053,409	1,318,185	1,131,946	1,403,688	2,667,918	2,313,657	2,018,263	11,907,066
Easements	4,376	9,571	5,811	6,882	20,914	13,566	15,501	76,621
Land Sales	83,189	46,918	63,591	36,187	53,563	238,854	203,750	726,052
Condemnations	348,269	1,550	82,888	440,693	215,038	73,940	500,025	1,662,403
SUBTOTAL	1,531,170	1,437,007	1,389,383	1,976,585	3,076,788	2,721,962	2,800,104	14,932,999
TOTAL *	3,049,675	3,225,649	3,180,833	4,387,103	5,542,866	5,199,033	5,284,698	29,869,857

\* The Forestry Timber Sales, Subtotals and Totals figures include all revenues derived from the school trust lands. To determine the amount of money which actually went into the Permanent School Fund each year, \$500,000 should be subtracted from each of these figures. This is the amount of money, by law, that can be, and actually has been, deposited in the State Forest Development Account annually and used for forestry management purposes on school trust lands in state forests. (M.S. 16A.125)

types of revenue to the permanent school fund. All three have been sporadic over the last several years depending on private interest for land and easements, and funding levels for condemnations. Over the last several years, revenues from these sources have averaged \$352,000 per year.

Annual revenues to the school trust fund can be expected to continue to increase as land values, mineral values and timber values increase. Department funding levels for land management activities is another factor which plays an important role in generating revenues from these lands.

## 2. Administration, Protection and Management Costs

School trust lands make up about 48% of the total land area administered by the Department of Natural Resources. Although the department provides other services to the public, there are several divisions within the department which are directly involved in the administration, protection and management of the state's land base. The General Fund has been paying most of the costs of managing and developing the school trust land although the revenues generated are credited to the permanent school fund.

Since 1976, the General Fund and other non-PSF funding sources, such as the Game and Fish Fund, Emergency Fire Fund, Legislative Commission on Minnesota Resources (LCMR), etc., have contributed almost \$19.1 million for administration, protection and investment on

school trust lands (see table). During the same time period, the PSF has contributed \$3.5 million for forest management (to date, inside state forests only) and none for Minerals, Land Bureau, Regional Land Specialists and in-lieu of tax payments. LCMR in particular has provided funds for study and automation of land records including the surface lease, license and easement record systems and other public land ownership information systems. LCMR is also currently funding the Land Resource and Management Plan project which will classify DNR administered land according to their capability and suitability for various uses. These two LCMR projects were funded at \$475,000 for FY 1981-82. LCMR has also provided \$710,000 for forest planning and forest information systems for FY 1981-82.

The table is an estimate of yearly costs by the department for the administration, protection and management of school trust lands. An explanation of how these figures were derived is as follows:

- Minerals. Of the mineral rights administered by the department through the Division of Minerals, about 33% are school trust lands. Of the peat lands also administered by the department, about 25% are school trust lands. Cost for these activities on school trust lands have been averaging \$480,000 per year over the last several years.
- Forestry. The Division of Forestry has management responsibility for the 3 million acres within state forests and 1.5 million acres of undedicated lands outside of state forests. School trust lands make up about 54% of these lands



under Forestry management. Over the last several years, forestry costs on school trust lands have been averaging \$2,170,000 per year.

- Land Bureau. The Bureau of Land is responsible for the acquisition, exchange, sale and lease of land, its appurtenances and rights (except for minerals and timber), the keeping and maintenance of records and maps and the coordination of state land administration activities. All of the Bureau's activities, with the exception of acquisition, involve school trust land in varying degrees. Land administration costs in the Land Bureau over the last several years averaged \$176,000 on school trust land. (The general fund primarily supports these departmental activities which, in turn, provide revenue to the school trust fund and the protection and management to the school trust lands.)
- In-lieu of tax payments. These payments began in 1980 after the enactment of Minnesota Laws 1979, Chapter 303, Article 8, which provided for payments for state owned land to the counties in which they are located. School trust lands require a payment of 37.5 cents per acre. (This payment has approximated \$950,000 annually for the last three years.)

Other activities within the department which have more indirect benefits to the school trust lands include those of the Division of Waters (dam safety, public waters inventory and permitting, land use management, etc.), Office of Planning (land suitability study,

research and policy, environmental review, etc.), Bureau of Engineering (surveys, engineering services, maps, descriptions), Bureau of Financial Management (accounting services), the Attorney General's Office (legal services), Parks and Recreation and Fish and Wildlife (program management activities). The actual cost figures for these activities cannot be estimated with a reasonable degree of accuracy.

These direct and indirect costs have a bearing not only on the revenues currently generated from the school trust lands, but on the maintenance and protection of their future value.

Revenues from the school trust land do support one portion of the department's land management activities. Revenue from timber sales, up to \$500,000 per year, have been deposited in the state forest Development account for forest management activities inside state forests only.

The 1982 Forest Management Act expanded the definition of forest lands to include undedicated forest lands irrespective of state forest boundaries. The act provides for the establishment of a dedicated forest management fund to allow for expenses and investments to develop timber resources. Additional revenues over the previous \$500,000 per year limit may be reinvested in the management of those lands in the future at the discretion of the legislature.

PERMANENT SCHOOL FUND LAND  
ADMINISTRATION, PROTECTION AND MANAGEMENT COSTS\*

Discipline	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82	TOTAL
	DOLLARS							
Minerals <sup>1</sup>	302,280	302,280	535,058	540,937	529,167	585,119	564,283	3,359,124
Forestry <sup>2</sup>								
State Forest	1,386,706	1,957,448	1,395,093	1,195,592	1,289,165	1,238,556	1,484,433	9,946,993
Outside State Forests	506,429	832,401	511,220	397,278	450,720	421,815	842,265	3,962,128
Land Bureau <sup>3</sup>	139,387	143,613	148,253	162,553	176,106	205,291	259,561	1,234,764
SUBTOTAL	2,334,802	3,235,742	2,589,624	2,296,360	2,445,158	2,450,781	3,150,542	18,503,009
In Lieu of Tax Payments					945,754	944,836	945,114	2,835,704
TOTAL	2,334,802	3,235,742	2,589,624	2,296,360	3,390,912	3,395,617	4,095,656	21,338,713

\*This table has been corrected since the response to the Legislative Audit. Forestry costs had been erroneously calculated.

- 1 Representative fractional portion of the actual expenditures of Mineral Resource Managment and Peat Information accounts.
- 2 Compiled from General Fund, Game and Fish Fund, Emergency Fire Fund and State Forest Development Fund records. A proportionate share of expenditures were calculated for the Office of Planning, Engineering Bureau, Fiscal Management, Commissioner's Office, Systems, Information and Education and Personnel. This proportionate share was then divided between the general forest management and fire protection activities in proportion to the time the division spends in each activity. Fire Expenses are divided by 22.8 million acres and the per acre cost is then mutliplied by the acres of trust fund land.
- 3 Fractional portion of the Land Bureau budget funded by the General Fund. Also included are 50% of the yearly salaries, supplies and expenses for the three northern Regional Land Specialists.

## E. Trust Land Sales and Exchanges

### 1. Land Sales

School trust land sales take place annually, usually during the fall of the year, in each county where the lands are located. These sales are initiated through application requests. The lands requested are reviewed and appraised by DNR field personnel. If the lands are approved for sale by all disciplines of the DNR and the Commissioner's Office, they are added to lists of descriptions which are prepared and distributed to the public in October. By law, school trust land can be sold at public sales only. The minimum value for which trust lands can be offered is \$5.00 per acre. However, improvements and other desirable features such as cleared acreage, location of roads, presence of commercial timber, and distance to communities result in much higher land values. For example, of the lands sold in the 1982 school trust land sales, the average price was \$200 per acre.

Purchases can be made for cash or on a 20 year contract for deed. Interest on the principal balance remaining on sales contracts is at a rate established annually. The full value of any timber or improvements existing on the land must be paid for in full at the time of the sale. The land is sold free of any previous taxes and assessments, but becomes assessable on January 1st of the year following the sale.

There have been approximately 390,000 acres of school trust land sold from 1933 to 1982. However, there have been decreasing amounts in recent decades due to expanding natural resource management programs, public use needs, and environmental concerns. Over the last seven years, \$726,000 has been generated from school trust land sales for the permanent school fund, with over 60% of that amount coming in the last two fiscal years.

## 2. Land Exchanges

Land exchanges involving school trust land have, with rare exception, been considered in the same manner and have utilized the same procedures as all other land exchanges involving non-trust lands.

Land exchanges were first authorized in 1929 pursuant to Chapter 246, Section 2; however, due to questions of the constitutionality of exchanging trust lands, an amendment to the state Constitution was adopted in 1938.

This constitutional authority did not provide for the exchange of state lands for lands of other political subdivisions of the state. Hence, in 1979, the legislature enacted a law authorizing the transfer of title of land between the state and local units of government. The 1979 law incorporates by reference many of the procedures established for processing land exchanges, insofar as applicable. The law also included language stating, "In addition, land subject to the public sale requirements of Minnesota Constitution, Article XI, Section 8, shall be condemned prior to any title transfer" (M.S. 94.341 through 94.348).

Under exchange statutes, the lands received by the state assume the same classification as the lands given. For example, if school trust lands are given, the lands received assume school trust status.

Since the land exchange program began in 1938, there have been approximately 90 exchanges involving school trust land.

Department of Natural Resources guidelines for land exchanges have been developed and rely heavily on constitutional and statutory authority, as well as Departmental experience gained since the inception of the program. These guidelines clearly emphasize that the Department serves a staff responsibility to the Land Exchange Board consisting of the Governor, Attorney General and State Auditor, which is the final authority on all land exchanges.

With respect to school trust land, the guidelines specifically require that school trust land should generally not be traded into an area or management unit where income producing potential is unlikely. However, if an acceptable plan to compensate the trust fund is approved by the Commissioner prior to an exchange, such an exchange may be recommended for approval. For example, the Commissioner's Office in the absence of a plan to compensate the trust fund, instructed the Administrator of the Bureau of Land not to proceed with an exchange which would have added 320 acres of school trust land to Scenic State Park, and further noted that no more school trust lands should be added to state parks and similar units of the outdoor recreation system until provision is made to adequately compensate the trust fund.

#### IV. CURRENT PLANNING ACTIVITIES AND SCHOOL TRUST LAND MANAGEMENT

A number of current activities and projects of the Department affect or could potentially affect school trust fund lands and their management. These activities and subsequent implementation actions will provide for effective decision making and enhance management of the lands.

##### A. Land Suitability Study

The Land Suitability Study funded by the Legislative Commission on Minnesota Resources (LCMR), is designed to assess Minnesota's natural resource base and to determine the most appropriate allocation for the land owned by the state and administered by the Department of Natural Resources. Similar land classification programs were conducted during the 1930s, the 1950s, and the early 1970s to identify the current and potential uses of publicly owned lands. The land suitability study is approaching the problem of potential allocation of state owned lands by utilizing the wealth of information about our land and resources available from computerized data bases.

The first phase of the present study is an assessment of various natural resource, social and economic factors that are essential for any given land use. Computerized data base searches are being conducted to identify lands that have these characteristics. The result of this process is the identification of areas of the state that are suitable for different uses. Seven different land uses are being examined: agricultural crop

production, timber production, mineral potential, outdoor recreation, wildlife habitat, energy development, and urban development. Task forces have also been established within the Department to address these land uses.

In some cases, depending on the particular natural resource, social and economic factors involved, it is possible to identify the suitability of a specific parcel for any of the above land uses. In most cases, however, a larger area is identified and the "neighborhood" that a given parcel of land is a part of will be described. These larger areas will suggest different ways of allocating and managing state owned lands.

The results of the resource assessment can then be utilized in a land allocation process involving public land managers, land user interest groups, and local government-related land allocation and zoning processes.

For example, in large parts of the Arrowhead and northwest regions of Minnesota the state has extensive holdings and there are few lakes and very low densities of people. This may suggest that the public lands in these areas, including school trust lands, could be more intensively managed for timber production and wildlife habitat, as well as exploration and mining in mineral resource areas.

The land suitability study is also identifying the suitability of the land for all of the land uses itemized earlier. This recognizes the fact that some lands can be utilized for more than one purpose at the same time.



During the next biennium it is proposed that the results of the suitability determinations be used to help allocate lands to various potential uses and administering authorities within the Department. A considerable effort will also be made to explain these allocations to other government units and the public and to seek their input on the future management of these lands. These suitability project results should allow for the management of DNR-administered lands in a more efficient and cost-effective manner, thus benefitting the PSF.

B. Lakeshore Update Project

The Minnesota Lakeshore Development Study was completed in 1970. The LCMR-funded Lakeshore Update Project is currently underway to enable the Department to:

1. Update the 1970 study and expand it to include rivers, lakes smaller than 150 acres, Lake Superior, and shorelands within municipalities and the Twin Cities Metro Area.
2. Analyze and compare development patterns and trends with those of earlier studies.
3. Improve access to the shoreland data inventory so that counties and regional DNR staff have more extensive, up-to-date, and accessible data with which to make shoreland management decisions.
4. Provide the basis for evaluating the state's shoreland management program and recommend appropriate program revisions to enhance future shoreland management activities.

Questionnaire results cited lakeshore leasing as an issue area requiring further study. Therefore, as a component of the program evaluation aspects of the project, lakeshore leasing is being addressed by various regional advisory committees. The analysis will evaluate problems with state lease lots, methods of generating revenue, sale, land exchange, private lease possibilities, and state and local standards for lease lots. The advisory committees will present evaluations and recommendations to the DNR during the Spring of 1983.

#### C. Peatland Management Program

The Minnesota Peat Program funded through LCMR and federal grants in the past and now by the general fund, is charged with policy development and provides policy recommendations dealing with peatland uses, environmental management, legislation, administration, and leasing.

Relevant peatland policies which affect trust land management include:

1. To guide the wise development of the state's peat resources, the Department determines the peatlands available for lease based upon several site-selection criteria, including development interest, existing and potential use, available resource information, availability of transportation and utilities, existing disturbances, location in the state, location in the peatland and watershed, and potential environmental effects.
2. Peatlands available for leasing should be allocated for many uses so that the needs of a variety of developers can be met and particular uses can be demonstrated.

3. Peatlands that are highly valuable for their forest resources should be managed for that purpose. The Department considers the present and future potential of peatlands for forestry when evaluating lease proposals.
4. When serious competition exists, leases should be awarded through competitive bids for rents and royalties above an established minimum. Leases may be awarded through negotiation when competitive interest is absent or negligible and prospective lessees have particular mining methods and a particular site in mind.
5. Royalties are price-indexed to fluctuate with the rate of inflation so that the return to the state is commensurate with current dollars.
6. Peatland parcels offered for lease are chosen with consideration of adjacent peat resources for potential development, consistent with the goals and policies of the Department.
7. Peatland speculation is discouraged by requiring a certain amount of development to be performed on a leased area within a prescribed time.
8. To ensure the future land use capability of peatlands, and to protect downstream and adjacent resources, reclamation should be required on lands disturbed by peat development activities. The Department recommends the legislature consider requiring reclamation on all mined or otherwise altered peatlands by amending Minnesota Statutes, Sections 93.44-93.51, concerning the reclamation of lands, to include peat. Bills to accomplish this have been introduced in the 1983 legislative session.

9. Drainage of all peatlands are subject to water permit rules promulgated under Minnesota Statutes, Chapter 105, and other applicable legislation and the water quality and air quality rules of the Pollution Control Agency, in order to protect the resource and the public health, safety, and welfare of the people of Minnesota.

D. Minnesota Forest Resources Plan (MFRP)

The goal of the Forest Resources Planning and Information Management Program (LCMR funded - slated for general fund next biennium) is to develop and maintain a comprehensive, long range Minnesota Forest Resources Plan, individual state forest resource plans, and a corresponding information management system. These program elements will provide for sound management of all forest resources, so that a continuing supply of these resources is available for the public.

To reach the goal, the Department is developing a Minnesota Forest Resources Plan using a strategic planning process. The MFRP will require updating at regular intervals to remain an effective management tool.

The MFRP process will result in a planned program budget which is needed by forest managers to make resource management decisions, and by legislators who make resource funding decisions.

The specific objective of this program is to develop a policy plan and program budget for important forest resource issues. Those issues include timber management (such as future timber needs, wood energy, and forest products utilization), other resource management (such as forest recreation, wildlife, and air and water quality), land use (such as state

forest boundaries, prime forest lands, forest land conversion, and mineral extraction), and transportation (such as forest roads and coordination of forest road systems).

The MFRP covers all DNR-administered forest lands, including school trust lands, and the benefits to the PSF in the future should be tremendous.

#### E. Mineral Potential Evaluation Project

The Department's Division of Minerals has an on-going activity of evaluating mineral potential on state-owned or administered lands. This activity reviews and analyzes drilling and other exploration data that has been generated under state exploration leases, correlates it with geologic data developed by the Minnesota Geological Survey (M.G.S.), supplements it with geochemical, geophysical, and economic geologic surveys in areas where exploration has not been conducted and has the capability (through MN/DOT) to do limited bedrock test drilling.

The purpose of this work is to determine mineral potential, to guide state mineral management activities including leasing proposals, and to assist the Department, counties and other governmental units in making other land use decisions. Although conducted throughout the areas of northern Minnesota where the majority of the state mineral ownership lies, special emphasis is currently being given to the Duluth Gabbro Complex in northeastern Minnesota and the adjoining Greenstone belts.

Under a project proposed for the next biennium to be funded by the LCMR, the area will be expanded to cover other Greenstone belts. Research will

be conducted to determine the applicability of lake sediment geochemistry in these new areas. New geochemical techniques may have to be developed in areas of multiple glaciation.

F. Revenue Task Forces

The Department has found problems in the financial management functions due to staffing, accountabilities, training, policy/procedure development, complexity of funding sources and revenue accounting, accounting structure, etc. To correct these problems, the department established a Financial Management Task Force and a Revenue Accounting Task Force.

The objectives of the Financial Management Task Force are to:

1. Continually review and further define actions to be taken for improvement in financial management.
2. Review status of actions.
3. Determine assistance that the Department of Finance can provide in undertaking specific actions both from within the Department of Finance and other state agencies.
4. Establish professional fiscal/personnel liaison positions in each division.

The objectives of the Revenue Accounting Task Force are to:

1. Evaluate the current revenue accounting system.

2. Determine current deficiencies, problem and unmet needs such as:

- Use of regional depositories
- Advance royalty accounting
- Clearance accounts
- Accrual accounting
- Game and Fish Fund statements
- Function of Financial Management Bureau
- Control of receipts

3. Recommend a new revenue accounting system for implementation.

The Revenue Accounting Task Force work is resulting in the redesigning of procedures by which revenue is processed to allow existing staff to process receipts on a daily basis. Computerization of the process and design of a new system are components of the Task Force's study. Design of the new system is tentatively planned for late summer of 1983. The results of the Task Force analysis will permit revenue to be deposited more rapidly to the PSF.

## V. MAJOR ISSUES, ACTIONS, AND NEEDS FOR FURTHER STUDY

Issues concerning the management and use of school trust lands can be divided into two major areas:

- 1) School trust lands in a non-revenue producing status for the Permanent School Fund (PSF); and
- 2) Potential for increased revenue production on school trust lands.

Less than 1% of all school trust land is in a non-revenue producing management unit or activity administered by the DNR (exclusive of lands in the BWCA, which are discussed later). This includes state parks, state trails, public accesses, forest campgrounds, and some major wildlife habitat developments. An important DNR objective relative to school trust land management is to eventually eliminate this problem through the following actions: condemnation (purchase) and reimbursement to the PSF; management unit boundary adjustments; lease or easement payments to the PSF; and payment of a percentage of the income generated in the affected management units or on the school trust lands where the activities are located.

For proposed new developments on school trust lands which would restrict or prohibit income to the PSF, it is DNR policy that compensation of the PSF must take place at the time of management unit designation or activity establishment. Existing state park, state trail, public access, state forest recreation area, and wildlife management area policies are being amended to reflect this requirement. In addition, recently established DNR land exchange guidelines provide that school trust land should generally not be traded into an area or management unit where the potential for the production of income is substantially reduced or eliminated. However, if an acceptable plan of action



to compensate the PSF is approved by the Commissioner of Natural Resources prior to an exchange, such an exchange may be recommended for approval. The method used most often to compensate the PSF is the condemnation of school trust lands.

School trust lands located within the Boundary Waters Canoe Area of the Superior National Forest constitute 4% of the total acreage of state-owned school trust lands. With the enactment by Congress in 1978 of Public Law 95-495, the federal government extended its jurisdiction over state owned waters of the BWCA and thus, because of the interlocking waterway system, effectively reduced the state's management prerogatives over these school trust lands. This enlargement of federal jurisdiction was ruled constitutional by the federal courts in 1982. As a consequence there is little likelihood that revenue will be produced from these trust lands in the foreseeable future. Therefore, exchanges of school trust lands within the BWCA, most of which are valuable lakeshore lands, for federal forest land outside the BWCA are being evaluated by the Department.

In terms of increasing revenue production on school trust lands, much is now being done, but more can be accomplished. Major programs and activities which will generate increased revenues include forest management intensification, adjustment of mineral royalty rates which will become effective beginning in the 1990's including inflation escalator clauses, and increased offerings of copper-nickel and peat lease sales.

Historically, over 80% of the principle of the Permanent School Fund has been derived from mining or mineral related activities. In recent years, however, timber sales have been the largest single source of revenue to the PSF. Therefore, intensification of forest management to increase the quantity of

timber available for harvesting represents one significant way of increasing revenue to the PSF. The Division of Forestry has recently embarked on a greatly expanded program of forest management intensification. Its objectives include improving forest productivity investments on high-value sites, production of genetically improved stock, improved methodology for establishing base stumpage prices, more accurate timber appraisals, increased reforestation efforts, increased harvesting, and developing better accounting systems. All of these measures are resulting in increased revenues to the PSF. The DNR's Division of Forestry will be continually analyzing and evaluating the success of the forest management intensification objectives and their contributions to revenues for the PSF.

Another vast potential source of increased revenues for the Permanent School Fund today, as in the past, is from school trust minerals. The mineral and peat leasing programs are as active as possible under existing budgetary constraints but will be accelerated if the 1984-85 budget request change levels for the DNR Division of Minerals are approved. Here it must be noted that, unlike forestry, none of the expenses of management of school trust minerals may be deducted from school trust mineral revenues. The future is promising for greatly increased revenues for the PSF as ongoing activities such as current and upcoming copper-nickel lease sales are intensified, upcoming lease rate adjustments take affect, mineral potential evaluation and other research efforts are expanded, and the peatland management program is intensified and expanded.

Surface leases for uses other than minerals and peat are now determined primarily by private sector demand. The program for other surface leases could be doing much more relative to proposing rather than reacting to

potential areas for leasing. A study should be undertaken to determine benefits of such an accelerated leasing program as well as the costs, including sources of funding such as the PSF.

A small, but very visible and controversial source of revenue production is from lakeshore leases on school trust lands. Lakeshore lots are now being re-appraised and current lease conditions specify that rates will be adjusted in 1985. At that time, lakeshore lease rates will be based on a percentage of fair current market value. For the long term, the lakeshore update program and the lakeshore leasing task force within DNR will provide definitive recommendations concerning the future of lakeshore leasing.

A recurring issue in Minnesota is how much land the state should own. The Land Suitability Study is investigating this question and is evaluating various land use allocation options with regard to all state owned lands, including school trust lands. The Land Suitability Study is identifying the suitability of state owned lands for a variety of different potential land uses. Most state owned lands are suitable for one or more uses, and some small portion are suitable for a large number of potential land uses. Those lands that probably should be retained in state ownership are those that fulfill a variety of public purposes such as timber production, recreation, wildlife habitat, watershed protection, and open space. On the other hand, lands that are distant from population and are not suitable for a number of purposes are less valuable to retain in public ownership. However, there is also probably little demand for these lands by the private sector. Since the sale of these lands would generate little revenue, it is possibly not advantageous to sell them but to utilize them for wildlife habitat and watershed management and to rely on infrequent timber harvests or the possibility of future mineral development to provide revenue. Besides the

potential uses and retention vs. sale questions, there may be possibilities for land exchange and land leasing that must be taken into consideration. These areas will be addressed in a comprehensive manner for all DNR-administered lands, including school trust lands, in the Land Suitability Study.

The major issues for school trust land management and the resulting actions and policies show the DNR's intent to improve revenues for the PSF wherever possible. However, it must be remembered that revenue potential on the school trust lands is constrained to some extent by current laws, which reflect policy decisions of the legislature. In addition, prevailing market conditions in the economy at large, and especially the demand for timber, minerals, peat, and other resources will affect revenue potential and production.

Finally, it must be noted that substantially improving revenue potential will require new investments of development capital. The forest management intensification program is an important sign of the legislature's commitment to provide that capital. A similar effort will be needed in other areas of resource management, particularly mineral and surface lease management, and for the funding necessary to continue that commitment and to improve the revenue potential of these lands.

